

State of Iowa

1983

# ACTS AND JOINT RESOLUTIONS

PASSED AT THE

**1983 REGULAR SESSION**

OF THE

## Seventieth General Assembly

OF THE

## STATE OF IOWA



**SERGE H. GARRISON**  
ACTING CODE EDITOR

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CODE CONSULTANT

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DEPUTY CODE EDITOR

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# CERTIFICATE

STATE OF IOWA  
Office of Code Editor

We, Serge H. Garrison, Acting Code Editor, Wayne A. Faupel, Code Consultant, and Phyllis Barry, Deputy Code Editor, of the Code of Iowa, certify that the Acts, laws, joint resolutions and the certificates by the Secretary of State of their publication or filing contained in this volume have been prepared from the original enrolled Acts on file in the office of the Secretary of State, are correct copies of those Acts published under the authority of the statutes of this state, and constitute the Acts, laws and joint resolutions of the 1983 Regular Session of the Seventieth General Assembly of the State of Iowa.

*Serge H. Garrison*  
*Wayne A. Faupel*  
*Phyllis Barry*

May 1983

Section 622.59 of the 1983 Code of Iowa is as follows:

"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."

## EDITORS' NOTE

The Acts and Resolutions of the 1983 Regular Session of the Seventieth General Assembly have been printed in this book exactly as they appear on file in the office of the Secretary of State. No attempt has been made to correct misspelled words or errors in punctuation, if any.

**Underlines indicate new material added to existing statutes; strike-through letters indicate deleted material.**

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## STATE ROSTER

List of elective state officers, judges of the supreme and appellate courts, and members of the General Assembly, the State of Iowa, inserted in the published volume of 1983 Session Laws for the Seventieth General Assembly in accordance with the requirements of Iowa Code section 14.10(4), 1983.

### ELECTIVE OFFICERS

Name and Office

County from which  
originally chosen

#### GOVERNOR

TERRY E. BRANSTAD ..... Winnebago  
David A. Oman, Executive Assistant ..... Polk

#### LIEUTENANT GOVERNOR

ROBERT T. ANDERSON ..... Jasper

#### SECRETARY OF STATE

MARY JANE ODELL ..... Polk

#### AUDITOR OF STATE

RICHARD D. JOHNSON ..... Polk  
Richard C. Fish, Deputy - Administration ..... Polk  
Warren G. Jenkins, Deputy - Local Government Audit Division ..... Polk  
Kasey K. Kiplinger, Deputy - State Audit Division ..... Polk  
John A. Pringle, Director - Financial Institutions Division ..... Polk

#### TREASURER OF STATE

MICHAEL L. FITZGERALD ..... Polk  
Roger G. Barnett, Deputy Treasurer ..... Polk  
Michael Tramontina, Deputy Treasurer ..... Polk  
Steven F. Miller, Deputy Treasurer ..... Polk

#### SECRETARY OF AGRICULTURE

ROBERT H. LOUNSBERRY ..... Story  
Thatcher Johnson, Deputy Secretary ..... Boone

#### ATTORNEY GENERAL

THOMAS J. MILLER ..... Clayton  
Earl Willits, Deputy Attorney General ..... Polk  
Brent Appel, Deputy Attorney General ..... Dubuque  
Elizabeth Osenbaugh, Deputy Attorney General ..... Polk

## JUDICIAL DEPARTMENT

## JUSTICES OF THE SUPREME COURT

(Justices listed according to seniority)

Name	Office Address	Term Ending
Harvey Uhlenhopp .....	Hampton .....	Dec. 31, 1988
W. Ward Reynoldson, C.J. ....	Des Moines .....	Dec. 31, 1988
K. David Harris .....	Jefferson .....	Dec. 31, 1990
Mark McCormick .....	Des Moines .....	Dec. 31, 1990
A. A. McGiverin .....	Ottumwa .....	Dec. 31, 1988
Jerry L. Larson .....	Harlan .....	Dec. 31, 1988
Louis W. Schultz .....	Iowa City .....	Dec. 31, 1990
James H. Carter .....	Cedar Rapids .....	Dec. 31, 1984
Charles R. Wolle .....	Sioux City .....	Dec. 31, 1984

## JUDGES OF THE COURT OF APPEALS

(Judges listed according to seniority)

Allen L. Donielson .....	Des Moines .....	Dec. 31, 1989
Bruce M. Snell, Jr. ....	Ida Grove .....	Dec. 31, 1984
Leo E. Oxberger, C.J. ....	Des Moines .....	Dec. 31, 1989
Dick Schlegel .....	Ottumwa .....	Dec. 31, 1984
Maynard Hayden .....	Indianola .....	Dec. 31, 1984
Rosemary Shaw Sackett .....	Spencer .....	Dec. 31, 1984



# CONGRESSIONAL DIRECTORY

## UNITED STATES SENATORS

Roger W. Jepsen, Davenport .....	Jan. 3, 1985
Charles E. Grassley, New Hartford .....	Jan. 3, 1987

## UNITED STATES REPRESENTATIVES

### District

1 James Leach, Davenport .....	Jan. 3, 1985
2 Tom Tauke, Dubuque .....	Jan. 3, 1985
3 Cooper Evans, Grundy Center .....	Jan. 3, 1985
4 Neal Smith, Altoona .....	Jan. 3, 1985
5 Tom Harkin, Cumming .....	Jan. 3, 1985
6 Berkley Bedell, Spirit Lake .....	Jan. 3, 1985



GENERAL ASSEMBLY

MEMBERS OF THE SENATE—SEVENTIETH GENERAL ASSEMBLY—1983 REGULAR SESSION

Name	Residence	Age	Occupation	Senatorial District	Former Legislative Service
Anderson, Ted	Waterloo	39	Factory Worker- Deere & Company	12th— <i>Black Hawk</i>	69, 69X, 69XX
Briles, James E.	Corning	56	Auctioneer- Real Estate	46th— <i>Adams, Clarke, Decatur, Ringgold, Taylor, Union</i>	56, 58, 59, 60, 60X, 61, 62, 63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX
Brown, Joe	Montezuma	31	High School Teacher & Independent Painting Contractor	27th— <i>Iowa, Johnson, Poweshiek</i>	68, 69, 69X, 69XX
Bruner, Charles H.	Ames	34	Legislator	37th— <i>Story</i>	68, 69, 69X, 69XX
Carr, Bob	Dubuque	45	Securities Broker	18th— <i>Dubuque</i>	65, 66, 67, 67X, 68, 69, 69X, 69XX
Coleman, C. Joseph	Clare	59	Farmer-Businessman	7th— <i>Hamilton, Webster</i>	57, 58, 59, 60, 60X, 61, 62, 63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX
Colton, Milo	Sioux City	39	Educator	1st— <i>Woodbury</i>	None
Deluhery, Patrick J.	Davenport	40	College Teacher	21st— <i>Scott</i>	68, 69, 69X, 69XX
Dieleman, William W. (Bill)	Pella	51	Life Insurance Underwriter	35th— <i>Jasper, Marion, Polk, Warren</i>	66, 67, 67X, 68, 69, 69X, 69XX
Doyle, Donald V.	Sioux City	57	Lawyer	2nd— <i>Ida, Monona, Woodbury</i>	57, 58, 61, 63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX

## MEMBERS OF THE SENATE—SEVENTIETH GENERAL ASSEMBLY—1983 REGULAR SESSION—Continued

Name	Residence	Age	Occupation	Senatorial District	Former Legislative Service
Drake, Richard F.	Muscatine	55	Farming	28th—Des Moines, Louisa, Muscatine, Washington	63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX
Gallagher, James V.	Jesup	49	Telephone Company	14th— <i>Black Hawk</i> , Buchanan, Chickasaw, Fayette	61, 62, 65, 66, 67, 67X, 68, 69, 69X, 69XX
Gentleman, Julia B.	Des Moines	51	Housewife	41st— <i>Polk</i>	66, 67, 67X, 68, 69, 69X, 69XX
Gettings, Donald E.	Ottumwa	59	Machine Repairman	33rd—Appanoose, Davis, <i>Wapello</i>	67(2nd), 67X, 68, 69, 69X, 69XX
Goodwin, Norman J.	DeWitt	69	Retired County Extension Director	19th—Cedar, <i>Clinton</i>	68, 69, 69X, 69XX
Gratias, Arthur L.	Nora Springs	62	Farmer-Educator	15th—Cerro Gordo, Chickasaw, <i>Floyd</i> , Howard, Mitchell	68, 69, 69X, 69XX
Hall, Hurley W.	Marion	47	Telephone Engineer	24th—Buchanan, Delaware, <i>Linn</i>	68, 69, 69X, 69XX
Hester, Jack W.	Honey Creek	53	Farmer	49th—Cass, Harrison, <i>Pottawattamie</i> , Shelby	68, 69, 69X, 69XX
Holden, Edgar H.	Davenport	68	Entrepreneur	20th— <i>Scott</i>	62, 63, 64, 65, 67(2nd), 68, 69, 69X, 69XX
Holt, Lee W.	Spencer	73	Automobile Dealer	6th— <i>Clay</i> , Dickinson, Emmet, Palo Alto	68, 69, 69X, 69XX
Horn, Wally E.	Cedar Rapids	49	Teacher	25th— <i>Linn</i>	65, 66, 67, 67X, 68, 69, 69X, 69XX
Hulse, Merlin D.	Clarence	59	Farmer	22nd— <i>Cedar</i> , Jones, Linn	67, 67X, 68, 69, 69X, 69X

MEMBERS OF THE SENATE—SEVENTIETH GENERAL ASSEMBLY—1983 REGULAR SESSION—Continued

Name	Residence	Age	Occupation	Senatorial District	Former Legislative Service
Hultman, Calvin O.	Red Oak	41	Businessman	47th—Fremont, Mills, <i>Montgomery</i> , Page, Pottawattamie	65, 66, 67, 67X, 68, 69, 69X, 69XX
Husak, Emil J.	Toledo	52	Farmer	38th—Benton, Black Hawk, Marshall, <i>Tama</i>	64, 65, 66, 67, 67X, 68, 69, 69X, 69XX
Hutchins, C. W. Bill	Audubon	51	Self-employed- Small Businessman	48th— <i>Audubon</i> , Carroll, Crawford, Shelby	65, 66, 67, 67X, 68, 69, 69X, 69XX
Jensen, John W.	Plainfield	56	Farmer	11th—Black Hawk, <i>Bremer</i> , Butler, Grundy	68, 69, 69X, 69XX
Junkins, Lowell L.	Montrose	38	Small Businessman- Farmer	31st—Des Moines, <i>Lee</i> , Van Buren	65, 66, 67, 67X, 68, 69, 69X, 69XX
Kinley, George R.	Des Moines	45	Owner-Operator of Golf Sales	40th— <i>Polk</i>	64, 65, 66, 67, 67X, 68, 69, 69X, 69XX
Lind, Thomas A.	Waterloo	64	Businessman	13th— <i>Black Hawk</i>	67(2nd), 68, 69, 69X, 69XX
Lura, Mick	Marshalltown	34	Accountant	36th—Jasper, <i>Marshall</i>	68, 69, 69X, 69XX
Mann, Thomas, Jr.	Des Moines	33	Attorney	43rd— <i>Polk</i>	None
Miller, Alvin V.	Ventura	61	Business-Insurance	10th— <i>Cerro Gordo</i> , Winnebago, Worth	65, 66, 67, 67X, 68, 69, 69X, 69XX
Miller, Charles P.	Burlington	64	Doctor of Chiropractic	30th— <i>Des Moines</i> , Henry	60, 60X, 61, 62, 63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX

GENERAL ASSEMBLY—Continued

## MEMBERS OF THE SENATE—SEVENTIETH GENERAL ASSEMBLY—1983 REGULAR SESSION—Continued

Name	Residence	Age	Occupation	Senatorial District	Former Legislative Service
Nystrom, John N.	Boone	49	Legislator	44th—Boone, Carroll, Greene, Story	64, 65, 66, 67, 67X, 68, 69, 69X, 69XX
Palmer, William D.	Des Moines	47	Insurance	39th—Polk	61, 62, 63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX
Priebe, Berl E.	Algona	64	Farmer-Businessman	8th—Hancock, Humboldt, Kosuth, Palo Alto, Pocahontas, Winnebago	63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX
Readinger, David M.	Des Moines	47	Sales	42nd—Polk	65, 66, 67, 67X, 68, 69, 69X, 69XX
Rife, Jack	Moscow	39	Farmer	29th—Muscatine, Scott	None
Ritsema, Douglas	Orange City	30	Lawyer	3rd—Plymouth, Sioux, Woodbury	68, 69, 69X, 69XX
Rodgers, Norman	Adel	55	Farmer	45th—Adair, Dallas, Guthrie, Madison	63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX
Schwengels, Forrest V.	Fairfield	67	Real Estate	32nd—Jefferson, Keokuk, Mahaska, Wapello	65, 66, 67, 67X, 68, 69, 69X, 69XX
Slater, Tom	Council Bluffs	37	Media Consultant	50th—Pottawattamie	67, 67X, 68, 69, 69X, 69XX
Small, Arthur A., Jr.	Iowa City	49	Attorney	23rd—Johnson	64, 65, 66, 67, 67X, 68, 69, 69X, 69XX
Taylor, Ray	Steamboat Rock	59	Farming-Retailing	9th—Franklin, Hamilton, Hancock, Hardin, Wright	65, 66, 67, 67X, 68, 69, 69X, 69XX

MEMBERS OF THE SENATE—SEVENTIETH GENERAL ASSEMBLY—1983 REGULAR SESSION—Continued

Name	Residence	Age	Occupation	Senatorial District	Former Legislative Service
Tieden, Dale L.	Elkader	60	Farmer	16th—Allamakee, Clayton, Winneshiek	61, 62, 63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX
Vande Hoef, Richard	Harris	57	Farming	4th—Cherokee, Clay, Lyon, O'Brien, Osceola, Sioux	69, 69X, 69XX
Van Gilst, Bass	Indianola	71	Farming	34th—Clarke, Lucas, Monroe, Warren, Wayne	61, 62, 63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX
Waldstein, Arne	Storm Lake	57	Professional Farm Manager-Appraiser	5th—Buena Vista, Calhoun, Pocahontas, Sac, Webster	68, 69, 69X, 69XX
Wells, James D.	Cedar Rapids	54	Cereal Company Employee	26th—Linn	63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX
Welsh, Joseph J. (Joe)	Dubuque	27	Legislator	17th—Dubuque, Jackson, Jones	68, 69, 69X, 69XX

MEMBERS OF THE HOUSE—SEVENTIETH GENERAL ASSEMBLY—1983 REGULAR SESSION

Name	Residence	Age	Occupation	Representative District	Former Legislative Service
Anderson, James O.	Brayton	54	Farmer	95th— <i>Audubon</i> , Carroll, Shelby	68, 69, 69X, 69XX
Arnould, Robert C.	Davenport	29	Legislator	42nd— <i>Scott</i>	67(2nd), 67X, 68, 69, 69X, 69XX
Avenson, Donald D.	Oelwein	38	Tool & Die Maker	28th— <i>Chickasaw, Fayette</i>	65, 66, 67, 67X, 68, 69, 69X, 69XX
Baxter, Elaine *	Burlington	49	Legislator	60th— <i>Des Moines</i>	69(2nd)
Bennett, Wayne	Galva	55	Farmer	4th— <i>Ida, Monona, Woodbury</i>	65, 66, 67, 67X, 68, 69, 69X, 69XX
Black, Dennis H.	Grinnell	43	County Conservation Board Director	71st— <i>Jasper, Marshall</i>	None
Blanshan, Eugene	Scranton	34	Farmer	88th— <i>Boone, Carroll, Greene</i>	None
Brammer, Philip E.	Cedar Rapids	50	Insurance Executive President	50th— <i>Linn</i>	None
Branstad, Clifford O.	Thompson	58	Farmer	16th— <i>Hancock, Kossuth, Winnebago</i>	68, 69, 69X, 69XX
Buhr, Florence D.	Des Moines	49	Homemaker	85th— <i>Polk</i>	None
Carl, Janet	Grinnell	34	Consultant	53rd— <i>Iowa, Poweshiek</i>	69, 69X, 69XX
Carpenter, Dorothy F.	West Des Moines	49	Homemaker-Legislator	82nd— <i>Polk</i>	69, 69X, 69XX
Carter, Brian	Mt. Pleasant	34	Teacher	59th— <i>Des Moines, Henry</i>	None
Chapman, Kay	Cedar Rapids	45	Attorney	49th— <i>Linn</i>	None
Chiodo, Ned F.	Des Moines	40	Small Businessman	81st— <i>Polk</i>	67, 67X, 68, 69, 69X, 69XX

MEMBERS OF THE HOUSE—SEVENTIETH GENERAL ASSEMBLY—1983 REGULAR SESSION—Continued

Name	Residence	Age	Occupation	Representative District	Former Legislative Service
Clark, Betty Jean	Rockwell	62	Christian Education Director	29th— <i>Cerro Gordo, Floyd, Mitchell</i>	67, 67X, 68, 69, 69X, 69XX
Cochran, Dale M.	Eagle Grove	54	Farmer	14th— <i>Hamilton, Webster</i>	61, 62, 63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX
Connolly, Michael W.	Dubuque	37	Teacher	35th— <i>Dubuque</i>	68, 69, 69X, 69XX
Connors, John H.	Des Moines	60	Insurance Representative and Labor Arbitrator	79th— <i>Polk</i>	65, 66, 67, 67X, 68, 69, 69X, 69XX
Cooper, James J.	Russell	58	Farmer	67th— <i>Clarke, Monroe, Lucas, Wayne</i>	None
Copenhaver, Paul †	Independence	41	Farmer	27th— <i>Black Hawk, Buchanan</i>	69(2nd)
Corey, Virgil E.	Morning Sun	66	Farmer	55th— <i>Des Moines, Louisa, Washington</i>	68, 69, 69X, 69XX
Daggett, Horace	Lenox	51	Farmer	92nd— <i>Adams, Decatur, Ringgold, Taylor</i>	65, 66, 67, 67X, 68, 69, 69X, 69XX
Davitt, Philip A.	St. Charles	51	Farmer	68th— <i>Warren</i>	67, 67X, 68, 69, 69X, 69XX
De Groot, Kenneth R.	Doon	53	Farmer	8th— <i>Lyon, O'Brien, Osceola, Sioux</i>	68, 69, 69X, 69XX
Diemer, Marvin E.	Cedar Falls	58	Business Consultant	23rd— <i>Black Hawk</i>	68, 69, 69X, 69XX
Doderer, Minnette	Iowa City	59	Legislator	45th— <i>Johnson</i>	60X, 61, 62, 63, 64, 65, 66, 67, 67X, 69, 69X, 69XX
Fey, Thomas H. *	Davenport	28	Legislator	41st— <i>Scott</i>	69(2nd)

MEMBERS OF THE HOUSE—SEVENTIETH GENERAL ASSEMBLY—1983 REGULAR SESSION—Continued

Name	Residence	Age	Occupation	Representative District	Former Legislative Service
Fogarty, Daniel P.	Cylinder	58	Farmer	11th—Clay, Palo Alto	None
Grandia, Robert J.	Pella	68	Retired meat processor	69th—Marion	None
Groninga, John	Mason City	37	Sales Manager	20th—Cerro Gordo	None
Gronstal, Michael E.	Council Bluffs	32	Shipping Clerk	99th—Pottawattamie	None
Groth, Richard	Albert City	36	Educator	10th—Buena Vista, Pocahontas	68, 69, 69X, 69XX
Gruhn, Josephine	Spirit Lake	55	Educator and Farmer	12th—Dickinson, Emmet	None
Halvorson, Rod	Fort Dodge	33	Real Estate Salesman	13th—Webster	68, 69, 69X, 69XX
Halvorson, Roger A.	Monona	48	Insurance-Real Estate Broker	32nd—Allamakee, Clayton	66, 67, 67X, 68, 69, 69X, 69XX
Hammond, Johnie	Ames	50	Legislator	74th—Story	None
Handorf, Ward	Gladbrook	68	Farmer	75th—Black Hawk, Marshall, Tama	None
Hanson, Darrell R.	Manchester	28	Insurance Adjuster	48th—Buchanan, Delaware, Linn	68, 69, 69X, 69XX
Harbor, William H.	Henderson	62	Grain Elevator Owner-Operator	94th—Mills, Montgomery, Pottawattamie	56, 57, 58, 62, 63, 64, 67, 67X, 68, 69, 69X, 69XX
Haverland, Mark A.	Ankeny	36	Minister	77th—Polk	None
Hermann, Donald F.	Bettendorf	61	Retired Industrial Relations Manager	40th—Scott	None
Hoffmann-Bright, Betty	Muscatine	61	Legislator	56th—Louisa, Muscatine	67, 67X, 68, 69, 69X, 69XX
Holveck, Jack	Des Moines	39	Attorney	84th—Polk	None

MEMBERS OF THE HOUSE—SEVENTIETH GENERAL ASSEMBLY—1983 REGULAR SESSION—Continued

Name	Residence	Age	Occupation	Representative District	Former Legislative Service
Hughes, Randy	Creston	34	Teacher	91st—Adair, Adams, Cass, Clarke, Union	None
Hummel, Kyle	Vinton	47	Contractor-Realtor	76th—Benton, Black Hawk	68, 69, 69X, 69XX
Jay, Daniel J.	Centerville	28	Lawyer	66th—Appanoose, Davis, Wapello	68, 69, 69X, 69XX
Jochum, Thomas J.	Dubuque	31	Legislator	36th—Dubuque	66, 67, 67X, 68, 69, 69X, 69XX
Knapp, Donald J. *	Cascade	50	Corrections	33rd—Dubuque, Jones	69(2nd)
Koenigs, Deo A.	McIntire	47	Farmer	30th—Chickasaw, Howard, Mitchell	None
Krewson, Lyle R.	Urbandale	39	Legislator, Self-employed	83rd—Polk	67, 67X, 68, 69, 69X, 69XX
Lageschulte, Raymond	Waverly	60	Farmer-Insurance Adjuster-Legislator	22nd—Black Hawk, Bremer, Butler	66, 67, 67X, 68, 69, 69X, 69XX
Lloyd-Jones, Jean	Iowa City	53	Legislator	46th—Johnson	68, 69, 69X, 69XX
Lonergan, Joyce	Boone	48	Book Store Owner	87th—Boone, Story	66, 67, 67X, 68, 69, 69X, 69XX
Maulsby, Ruhl	Rockwell City	59	Farmer	9th—Calhoun, Sac, Webster	68, 69, 69X, 69XX
McIntee, John E.	Waterloo	32	Home Builder-Attorney	26th—Black Hawk	None
McKean, Andy	Morley	33	Lawyer-College Instructor- Square Dance Caller	44th—Jones, Linn	68, 69, 69X, 69XX
Menke, Lester D.	Calumet	64	Farmer-Insurance	7th—Cherokee, Clay, O'Brien	65, 66, 67, 67X, 68, 69, 69X, 69XX
Miller, Leo P.	Sioux City	39	Retired Police Officer	3rd—Woodbury	None
Muhlbauer, Louis J.	Manilla	53	Farmer	96th—Crawford, Shelby	None

MEMBERS OF THE HOUSE—SEVENTIETH GENERAL ASSEMBLY—1983 REGULAR SESSION—Continued

Name	Residence	Age	Occupation	Representative District	Former Legislative Service
Mullins, Sue	Corwith	46	Farmer	15th—Humboldt, <i>Kossuth</i> , Palo Alto, Pocahontas	68, 69, 69X, 69XX
Norland, Lowell E.	Kensett	51	Farmer	19th—Cerro Gordo, Winnebago, <i>Worth</i>	65, 66, 67, 67X, 68, 69, 69X, 69XX
O'Kane, James D.	Sioux City	31	Legislator	1st— <i>Woodbury</i>	68, 69, 69X, 69XX
Ollie, C. Arthur	Clinton	41	Teacher	38th— <i>Clinton</i>	None
Osterberg, David	Mt. Vernon	39	Economic Consultant	43rd—Cedar, <i>Linn</i>	None
Oxley, Myron B.	Marion	60	Farmer	47th— <i>Linn</i>	61, 67, 67X, 68, 69, 69X, 69XX
Parker, Edward G.	Mingo	23	Contractor	70th— <i>Jasper</i> , Marion, Polk Warren	None
Paulin, Donald J.	Le Mars	49	Kitchen Cabinet Retailer	5th— <i>Plymouth</i> , Woodbury	None
Pavich, Emil S.	Council Bluffs	51	Cereal Company Employee	100th— <i>Pottawattamie</i>	66, 67, 67X, 68, 69, 69X, 69XX
Peick, Doris A.	Cedar Rapids	49	Quality Control Inspector	52nd— <i>Linn</i>	None
Pellett, Wendell C.	Atlantic	65	Farmer	97th— <i>Cass</i> , Harrison, Pottawattamie, Shelby	64, 65, 66, 67, 67X, 68, 69, 69X, 69XX
Poncy, Charles N.	Ottumwa	60	School Employee	65th— <i>Wapello</i>	62, 63, 65, 66, 67, 67X, 69, 69X, 69XX
Renaud, Dennis L.	Altoona	40	D.M. Fire Department- Businessman	78th— <i>Polk</i>	69, 69X, 69XX
Renken, Robert H.	Aplington	60	Farmer	21st—Butler, <i>Grundy</i>	68(2nd), 69, 69X, 69XX
Rensink, Wilmer	Sioux Center	49	Farmer	6th—Plymouth, <i>Sioux</i>	None

MEMBERS OF THE HOUSE—SEVENTIETH GENERAL ASSEMBLY—1983 REGULAR SESSION—Continued

Name	Residence	Age	Occupation	Representative District	Former Legislative Service
Rosenberg, Ralph *	Ames	31	Attorney	73rd— <i>Story</i>	69(2nd)
Royer, Bill D.	Essex	53	Realtor	93rd—Fremont, Mills, <i>Page</i>	None
Running, Richard V.	Cedar Rapids	36	Quality Assurance Technologist	51st— <i>Linn</i>	69, 69X, 69XX
Schnekloth, Hugo	Eldridge	59	Farmer	39th— <i>Scott</i>	67, 67X, 68, 69, 69X, 69XX
Schroeder, Laverne W.	McClelland	49	Self-Employed	98th—Harrison, <i>Pottawattamie</i>	62, 63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX
Sherzan, Gary	Des Moines	38	Correctional Service Worker	86th— <i>Polk</i>	None
Shultz, Don	Waterloo	46	Teacher	25th— <i>Black Hawk</i>	None
Skow, Bob	Guthrie Center	30	Insurance-Real Estate Broker	90th—Adair, Dallas, <i>Guthrie</i> , Madison	None
Spear, Clay	Burlington	66	Retired Postal Service Employee	61st— <i>Des Moines, Lee</i>	66, 67, 67X, 68, 69, 69X, 69XX
Stromer, Delwyn	Garner	52	Farmer	17th—Franklin, <i>Hancock, Wright</i>	62, 63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX
Stueland, Vic	Grand Mound	62	Farmer	37th—Cedar, <i>Clinton</i>	69, 69X, 69XX
Sturgeon, Al	Sioux City	26	Public Relations Consultant	2nd— <i>Woodbury</i>	69, 69X, 69XX
Sullivan, William R.	Cantril	37	Heavy Equipment Operator	62nd— <i>Lee, Van Buren</i>	69, 69X, 69XX
Swartz, Thomas E.	Marshalltown	36	Real Estate Broker	72nd— <i>Marshall</i>	69, 69X, 69XX
Swearingen, George R.	Sigourney	59	Retired Teacher- Legislator	63rd—Jefferson, <i>Keokuk</i> , Wapello	68, 69, 69X, 69XX

MEMBERS OF THE HOUSE—SEVENTIETH GENERAL ASSEMBLY—1983 REGULAR SESSION—Continued

Name	Residence	Age	Occupation	Representative District	Former Legislative Service
Tabor, David M.	Baldwin	27	Farmer	34th—Dubuque, <i>Jackson</i>	None
Tofte, Semor C.	Decorah	71	Retired	31st—Allamakee, <i>Winneshiek</i>	65, 66, 67, 67X, 68, 69, 69X, 69XX
Torrence, Janis I.	Atalissa	56	Former County Supervisor	57th— <i>Muscatine, Scott</i>	None
Van Camp, Mike	Davenport	41	Union Electrician	58th— <i>Scott</i>	None
Van Gerpen, Harlan W.	Cedar Falls	58	Consulting Engineer	24th— <i>Black Hawk</i>	None
Van Maanen, Harold	Oskaloosa	53	Farmer	64th—Keokuk, <i>Mahaska, Wapello</i>	68, 69, 69X, 69XX
Varn, Richard J.	Solon	24	Baking Company Employee-Law Student	54th—Iowa, <i>Johnson</i>	None
Welden, Richard W.	Iowa Falls	74	Retired Contractor	18th—Franklin, <i>Hardin, Hamilton</i>	62, 63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX
Woods, Jack E.	Des Moines	46	Self-Employed	80th— <i>Polk</i>	65, 66, 67, 67X, 68, 69, 69X, 69XX
Zimmerman, Jo Ann	Waukee	46	Registered Nurse	89th— <i>Dallas</i>	None

District 60 \*Elected in Special Election January 26, 1982

District 27 †Elected in Special Election March 23, 1982 due to death of Kenneth Miller February 23, 1982

District 41 \*Elected in Special Election December 29, 1981 due to resignation of Gregory Cusack October 1, 1981

District 33 \*Elected in Special Election November 3, 1981 due to resignation of Nancy Shimanek September 10, 1981

District 73 \*Elected in Special Election November 3, 1981 due to resignation of Reid Crawford August 14, 1981

## CONDITION OF STATE TREASURY

### Receipts, Disbursements and Balances in the Several Funds For the Fiscal Period Ending June 30, 1982

	Balance July 1, 1981	Total Receipts and Transfers	Total Available	Total Warrants Redeemed Treasurer's Checks Issued, and Transfers	Balance June 30, 1982
General Revenue .....	\$ 106,495,145	\$ 1,806,962,881	\$ 1,913,458,026	\$ 1,690,248,089	\$ 107,445,558
Transfers .....				115,764,379	
Trust Funds .....	78,088,100	363,287,976	441,376,076	214,702,322	89,581,771
Transfers .....				137,091,983	
Special Funds .....					
(Comptroller's Warrants)	1,675,237,864	1,980,525,657	3,908,619,883	2,041,968,361	1,866,651,522
Transfers .....		252,856,362			
Special Funds .....					
(Treasurer's Checks)	3,550	1,385,919	1,389,469	996,448	393,021
<b>TOTALS .....</b>	<b><u>\$1,859,824,659</u></b>	<b><u>\$4,405,018,795</u></b>	<b><u>\$6,264,843,454</u></b>	<b><u>\$4,200,771,582</u></b>	<b><u>\$2,064,071,872</u></b>
Balance July 1, 1981 .....	\$1,859,824,659				
Receipts and Transfers .....	4,405,018,795				
Total .....	\$6,264,843,454				
Disbursements and Transfers .....	4,200,771,582				
Balance June 30, 1982 .....	<u>\$2,064,071,872</u>				

**OFFICE OF STATE COMPTROLLER  
AUGUST 4, 1983**

**LAWS**  
OF THE  
**1983 Regular Session**  
OF THE  
**Seventieth General Assembly**  
OF THE  
**STATE OF IOWA**

PASSED AT DES MOINES, THE CAPITAL OF THE STATE, BEGUN ON THE TENTH  
DAY OF JANUARY, AND ENDED ON THE FOURTEENTH DAY OF MAY, A.D. 1983  
IN THE ONE HUNDRED THIRTY-SEVENTH YEAR OF THE STATE

**CHAPTER 1**  
**SALES, SERVICE AND USE TAX INCREASES**  
*S.F. 184*

**AN ACT** increasing the state sales, services, and use tax, providing for refunds under certain circumstances for contractors, and providing a penalty.

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

Section 1. Section 422.43, unnumbered paragraphs 1 and 2, Code 1983, are amended to read as follows:

There is hereby imposed a tax of ~~three~~ four percent upon the gross receipts from all sales of tangible personal property, consisting of goods, wares, or merchandise, except as otherwise provided in this division, sold at retail in the state to consumers or users; a like rate of tax upon the gross receipts from the sales, furnishing or service of gas, electricity, water, heat, and communication service, including the gross receipts from such sales by any municipal corporation furnishing gas, electricity, water, heat, and communication service to the public in its proprietary capacity, except as otherwise provided in this division, when sold at retail in the state to consumers or users; and a like rate of tax upon the gross receipts from all sales of tickets or admissions to places of amusement, fairs, and athletic events except those of elementary and secondary educational institutions; and a like rate of tax upon that part of private club membership fees or charges paid for the privilege of participating in any athletic sports provided club members.

There is hereby imposed a tax of ~~three~~ four percent upon the gross receipts derived from the operation of all forms of amusement devices and games of skill, games of chance, raffles and bingo games as defined in chapter 99B, and commercial amusement enterprises operated or conducted within the state of Iowa, ~~such~~ the tax to be collected from the operator in the same manner as is provided for the collection of taxes upon the gross receipts of tickets or admission as provided in this section.

Sec. 2. Section 422.43, unnumbered paragraph 4, Code 1983, is amended to read as follows:

There is imposed a tax of ~~three~~ four percent upon the gross receipts from the sales of optional service or warranty contracts which provide for the furnishing of labor and materials and require the furnishing of any taxable service enumerated under this section. The gross receipts are subject to tax even if some of the services furnished are not enumerated under this section. For the purpose of this division, the sale of an optional service or warranty contract is a sale of tangible personal property. ~~No additional~~ Additional sales, services or use tax shall not be levied on services, parts, or labor provided under optional service or warranty contracts which are subject to tax under this section.

Sec. 3. Section 422.43, unnumbered paragraphs 8 and 9, Code 1983, are amended to read as follows:

~~The tax herein levied shall be computed and collected as hereinafter provided. The tax herein imposed shall be at the rate of three percent.~~

There is hereby imposed, a tax of ~~three~~ four percent upon the gross receipts from the rendering, furnishing, or performing of services as defined in section 422.42.

Sec. 4. Section 422.47, Code 1983, is amended by adding the following new subsection:

**NEW SUBSECTION.** Construction contractors may make application to the department for a refund of the additional one percent tax paid under this division or the additional one percent tax paid under chapter 423 by reason of the increase in the tax from three to four percent for taxes paid on goods, wares, or merchandise under the following conditions:

a. The goods, wares, or merchandise are incorporated into an improvement to real estate in fulfillment of a written contract fully executed prior to March 1, 1983. The refund shall not apply to equipment transferred in fulfillment of a mixed construction contract.

b. The contractor has paid to the department or to a retailer the full four percent tax.

c. The claim is filed on forms provided by the department and is filed within one year of the date the tax is paid.

A contractor who makes an erroneous application for refund shall be liable for payment of the excess refund paid plus interest at the rate in effect under section 421.7. In addition, a contractor who willfully makes a false application for refund is guilty of a simple misdemeanor and is liable for a penalty equal to fifty percent of the excess refund claimed. Excess refunds, penalties, and interest due under this subsection may be enforced and collected in the same manner as the tax imposed by this division.

Sec. 5. Section 423.2, Code 1983, 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 ~~three~~ four percent of the purchase price of the property. 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 as ~~hereinafter provided~~. An excise tax is imposed on the use in this state of services enumerated in section 422.43 at the rate of ~~three~~ four 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 ~~has paid the tax~~ to the department of revenue.

Sec. 6. This Act, being deemed of immediate importance, takes effect March 1, 1983 from and after its publication in the Iowa City Press-Citizen, a newspaper published in Iowa City, Iowa, and in the Globe-Gazette, a newspaper published in Mason City, Iowa.

Approved February 7, 1983

I hereby certify that the foregoing Act, Senate File 184 was published in the Globe-Gazette, Mason City, Iowa on February 10, 1983 and in the Iowa City Press-Citizen, Iowa City, Iowa on February 10, 1983.

MARY JANE ODELL, *Secretary of State*

**CHAPTER 2**  
**COSTS OF AREA EDUCATION AGENCY SERVICES**  
*H.F. 132*

**AN ACT** relating to the costs of certain services provided by an area education agency and requested by a local board of education.

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

Section 1. Section 273.3, subsection 5, Code 1983, is amended to read as follows:

5. Be authorized, subject to rules and regulations of the state board of public instruction, to provide directly or by contractual arrangement with public or private agencies for special education programs and services, media services, and educational programs and services requested by the local boards of education as provided in this chapter, including but not limited to contracts for the area education agency to provide programs or services to the local school districts and contracts for local school districts, other educational agencies, and public and private agencies to provide programs and services to the local school districts in the area education agency in lieu of the area education agency providing such the services. Contracts may be made with public or private agencies located outside the state if the programs and services comply with the rules of the state board. ~~The cost of such programs and services for each child shall not exceed the amount of money available through the area education agency of the child's residence for each child under chapters 281 and 442.~~

Approved February 25, 1983

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**CHAPTER 3**  
**CONSOLIDATION OF SPECIAL EDUCATION CATEGORIES**  
*H.F. 133*

**AN ACT** relating to the consolidation of certain special education categories.

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

Section 1. Section 281.2, subsection 1, Code 1983, is amended to read as follows:

1. "Children requiring special education" means persons under twenty-one years of age, including children under five years of age, who are handicapped in obtaining an education because of physical, mental, ~~emotional~~, communication or learning disabilities or who are ~~chronically disruptive~~ behaviorally disordered, as defined by the rules of the department of public instruction.

Sec. 2. Section 281.9, subsection 1, paragraph d, Code 1983, is amended to read as follows:

d. Children requiring special education who are severely handicapped or who have multiple handicaps, or who are chronically disruptive, are assigned to a weighting of four and four-tenths for the school year commencing July 1, 1975.

Approved February 25, 1983

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**CHAPTER 4**  
**UNEMPLOYED PARENT PROGRAM**  
*S.F. 220*

**AN ACT** to continue the unemployed parent program, the community work program for unemployed parents, and the child medical assistance program for the 1982-1983 fiscal year, effective upon publication.

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

Section 1. 1982 Iowa Acts, chapter 1260, section 86, unnumbered paragraph 1, is amended to read as follows:

The department of social services shall establish a community work program in each county for unemployed parents for the fiscal year beginning July 1, 1982, and ending ~~March 31~~ June 30, 1983 by contracting at reasonable cost with county boards of supervisors or another local organization designated by both the county board of supervisors and the department of social services. At the time of determining eligibility for the unemployed parents program under the aid to families with dependent children program pursuant to section 91 of this Act, the department of social services shall determine whether the principal wage earner is eligible for work under the community work program. The county boards of supervisors or the designated local organizations shall work with community groups concerned with the delivery of local services to develop work assignments in order to fully utilize public resources to meet public needs and to allow unemployed parents to contribute to the betterment of the community. The county board of supervisors or the designated local organizations shall assign participants in the community work program to work in accordance with applicable federal regulations. The work assignments may be with governmental entities, including school districts, and with nonprofit agencies and organizations. The work assignments shall maintain the dignity of the participants and shall be of benefit to the community.

Sec. 2. 1982 Iowa Acts, chapter 1260, section 91, is amended to read as follows:

SEC. 91. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 7, section 3, subsection 1, paragraph c, is amended by striking the paragraph and inserting in lieu thereof the following:

c. For the fiscal period beginning July 1, 1982, and ending ~~March 31~~ June 30, 1983, the department of social services shall provide benefits under an unemployed parent program under the aid to families with dependent children program. In determining the amount of a grant under the program, the spouse of an unemployed parent shall be excluded from the eligible group. Medical assistance shall be available to the spouse of an unemployed parent. The

department of social services shall request a waiver from the United States department of health and human services to limit grants under the unemployed parent program to six months for any eligible group.

The department of social services shall require income maintenance workers, at the time of their review of unemployed parents' monthly reports, to monitor the job search, application, and acceptance requirements under the community work program which shall at a minimum require unemployed parents to meet the job search, application, and acceptance requirements necessary to receive unemployment compensation benefits under the Iowa administrative code 370-4.22(1)"c" and section 96.5, subsection 3. However, only the suitable work reference in section 96.5, subsection 3, paragraph a, subparagraph (4) shall apply. In addition, the unemployed parents shall accept work assignments established under the community work program for unemployed parents under section 86 of this Act.

Sec. 3. The medical assistance program established in 1982 Iowa Acts, chapter 1260, section 94 for those eligible children under twenty-one years of age shall be continued through June 30, 1983.

Sec. 4. This Act, being deemed of immediate importance, takes effect from and after its publication in the Ames Daily Tribune, a newspaper published in Ames, Iowa, and in the Grinnell Herald-Register, a newspaper published in Grinnell, Iowa.

Approved March 2, 1983

I hereby certify that the foregoing Act, Senate File 220 was published in the Ames Daily Tribune, Ames, Iowa on March 4, 1983 and in the Grinnell Herald-Register, Grinnell, Iowa on March 7, 1983.

MARY JANE ODELL, *Secretary of State*

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## CHAPTER 5

### MOBILE HOME TAXES

H.F. 68

**AN ACT** relating to mobile homes by providing that the mobile home tax is due, payable, and delinquent at the same time as real property taxes, that mobile homes may be sold for delinquent taxes in the same manner as real property, by providing that mobile homes are subject to security interests in the same manner as other vehicles subject to registration, and making certain provisions of the Act retroactive.

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

Section 1. Section 135D.24, unnumbered paragraph 1, Code 1983, is amended to read as follows:

The semiannual tax is due and payable to the county treasurer semiannually on ~~or before~~ March January 1 and September July 1 in each year; and is delinquent April 1 and October 1 in each year, after at which time a penalty of one percent shall be added each month until paid except that the limitation in section 445.20 applies. The Both semiannual payment payments of

taxes may be paid at one time if so desired. A mobile home ~~parked and~~ put to use at any time after ~~March~~ January 1 or ~~September~~ July 1 is subject to the taxes prorated for the remaining unexpired months of the tax period. Not more than thirty days nor less than ten days prior to the date that the tax becomes delinquent, the county treasurer shall cause to be published in a newspaper of general circulation in the county, a notice to mobile home owners. The notice shall include the date the tax becomes delinquent, and the penalty which applies when it is delinquent. Taxes prorated on or after April 1 are due July 1 and must be paid at the same time and in the same manner as the September payment of property taxes. Taxes prorated on or after October 1 are due January 1 and must be paid at the same time and in the same manner as the March payment of property taxes. The semiannual tax periods for mobile home tax are January 1 through June 30 and July 1 through December 31. On May 1 of each year, the county treasurer shall send, by mail, a statement to each delinquent mobile home taxpayer to notify the taxpayer that the mobile home will be offered at the next annual tax sale for non-payment of one or more semiannual tax payments.

Sec. 2. Section 135D.24, unnumbered paragraph 6, Code 1983, is amended to read as follows:

Before a mobile home may be moved from its present site, 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. However, a tax clearance statement shall not be required for a mobile home in a manufacturer's or dealer's stock which is not used as a place for human habitation. If a dealer acquires a mobile home from a person other than a manufacturer, the person shall provide a tax clearance statement in the name of the owner of record to the dealer. The tax clearance statement shall be provided by the county treasurer and shall be made out in quadruplicate. Two copies are to be provided to the company or person transporting the mobile home with one copy to be carried in the vehicle transporting the mobile home. One copy is to be forwarded to the county treasurer of the county in which the mobile home is to be relocated and one copy is to be retained by the county treasurer issuing the tax clearance statement.

Sec. 3. Section 321.50, subsection 1, Code 1983, 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, 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 such 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 such the security interest, and a fee of two 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 the Uniform Commercial Code, section 554.9103. Delivery as provided in this subsection shall be deemed to be is an indication of a security interest on a certificate of title for purposes of chapter 554.

Sec. 4. Section 1 of this Act is retroactive to January 1, 1983 for mobile home taxes levied, due and payable in the calendar year beginning January 1, 1983.

Sec. 5. This Act, being deemed of immediate importance, takes effect from and after its publication in the Cherokee Daily Times, a newspaper published in Cherokee, Iowa, and in The Cedar Rapids Gazette, a newspaper published in Cedar Rapids, Iowa.

Approved March 7, 1983

I hereby certify that the foregoing Act, House File 68, was published in the Cherokee Daily Times, Cherokee, Iowa on March 15, 1983 and in The Cedar Rapids Gazette, Cedar Rapids, Iowa on March 16, 1983.

MARY JANE ODELL, *Secretary of State*

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**CHAPTER 6**  
**EXAMINATION OF COUNTY ACCOUNTS**  
*S.F. 132*

**AN ACT** relating to the examination and settlement of accounts of county officers or employees.

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

Section 1. Section 331.902, Code 1983, is amended by adding the following new subsection:  
NEW SUBSECTION. When examining, settling, or verifying reports or accounts of fees or other monetary receipts of the county under section 331.401, subsection 1, paragraph r, this section, or chapter 452, the cash on hand in the office of the county officer or employee subject to the settlement or examination need not be counted in the presence of, or by, the board of supervisors or other examining county officer. This section does not prohibit the actual counting of cash on hand in a county at the time of the examination or settlement if the examining authority requests the actual count.

Approved March 18, 1983

**CHAPTER 7**  
**OFFENSIVE OR DANGEROUS WEAPONS**  
*S.F. 155*

**AN ACT** relating to offensive or dangerous weapons by defining as an offensive weapon certain bullets or projectiles and certain mechanical devices constructed and designed so that when attached to a firearm the device silences, muffles or suppresses the sound, by exempting under certain circumstances, a law enforcement officer from another state from the prohibition of section 724.4, by amending the length of time certain permits to carry weapons are valid, and by requiring the commissioner of public safety to maintain a permanent record of all valid permits to carry weapons and of current permit revocations, and providing penalties.

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

Section 1. Section 724.1, Code 1983, is amended by adding the following new subsections after subsection 5 and renumbering the remaining subsection:

NEW SUBSECTION. 6. Any bullet or projectile containing any explosive mixture or chemical compound capable of exploding or detonating prior to or upon impact.

NEW SUBSECTION. 7. Any mechanical device specifically constructed and designed so that when attached to a firearm silences, muffles or suppresses the sound when fired.

Sec. 2. Section 724.4, Code 1983, is amended by adding the following new subsection:

NEW SUBSECTION. 9. A law enforcement officer from another state when the officer's duties require the officer to carry the weapon and the officer is in this state for any of the following reasons:

- a. The extradition or other lawful removal of a prisoner from this state.
- b. Pursuit of a suspect in compliance with chapter 806.
- c. Activities in the capacity of a law enforcement officer with the knowledge and consent of the chief of police of the city or the sheriff of the county in which the activities occur or of the commissioner of public safety.

Sec. 3. Section 724.6, Code 1983, is amended to read as follows:

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

Sec. 4. Section 724.23, Code 1983, is amended to read as follows:

724.23 RECORDS KEPT BY COMMISSIONER. The commissioner of public safety shall maintain a permanent record of all valid permits to carry weapons and of current permit revocations.

Approved March 14, 1983

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## CHAPTER 8

### MIDWEST INTERSTATE LOW-LEVEL RADIOACTIVE WASTE COMPACT

S.F. 195

**AN ACT** to enact the midwest interstate low-level radioactive waste compact.

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

Section 1. **NEW SECTION. LOW-LEVEL RADIOACTIVE WASTE COMPACT.** The midwest interstate low-level radioactive waste compact is entered into and enacted into law with all jurisdictions legally joining therein, in the form substantially as follows:

#### ARTICLE I—POLICY AND PURPOSE

There is created the "Midwest Interstate Low-Level Radioactive Waste Compact".

The states party to this compact recognize that the congress of the United States, by enacting the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021), has provided for and encouraged the development of low-level radioactive waste compacts as a tool for managing such waste. The party states acknowledge that congress declared that each state is responsible for providing for the availability of capacity either within or outside the state for the disposal of low-level radioactive waste generated within its borders, except for waste generated as a result of certain defense activities of the federal government or federal research and development activities. The party states also recognize that the management of low-level radioactive waste is handled most efficiently on a regional basis; and that the safe and efficient management of low-level radioactive waste generated within the region requires that sufficient capacity to manage such waste be properly provided.

a. It is the policy of the party states to enter into a regional low-level radioactive waste management compact for the purpose of:

1. Providing the instrument and framework for a cooperative effort;
2. Providing sufficient facilities for the proper management of low-level radioactive waste generated in the region;
3. Protecting the health and safety of the citizens of the region;
4. Limiting the number of facilities required to effectively and efficiently manage low-level radioactive waste generated in the region;
5. Encouraging the reduction of the amounts of low-level radioactive waste generated in the region;
6. Distributing the costs, benefits, and obligations of successful low-level radioactive waste

management equitably among the party states and among generators and other persons who use regional facilities to manage their waste; and

7. Ensuring the ecological and economical management of low-level radioactive wastes.

b. Implicit in the congressional consent to this compact is the expectation by the congress and the party states that the appropriate federal agencies will actively assist the compact commission and the individual party states to this compact by:

1. Expeditious enforcement of federal rules, regulations, and laws;

2. Imposition of sanctions against those found to be in violation of federal rules, regulations, and laws; and

3. Timely inspection of their licensees to determine their compliance with these rules, regulations, and laws.

#### ARTICLE II—DEFINITIONS

As used in this compact, unless the context clearly requires a different construction:

a. "Care" means the continued observation of a facility after closure for the purposes of detecting a need for maintenance, ensuring environmental safety, and determining compliance with applicable licensure and regulatory requirements and including the correction of problems which are detected as a result of that observation.

b. "Commission" means the midwest interstate low-level radioactive waste commission.

c. "Decommissioning" means the measures taken at the end of a facility's operating life to assure the continued protection of the public from any residual radioactivity or other potential hazards present at a facility.

d. "Disposal" means the isolation of waste from the biosphere in a permanent facility designed for that purpose.

e. "Eligible state" means a state qualified to be a party state to this compact as provided in article VIII.

f. "Facility" means a parcel of land or site, together with the structures, equipment, and improvements on or appurtenant to the land or site, which is used or is being developed for the treatment, storage, or disposal of low-level radioactive waste.

g. "Generator" means a person who produces or possesses low-level radioactive waste in the course of or incident to manufacturing, power generation, processing, medical diagnosis and treatment, research, or other industrial or commercial activity and who, to the extent required by law, is licensed by the United States nuclear regulatory commission or a party state, to produce or possess such waste. "Generator" does not include a person who provides a service by arranging for the collection, transportation, treatment, storage, or disposal of wastes generated outside the region.

h. "Host state" means any state which is designated by the commission to host a regional facility.

i. "Low-level radioactive waste" or "waste" means radioactive waste not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or by-product material as defined in section 11(e)(2) of the Atomic Energy Act of 1954.

j. "Management plan" means the plan adopted by the commission for the storage, transportation, treatment, and disposal of waste within the region.

k. "Party state" means any eligible state which enacts the compact into law.

l. "Person" means any individual, corporation, business enterprise, or other legal entity either public or private and any legal successor, representative, agent, or agency of that individual, corporation, business enterprise, or legal entity.

m. "Region" means the area of the party states.

n. "Regional facility" means a facility which is located within the region and which is established by a party state pursuant to designation of that state as a host state by the commission.

o. "Site" means the geographic location of a facility.

p. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands or any other territorial possession of the United States.

- q. "Storage" means the temporary holding of waste for treatment or disposal.
- r. "Treatment" means any method, technique or process, including storage for radioactive decay, designed to change the physical, chemical or biological characteristics or composition of any waste in order to render the waste safer for transport or management, amenable to recovery, convertible to another usable material or reduced in volume.
- s. "Waste management" means the storage, transportation, treatment, or disposal of waste.

#### ARTICLE III—THE COMMISSION

a. There is created the midwest interstate low-level radioactive waste commission. The commission consists of one voting member from each party state. The governor of each party state shall notify the commission in writing of its member and any alternates. An alternate may act on behalf of the member only in that member's absence. The method for selection and the expenses of each commission member shall be the responsibility of the member's respective state.

b. Each commission member is entitled to one vote. No action of the commission is binding unless a majority of the total membership cast their vote in the affirmative.

c. The commission shall elect annually from among its members a chairperson. The commission shall adopt and publish, in convenient form, bylaws and policies which are not inconsistent with this compact, including procedures which substantially conform with the provisions of the federal Administrative Procedure Act (5 U.S.C. secs. 500 to 559) in regard to notice, conduct, and recording of meetings; access by the public to records; provision of information to the public; conduct of adjudicatory hearings; and issuance of decisions.

d. The commission shall meet at least once annually and shall also meet upon the call of the chairperson or a commission member.

e. All meetings of the commission shall be open to the public with reasonable advance notice. The commission may, by majority vote, close a meeting to the public for the purpose of considering sensitive personnel or legal strategy matters. However, all commission actions and decisions shall be made in open meetings and appropriately recorded.

f. The commission may establish advisory committees for the purpose of advising the commission on any matters pertaining to waste management.

g. The office of the commission shall be in a party state. The commission may appoint or contract for and compensate such limited staff necessary to carry out its duties and functions. The staff shall serve at the commission's pleasure with the exception that staff hired as the result of securing federal funds shall be hired and governed under applicable federal statutes and regulations. In selecting any staff, the commission shall assure that the staff has adequate experience and formal training to carry out the functions assigned to it by the commission.

h. The commission may:

1. Enter into an agreement with any person, state, or group of states for the right to use regional facilities for waste generated outside the region and for the right to use facilities outside the region for waste generated within the region. The right of any person to use a regional facility for waste generated outside of the region requires an affirmative vote of a majority of the commission, including the affirmative vote of the member of the host state in which any affected regional facility is located.

2. Approve the disposal of waste generated within the region at a facility other than a regional facility.

3. Appear as an intervenor or party in interest before any court of law or any federal, state, or local agency, board, or commission in any matter related to waste management. In order to

represent its views, the commission may arrange for any expert testimony, reports, evidence, or other participation.

4. Review the emergency closure of a regional facility, determine the appropriateness of that closure, and take whatever actions are necessary to ensure that the interests of the region are protected.

5. Take any action which is appropriate and necessary to perform its duties and functions as provided in this compact.

6. Suspend the privileges or revoke the membership of a party state by a two-thirds vote of the membership in accordance with article VIII.

i. The commission shall:

1. Receive and act on the petition of a nonparty state to become an eligible state.

2. Submit an annual report to, and otherwise communicate with, the governors and the appropriate officers of the legislative bodies of the party states regarding the activities of the commission.

3. Hear, negotiate, and, as necessary, resolve by final decision disputes which may arise between the party states regarding this compact.

4. Adopt and amend, by a two-thirds vote of the membership, in accordance with the procedures and criteria developed pursuant to article IV, a regional management plan which designates host states for the establishment of needed regional facilities.

5. Adopt an annual budget.

j. Funding of the budget of the commission shall be provided as follows:

1. Each state, upon becoming a party state, shall pay fifty thousand dollars or one thousand dollars per cubic meter shipped from that state in 1980, whichever is lower, to the commission which shall be used for the administrative costs of the commission.

2. Each state hosting a regional facility shall levy surcharges on all users of the regional facility based upon its portion of the total volume and characteristics of wastes managed at that facility. The surcharges collected at all regional facilities shall:

(a) Be sufficient to cover the annual budget of the commission; and

(b) Represent the financial commitments of all party states to the commission; and

(c) Be paid to the commission, provided, that each host state collecting surcharges may retain a portion of the collection sufficient to cover its administrative costs of collection, and that the remainder be sufficient only to cover the approved annual budget of the commission.

k. The commission shall keep accurate accounts of all receipts and disbursements. The commission shall contract with an independent certified public accountant to annually audit all receipts and disbursements of commission funds, and to submit an audit report to the commission. The audit report shall be made a part of the annual report of the commission required by this article.

l. The commission may accept for any of its purposes and functions and may utilize and dispose of any donations, grants of money, equipment, supplies, materials and services from any state or the United States, or any subdivision or agency thereof, or interstate agency, or from any institution, person, firm, or corporation. The nature, amount, and condition, if any, attendant upon any donation or grant accepted or received by the commission together with the identity of the donor, grantor, or lender, shall be detailed in the annual report of the commission.

m. The commission is not liable for any costs associated with any of the following:

1. The licensing and construction of any facility;

2. The operation of any facility;

3. The stabilization and closure of any facility;

4. The care of any facility;
5. The extended institutional control, after care of any facility; or
6. The transportation of waste to any facility.

n. 1. The commission is a legal entity separate and distinct from the party states and is liable for its actions as a separate and distinct legal entity. Liabilities of the commission are not liabilities of the party states. Members of the commission are not personally liable for actions taken by them in their official capacity.

2. Except as provided under section m and section n, subsection 1, nothing in this compact alters liability for any act, omission, course of conduct, or liability resulting from any causal or other relationships.

o. Any person aggrieved by a final decision of the commission may obtain judicial review of such decision in any court of jurisdiction by filing in such court a petition for review within sixty days after the commission's final decision.

#### ARTICLE IV — REGIONAL MANAGEMENT PLAN

The commission shall adopt a regional management plan designed to ensure the safe and efficient management of waste generated within the region. In adopting a regional waste management plan the commission shall:

a. Adopt procedures for determining, consistent with considerations for public health and safety, the type and number of regional facilities which are presently necessary and which are projected to be necessary to manage waste generated within the region;

b. Develop and consider policies promoting source reduction of waste generated within the region;

c. Develop and adopt procedures and criteria for identifying a party state as a host state for a regional facility. In developing these criteria, the commission shall consider all the following:

1. The health, safety, and welfare of the citizens of the party states.
2. The existence of regional facilities within each party state.
3. The minimization of waste transportation.
4. The volumes and types of wastes generated within each party state.
5. The environmental, economic, and ecological impacts on the air, land, and water resources of the party states.

d. Conduct such hearings, and obtain such reports, studies, evidence, and testimony required by its approved procedures prior to identifying a party state as a host state for a needed regional facility;

e. Prepare a draft management plan, including procedures, criteria, and host states, including alternatives, which shall be made available in a convenient form to the public for comment. Upon the request of a party state, the commission shall conduct a public hearing in that state prior to the adoption of the management plan. The management plan shall include the commission's response to public and party state comment.

#### ARTICLE V — RIGHTS AND OBLIGATIONS OF PARTY STATES

a. Each party state shall act in good faith in the performance of acts and courses of conduct which are intended to ensure the provision of facilities for regional availability and usage in a manner consistent with this compact.

b. Each party state has the right to have all wastes generated within its borders managed at regional facilities subject to the provisions contained in article IX, section c. All party states have an equal right of access to any facility made available to the region by any agreement entered into by the commission pursuant to article III.

c. Party states or generators may negotiate for the right of access to a facility outside the region and may export waste outside the region subject to commission approval under article III.

d. To the extent permitted by federal law, each party state may enforce any applicable federal and state laws, regulations, and rules pertaining to the packaging and transportation of waste generated within or passing through its borders. Nothing in this section shall be construed to require a party state to enter into any agreement with the United States nuclear regulatory commission.

e. Each party state shall provide to the commission any data and information the commission requires to implement its responsibilities. Each party state shall establish the capability to obtain any data and information required by the commission.

#### ARTICLE VI—DEVELOPMENT AND OPERATION OF FACILITIES

a. Any party state may volunteer to become a host state, and the commission may designate that state as a host state upon a two-thirds vote to its members.

b. If all regional facilities required by the regional management plan are not developed pursuant to section a, or upon notification that an existing regional facility will be closed, the commission may designate a host state.

c. Each party state designated as a host state is responsible for determining possible facility locations within its borders. The selection of a facility site shall not conflict with applicable federal and host state laws, regulations, and rules not inconsistent with this compact and shall be based on factors including, but not limited to, geological, environmental, and economic viability of possible facility locations.

d. Any party state designated as a host state may request the commission to relieve that state of the responsibility to serve as a host state. The commission may relieve a party state of this responsibility only upon a showing by the requesting party state that no feasible potential regional facility site of the type it is designated to host exists within its borders.

e. After a state is designated a host state by the commission, it is responsible for the timely development and operation of a regional facility.

f. To the extent permitted by federal and state law, a host state shall regulate and license any facility within its borders and ensure the extended care of that facility.

g. The commission may designate a party state as a host state while a regional facility is in operation if the commission determines that an additional regional facility is or may be required to meet the needs of the region. The commission shall make this designation following the procedures established under article IV.

h. Designation of a host state is for a period of twenty years or the life of the regional facility which is established under that designation, whichever is longer. Upon request of a host state, the commission may modify the period of its designation.

i. A host state may establish a fee system for any regional facility within its borders. The fee system shall be reasonable and equitable. This fee system shall provide the host state with sufficient revenue to cover any costs, including but not limited to the planning, siting, licensure, operation, decommissioning, extended care, and long-term liability, associated with such facilities. This fee system may also include reasonable revenue beyond the costs incurred for the host state, subject to approval by the commission. A host state shall submit an annual financial audit of the operation of the regional facility to the commission. The fee system may include incentives for source reduction and may be based on the hazard of the waste as well as the volume.

j. A host state shall ensure that a regional facility located within its borders which is permanently closed is properly decommissioned. A host state shall also provide for the care of a closed or decommissioned regional facility within its borders so that the public health and safety of the state and region are ensured.

k. A host state intending to close a regional facility located within its borders shall notify

the commission in writing of its intention and the reasons. Notification shall be given to the commission at least five years prior to the intended date of closure. This section shall not prevent an emergency closing of a regional facility by a host state to protect its air, land, and water resources and the health and safety of its citizens. However, a host state which has an emergency closing of a regional facility shall notify the commission in writing within three working days of its action and shall, within thirty working days of its action, demonstrate justification for the closing.

1. If a regional facility closes before an additional or new facility becomes operational, waste generated within the region may be shipped temporarily to any location agreed on by the commission until a regional facility is operational.

m. A party state which is designated as a host state by the commission and fails to fulfill its obligations as a host state may have its privileges under the compact suspended or membership in the compact revoked by the commission.

#### ARTICLE VII—OTHER LAWS AND REGULATIONS

a. Nothing in this compact:

1. Abrogates or limits the applicability of any act of congress or diminishes or otherwise impairs the jurisdiction of any federal agency expressly conferred thereon by the congress;

2. Prevents the enforcement of any other law of a party state which is not inconsistent with this compact;

3. Prohibits any storage or treatment of waste by the generator on its own premises;

4. Affects any administrative or judicial proceeding pending on the effective date of this compact;

5. Alters the relations between and the respective internal responsibility of the government of a party state and its subdivisions;

6. Affects the generation, treatment, storage, or disposal of waste generated by the atomic energy defense activities of the secretary of the United States department of energy or successor agencies or federal research and development activities as defined in 42 U.S.C. sec. 2021; or

7. Affects the rights and powers of any party state or its political subdivisions to the extent not inconsistent with this compact, to regulate and license any facility or the transportation of waste within its borders or affects the rights and powers of any party state or its political subdivisions to tax or impose fees on the waste managed at any facility within its border.

8. Requires a party state to enter into any agreement with the United States nuclear regulatory commission.

9. Alters or limits liability of transporters of waste, owners, and operators of sites for their acts, omissions, conduct, or relationships in accordance with applicable laws.

b. For purposes of this compact, all state laws or parts of laws in conflict with this compact are hereby superseded to the extent of the conflict.

c. No law, rule, or regulation of a party state or of any of its subdivisions or instrumentalities may be applied in a manner which discriminates against the generators of another party state.

#### ARTICLE VIII—ELIGIBLE PARTIES, WITHDRAWAL, REVOCATION, ENTRY INTO FORCE, TERMINATION

a. Eligible parties to this compact are the states of Delaware, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, Virginia, and Wisconsin. Eligibility terminates on July 1, 1984.

b. Any state not eligible for membership in the compact may petition the commission for

eligibility. The commission may establish appropriate eligibility requirements. These requirements may include, but are not limited to, an eligibility fee or designation as a host state. A petitioning state becomes eligible for membership in the compact upon the approval of the commission, including the affirmative vote of all host states. Any state becoming eligible upon the approval of the commission becomes a member of the compact in the same manner as any state eligible for membership at the time this compact enters into force.

c. An eligible state becomes a party state when the state enacts the compact into law and pays the membership fee required in article III, section i, subsection 1.

d. The commission is formed upon the appointment of commission members and the tender of the membership fee payable to the commission by three party states. The governor of the first state to enact this compact shall convene the initial meeting of the commission. The commission shall cause legislation to be introduced in the congress which grants the consent of the congress to this compact, and shall take action necessary to organize the commission and implement the provisions of this compact.

e. Any party state may withdraw from this compact by repealing the authorizing legislation but no withdrawal may take effect until five years after the governor of the withdrawing state gives notice in writing of the withdrawal to the commission and to the governor of each party state. Withdrawal does not affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal. Any host state which grants a disposal permit for waste generated in a withdrawing state shall void the permit when the withdrawal of that state is effective.

f. Any party state which fails to comply with the terms of this compact or fails to fulfill its obligations may have its privileges suspended or its membership in the compact revoked by the commission in accordance with article III, section h, subsection 6. Revocation takes effect one year from the date the affected party state receives written notice from the commission of its action. All legal rights of the affected party state established under this compact cease upon the effective date of revocation but any legal obligations of that party state arising prior to revocation continue until they are fulfilled. The chairperson of the commission shall transmit written notice of a revocation of a party state's membership in the compact immediately following the vote of the commission to the governor of the affected party state, all other governors of the party states and the congress of the United States.

g. This compact becomes effective July 1, 1983, or at any date subsequent to July 1, 1983, upon enactment by at least three eligible states. However, article IX, section b shall not take effect until the congress has by law consented to this compact. The congress shall have an opportunity to withdraw such consent every five years. Failure of the congress to affirmatively withdraw its consent has the effect of renewing consent for an additional five-year period. The consent given to this compact by the congress shall extend to any future admittance of new party states under sections b and c of this article and to the power of the region to ban the shipment of waste from the region pursuant to article III.

h. The withdrawal of a party state from this compact under section e of this article or the revocation of a state's membership in this compact under section f of this article does not affect the applicability of this compact to the remaining party states.

i. A state which has been designated by the commission to be a host state has ninety days from receipt by the governor of written notice of designation to withdraw from the compact without any right to receive refund of any funds already paid pursuant to this compact, and without any further payment. Withdrawal becomes effective immediately upon notice as provided in section e. A designated host state which withdraws from the compact after ninety days and prior to fulfilling its obligations shall be assessed a sum the commission determines

to be necessary to cover the costs borne by the commission and remaining party states as a result of that withdrawal.

#### ARTICLE IX — PENALTIES

a. Each party state shall prescribe and enforce penalties against any person who is not an official of another state for violation of any provision of this compact.

b. Unless otherwise authorized by the commission pursuant to article III, section h after January 1, 1986, it is a violation of this compact:

1. For any person to deposit at a regional facility waste not generated within the region;
2. For any regional facility to accept waste not generated within the region;
3. For any person to export from the region waste which is generated within the region; or
4. For any person to dispose of waste at a facility other than a regional facility.

c. Each party state acknowledges that the receipt by a host state of waste packaged or transported in violation of applicable laws, rules, and regulations may result in the imposition of sanctions by the host state which may include suspension or revocation of the violator's right of access to the facility in the host state.

d. Each party state has the right to seek legal recourse against any party state which acts in violation of this compact.

#### ARTICLE X — SEVERABILITY AND CONSTRUCTION

The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared by a court of competent jurisdiction to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If any provision of this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the state affected as to all severable matters.

Approved March 14, 1983

**CHAPTER 9**  
**LENGTH, WEIGHT AND REMANUFACTURE OF VEHICLES**  
*S.F. 207*

**AN ACT** relating to vehicles by defining a remanufactured vehicle and providing for the overall length and width of vehicles and combinations of vehicles which may be operated on the highways of this state.

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

Section 1. Section 307.10, subsection 5, Code 1983, is amended to read as follows:

5. Adopt rules in accordance with the provisions of chapter 17A as it may deem ~~deems~~ necessary to transact its business and for the administration and exercise of its powers and duties. The transportation commission shall also adopt rules, which rules shall be exempt from the provisions of chapter 17A, governing the length of vehicles and combinations of vehicles which are subject to the limitations imposed under section 321.457. The commission may adopt such rules which permit vehicles and combinations of vehicles in excess of the length limitations imposed under section 321.457, but not exceeding sixty-five feet in length, which may be moved on the highways of this state. Any such proposed rules shall be submitted to the general assembly within five days following the convening of a regular session of the general assembly. The general assembly may approve or disapprove the rules submitted by the commission not later than sixty days from the date such rules are submitted and, if approved or no action is taken by the general assembly on the proposed rules, such rules shall become effective May 1 and thereafter all laws in conflict therewith shall be of no further force and effect.

Sec. 2. Chapter 307, Code 1983, is amended by adding the following new section:

**NEW SECTION. 307.30 FEDERAL TAX COMPLIANCE.** The department shall adopt rules under chapter 17A to provide for certification of federal heavy vehicle use tax collections required by the Surface Transportation Assistance Act of 1982.

Sec. 3. Section 321.1, Code 1983, is amended by adding the following new subsection:

**NEW SUBSECTION. 82.** "Remanufactured vehicle" means every vehicle of a type required to be registered and having a gross vehicle weight rating of at least thirty thousand pounds that has been disassembled, resulting in the total separation of the major integral parts and which has been reassembled with those parts being replaced with new or rebuilt parts. In every instance, a new diesel engine and all new tires shall be installed and shall carry manufacturers' warranties.

Every vehicle shall include, but not be limited to, new or rebuilt component parts consisting of steering gear, clutch, transmission, differential, engine radiator, engine fan hub, engine starter, alternator, air compressor and cab. For purposes of this subsection, "rebuilt" means the replacement of any element of a component part which appears to limit the serviceability of the part. A minimum of twenty thousand dollars shall be expended on each vehicle and the expense must be verifiable by invoices, work orders, or other documentation as required by the department.

The department may establish equipment requirements and a vehicle inspection procedure for remanufactured vehicles. The department may establish a fee for the inspection of remanufactured vehicles not to exceed one hundred dollars for each vehicle inspected.

Sec. 4. Section 321.23, subsection 1, Code 1983, is amended to read as follows:

1. ~~In the event~~ If the vehicle to be registered is a specially constructed, reconstructed, remanufactured or foreign vehicle, such fact shall be stated in the application. A fee of two dollars shall be paid by the person making ~~sueh~~ the application upon issuance of a certificate of title by the county treasurer. With reference to every specially constructed or reconstructed motor vehicle subject to registration the application shall be accompanied by a statement from the department authorizing ~~sueh~~ the motor vehicle to be titled and registered in this state. The department shall cause a physical inspection to be made of all specially constructed or reconstructed motor vehicles, upon application ~~therefor~~ for a certificate of title by the owner ~~thereof~~, to determine whether ~~sueh~~ the motor vehicle is in a safe operating condition and that the integral component parts ~~thereof~~ are properly identified and that the rightful ownership is established before issuing ~~sueh~~ the owner the authority to have the motor vehicle registered and titled as herein ~~provided~~. With reference to every foreign vehicle which has been registered ~~heretofore~~ outside of this state the owner shall surrender to the treasurer all registration plates, registration cards, and certificates of title, or, if vehicle to be registered is from a nontitle state, ~~sueh~~ the evidence of foreign registration and ownership as may be prescribed by the department except as provided in subsection 2 ~~hereof~~.

Sec. 5. Section 321.454, Code 1983, is amended to read as follows:

321.454 WIDTH OF VEHICLES.

1. The total outside width of any vehicle or the load thereon shall not exceed eight feet except that a bus having a total outside width not exceeding eight feet six inches, exclusive of safety equipment, ~~shall be is~~ exempt from the permit requirements of chapter 321E and may be operated on the public highways of the state. However, if hay, straw or stover moved on any implement of husbandry and the total width of load of the implement of husbandry exceeds eight feet in width, the implement of husbandry ~~shall is~~ not be subject to the permit requirements of chapter 321E. If hay, straw or stover is moved on any other vehicle subject to registration, ~~sueh~~ the moves ~~shall be~~ are subject to the permit requirements for transporting loads exceeding eight feet in width as required under chapter 321E. The vehicle width limitations imposed by this subsection only apply to the public highways of the state not subject to the width limitations imposed under subsection 2.

2. The total outside width of any vehicle and load shall not exceed eight feet six inches, exclusive of safety equipment determined necessary for safe and efficient operation by the secretary of the United States department of transportation, on highways designated by the transportation commission. The department shall adopt rules to designate the highways, in compliance with the highways designated by the secretary of the United States department of transportation as a part of the national system of interstate and defense highways and any other qualifying highways. The rules adopted under this subsection are exempt from chapter 17A.

Sec. 6. Section 321.457, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

321.457 MAXIMUM LENGTH.

1. A combination of four vehicles is not allowed on the highways of this state.\*
2. The maximum length of any motor vehicle or combination of vehicles operated on the highways of this state, unless subject to the maximum length provisions of subsection 3, are as follows:

\*See also ch 116, §2(1) herein.

a. A single truck, unladen or with load, shall not have an overall length, inclusive of front and rear bumpers, in excess of forty feet.

b. A single bus, unladen or with load, shall not have an overall length, inclusive of front and rear bumpers, in excess of forty feet.

c. Except for combinations of vehicles, provisions for which are otherwise made in this chapter, no combination of a truck tractor and a semitrailer coupled together unladen or with load, shall have an overall length, inclusive of front and rear bumpers, in excess of sixty feet.

d. However, a mobile home not in excess of forty-eight feet in length may be drawn by any motor vehicle, except a motor truck, provided that the mobile home and its towing unit are not in excess of an overall length of sixty feet. For the purposes of this subsection, a light delivery truck, panel delivery truck or "pickup" is not a motor truck. A portable livestock loading chute not in excess of a length of thirteen feet including its hitch or tongue may be drawn by any vehicle or combination of vehicles, provided that the vehicle or combination of vehicles drawing the loading chute is not in excess of the legal length provided for such vehicles or combinations.

e. Combinations of vehicles coupled together which are used exclusively for the transportation of passenger vehicles, light delivery trucks, panel delivery trucks, pickup trucks, recreational vehicle chassis, and boats shall not exceed sixty-five feet in overall length. However, the load carried on a truck-semitrailer combination may extend up to two feet beyond the front bumper and up to three feet beyond the rear bumper.

f. A combination of three vehicles coupled together one of which is a motor vehicle, unladen or with load, shall not have an overall length, inclusive of front and rear bumpers, in excess of sixty feet.

g. A motor vehicle or combination of vehicles may be operated upon the highways of this state, irrespective of the length and weight limitations imposed by the laws of this state, if the motor vehicle or combination of vehicles is operated within the corporate limits of a city abutting a border of this state and such operations have been approved by ordinance of the city council and if the length and weight of the motor vehicle or combination of vehicles is in conformity with the laws relating to length and weight of the abutting state on July 1, 1974. If a city council has authorized such operation upon highways within the corporate limits, then the limit of travel for such motor vehicles or combination of vehicles within the state is extended to the commercial zones as described by federal regulations concerning interstate commerce, 49 code of federal regulations, paragraphs 1048.10, 1048.38, and 1048.101 as they exist on July 1, 1974.

h. A semitrailer shall not have a distance between the kingpin and the center of its rearmost axle in excess of forty feet, except a semitrailer used principally for hauling livestock, a semitrailer used exclusively for hauling self-propelled industrial and construction equipment, or a semitrailer used exclusively for the purposes described in paragraph e of this subsection. A semitrailer which is a 1980 or older model having a distance between the kingpin and center of the rearmost axle of more than forty feet may be operated on the highways of this state if a special overlength permit is obtained from the department for the vehicle. The special overlength permit shall be valid until the semitrailer is inoperable.

3. The maximum length of any motor vehicle or combination of vehicles operated on the highways of this state which are designated by the secretary of the United States department of transportation and the transportation commission as a part of the national system of interstate and defense highways and the federal-aid primary system shall be as follows:

a. A trailer or semitrailer, laden or unladen, shall not have an overall length in excess of fifty-three feet when operating in a truck tractor-semitrailer combination.

b. A trailer or semitrailer, laden or unladen, shall not have an overall length in excess of twenty-eight feet six inches when operating in a truck tractor-semitrailer-trailer combination.

c. Power units designed to carry cargo, when used in combination with a trailer or semitrailer shall not exceed sixty-five feet in overall length for the combination.

d. The department shall adopt rules to designate those highways designated by the secretary of the United States department of transportation as a part of the national system of interstate and defense highways and the federal-aid primary system. The rules adopted by the department under this paragraph are exempt from chapter 17A.

4. Fire fighting apparatus and vehicles operated during daylight hours when transporting poles, pipe, machinery, or other objects of a structural nature which cannot be readily disassembled when required for emergency repair of public service facilities or properties are not subject to the limitations on overall length of vehicles and combinations of vehicles imposed under this section. However, for operation during nighttime hours, these vehicles and the load being transported shall be equipped with a sufficient number of clearance lamps on both sides and marker lamps at the extreme ends of the projecting load to clearly mark the dimensions of the load. A member of the state highway safety patrol shall also be notified prior to the operation of the vehicle.

5. The department may adopt rules to designate highways, in addition to those designated under subsection 3, to which the overall length limitations imposed under subsection 3 for vehicles and combinations of vehicles shall be applicable. However, rules adopted under this subsection are subject to chapter 17A.

Sec. 7. Section 6 of this Act takes effect April 1, 1983.

Sec. 8. This Act, being deemed of immediate importance, takes effect from and after its publication in the Muscatine Journal, a newspaper published in Muscatine, Iowa, and in The Messenger, a newspaper published in Fort Dodge, Iowa.

Approved March 29, 1983

Pursuant to the authority vested in the undersigned Secretary of State of Iowa in Chapter 3.9, Code of Iowa, 1983, because of inherent and imperative need, I hereby designate this bill to be published in The Des Moines Register, a newspaper published in Des Moines, Iowa and the West Des Moines Express, a newspaper published in West Des Moines, Iowa.

MARY JANE ODELL, *Secretary of State*

I hereby certify that the foregoing Act, Senate File 207 was published in The Des Moines Register, Des Moines, Iowa on March 31, 1983 and in the West Des Moines Express, West Des Moines, Iowa on March 31, 1983.

MARY JANE ODELL, *Secretary of State*

**CHAPTER 10**  
**SPEED OF SCHOOL BUSES**  
*H.F. 157*

**AN ACT** relating to the allowable speed of school buses.

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

Section 1. Section 321.377, Code 1983, is amended to read as follows:

321.377 SPEED OF SCHOOL BUS. ~~No A motor vehicle in use as a school bus shall not be operated at a speed in excess of fifty-five miles per hour on any fully controlled access, divided, multilaned highways, interstate highways or on any four-lane primary highway the posted maximum speed limit. When not in operation on an interstate highway system or on any four-lane primary highway, the maximum speed for a school bus shall be fifty miles per hour.~~

Approved March 28, 1983

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**CHAPTER 11**  
**COMMUNITY-BASED RESIDENTIAL HOMES ZONING**  
*H.F. 108*

**AN ACT** prohibiting county and city zoning practices and restrictive covenants which exclude or discriminate against community-based residential homes providing room and board and other services for developmentally disabled persons.

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

Section 1. Chapter 358A, Code 1983, is amended by adding the following new section:

NEW SECTION. 358A.25 ZONING FOR FAMILY HOMES.

1. It is the intent of this section to assist in improving the quality of life of developmentally disabled persons by integrating them into the mainstream of society by making available to them community residential opportunities in the residential areas of this state. In order to implement this intent, this section shall be liberally construed.

2. a. "Developmental disability" or "developmentally disabled" means a disability of a person which has continued or can be expected to continue indefinitely and which is one of the following:

- (1) Attributable to mental retardation, cerebral palsy, epilepsy, or autism.
- (2) Attributable to any other condition found to be closely related to mental retardation because the condition results in impairment of general intellectual functioning or adaptive

behavior similar to that of mentally retarded persons or requires treatment and services similar to those required for the persons.

(3) Attributable to dyslexia resulting from a disability described in either subparagraph (1) or (2).

(4) Attributable to a mental or nervous disorder.

b. "Family home" means a community-based residential home which is licensed as a residential care facility under chapter 135C or as a child foster care facility under chapter 237 to provide room and board, personal care, habilitation services, and supervision in a family environment exclusively for not more than eight developmentally disabled persons and any necessary support personnel. However, family home does not mean an individual foster family home licensed under chapter 237.

c. "Permitted use" means a use by right which is authorized in all residential zoning districts.

d. "Residential" means regularly used by its occupants as a permanent place of abode, which is made one's home as opposed to one's place of business and which has housekeeping and cooking facilities for its occupants only.

3. Notwithstanding the optional provision in section 358A.1 and any other provision of this chapter to the contrary, a county, county board of supervisors, or a county zoning commission shall consider a family home a residential use of property for the purposes of zoning and shall treat a family home as a permitted use in all residential zones or districts, including all single-family residential zones or districts, of the county. A county, county board of supervisors, or a county zoning commission shall not require that a family home, its owner, or operator obtain a conditional use permit, special use permit, special exception, or variance. However, a new family home shall not be located within one-fourth of a mile from another family home. Section 135C.23, subsection 2 shall apply to all residents of a family home.

4. A restriction, reservation, condition, exception, or covenant in a subdivision plan, deed, or other instrument of or pertaining to the transfer, sale, lease, or use of property in a county which permits residential use of property but prohibits the use of property as a family home for developmentally disabled persons, to the extent of the prohibition, is void as against the public policy of this state and shall not be given legal or equitable effect.

Sec. 2. Chapter 414, Code 1983, is amended by adding the following new section:

**NEW SECTION. 414.22 ZONING FOR FAMILY HOMES.**

1. It is the intent of this section to assist in improving the quality of life of developmentally disabled persons by integrating them into the mainstream of society by making available to them community residential opportunities in the residential areas of this state. In order to implement this intent, this section shall be liberally construed.

2. a. "Developmental disability" or "developmentally disabled" means a disability of a person which has continued or can be expected to continue indefinitely and which is one of the following:

(1) Attributable to mental retardation, cerebral palsy, epilepsy, or autism.

(2) Attributable to any other condition found to be closely related to mental retardation because the condition results in impairment of general intellectual functioning or adaptive behavior similar to that of mentally retarded persons or requires treatment and services similar to those required for the persons.

(3) Attributable to dyslexia resulting from a disability described in either subparagraph (1) or (2).

(4) Attributable to a mental or nervous disorder.

b. "Family home" means a community-based residential home which is licensed as a residential care facility under chapter 135C or as a child foster care facility under chapter 237

to provide room and board, personal care, habilitation services, and supervision in a family environment exclusively for not more than eight developmentally disabled persons and any necessary support personnel. However, family home does not mean an individual foster care family home licensed under chapter 237.

c. "Permitted use" means a use by right which is authorized in all residential zoning districts.

d. "Residential" means regularly used by its occupants as a permanent place of abode, which is made one's home as opposed to one's place of business and which has housekeeping and cooking facilities for its occupants only.

3. Notwithstanding any provision of this chapter to the contrary, a city, city council, or city zoning commission shall consider a family home a residential use of property for the purposes of zoning and shall treat a family home as a permitted use in all residential zones or districts, including all single-family residential zones or districts, of the city. A city, city council, or city zoning commission shall not require that a family home, its owner, or operator obtain a conditional use permit, special use permit, special exception, or variance. However, a new family home shall not be located within one-fourth of a mile from another family home. Section 135C.23, subsection 2 shall apply to all residents of a family home.

4. Any restriction, reservation, condition, exception, or covenant in any subdivision plan, deed, or other instrument of or pertaining to the transfer, sale, lease, or use of property in a city which permits residential use of property but prohibits the use of property as a family home for developmentally disabled persons, to the extent of the prohibition, is void as against the public policy of this state and shall not be given legal or equitable effect.

Approved March 28, 1983

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**CHAPTER 12**  
**COUNTY HEALTH, WELFARE AND SOCIAL SERVICES**  
*S.F. 15*

**AN ACT** relating to the provision of health, welfare, and social services under the county health center tax levy.

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

Section 1. Section 346A.1, subsection 3, Code 1983, is amended to read as follows:

3. "Project" ~~shall mean~~ means the acquisition by purchase or construction of health centers, additions thereto and facilities therefor, the reconstruction, completion, equipment, improvement, repair or remodeling of health centers, additions thereto and facilities therefor, and the acquisition of property therefor of every kind and description, whether real, personal or mixed, by gift, purchase, lease, condemnation or otherwise and the improvement of the ~~same~~ property. "Project" also means the use of funds for the provision of health services by local boards of health pursuant to chapter 137 and the provision of health, welfare or social services which a county is permitted or required by law to provide.

Sec. 2. Section 346A.2, Code 1983, is amended to read as follows:

346A.2 AUTHORIZED IN CERTAIN COUNTIES. Counties may undertake and carry out any project as defined in section 346A.1, and the boards may operate, control, maintain and manage health centers and additions to and facilities for health centers. The boards may appoint committees, groups, or operating boards as they deem necessary and advisable to facilitate the operation and management of health centers, additions and facilities. A board may lease space in any health center to other public corporations, public agencies and private nonprofit agencies engaged in furnishing health, welfare and social services which lease shall be on terms and conditions the board deems advisable. All contracts for the construction, reconstruction, completion, equipment, improvement, repair or remodeling of any buildings, additions or facilities shall be let in accordance with section 331.341, subsection 1. To pay the cost of operating, maintaining and managing a health center ~~the~~ and to pay the costs of services provided pursuant to section 346A.1, subsection 3, the board of any such county may levy an annual tax in accordance with section 331.422, subsection 21.

Sec. 3. Section 331.422, subsection 21, Code 1983, is amended to read as follows:

21. For operation, maintenance, and management of a health center and for services provided pursuant to section 346A.1, subsection 3, not to exceed fifty-four cents per thousand dollars, in addition to all other levies authorized by law for similar purposes.

Sec. 4. This Act, being deemed of immediate importance, takes effect from and after its publication in The Cedar Rapids Gazette, a newspaper published in Cedar Rapids, Iowa, and in The Sioux City Journal, a newspaper published in Sioux City, Iowa. The tax levy authorization in this Act is effective for fiscal years beginning on or after July 1, 1983.

Approved March 29, 1983

I hereby certify that the foregoing Act, Senate File 15 was published in The Cedar Rapids Gazette, Cedar Rapids, Iowa on April 11, 1983 and in The Sioux City Journal, Sioux City, Iowa on April 5, 1983.

MARY JANE ODELL, *Secretary of State*

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**CHAPTER 13**  
**BLOOD DONATIONS**  
*H.F. 53*

**AN ACT** relating to the donation of blood by persons seventeen years of age or older.

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

Section 1. **NEW SECTION.** A person who is seventeen years of age or older may consent to donate blood in a voluntary and noncompensatory blood program without the permission of a parent or guardian. The consent is not subject to later disaffirmance because of minority.

Approved April 14, 1983

**CHAPTER 14**  
**STATE AND COUNTY BLANKET SURETY BOND**  
*S.F. 158*

**AN ACT** authorizing the board of supervisors to purchase blanket surety bonds for certain county officers and employees and authorizing the state to purchase blanket surety bonds for state officers.

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

Section 1. Section 18.165, subsection 1, paragraph b, Code 1983, is amended to read as follows:

b. Bonding of state employees shall be re-evaluated, and uniform standards shall be adopted for the purchase of all fidelity bonds recommended for state employees. To the extent possible, all bonded state employees shall be covered under one or more blanket bonds or position schedule bonds. In carrying out the requirements of section 64.6, the state may purchase an individual or a blanket surety bond insuring the fidelity of state officers subject to the minimum surety bond requirements of section 64.6. A state officer listed in section 64.6 is deemed to have furnished surety if the officer is covered by a blanket bond purchased as provided in this paragraph.

Sec. 2. Section 64.6, unnumbered paragraph 1, Code 1983, is amended to read as follows:

State Unless covered by a higher limit blanket bond purchased as provided in section 18.165, subsection 1, paragraph b, state officers shall give bonds, the premiums being paid by the state, in an amount as follows:

Sec. 3. Section 331.322, subsection 1, Code 1983, is amended to read as follows:

1. Require and approve official bonds in accordance with chapter 64 and section 682.6, and pay the cost of certain officers' bonds as provided in section 64.11 and section 4 of this Act.

Sec. 4. Section 331.324, Code 1983, is amended by adding the following new subsection:

NEW SUBSECTION. In carrying out the requirement of section 331.322, subsection 1, the board may purchase an individual or a blanket surety bond insuring the fidelity of county officers and county employees who are accountable for county funds or property subject to the minimum surety bond requirements of chapter 64. An elected county officer is deemed to have furnished surety if the officer is covered by a blanket bond purchased as provided in this subsection.

Approved April 15, 1983

**CHAPTER 15**  
**PUBLIC SERVICE AS RESTITUTION**  
*S.F. 4*

**AN ACT** relating to the performance of public service as restitution by offenders not reasonably able to pay all or part of court costs, court-appointed attorney's fees, or the expense of a public defender.

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

Section 1. Section 910.1, subsection 4, Code 1983, is amended to read as follows:

4. "Restitution" means payment of pecuniary damages to a victim in an amount and in the manner provided by the offender's plan of restitution. Restitution shall also include the payment of court costs, court-appointed attorney's fees or the expense of a public defender, and the performance of a public service by an offender in an amount set by the court when ~~no victim has suffered pecuniary damages and~~ the offender cannot reasonably pay all or part of the court costs, court-appointed attorney's fees, or the expense of a public defender.

Sec. 2. Section 910.2, Code 1983, is amended to read as follows:

**910.2 RESTITUTION ORDERED BY SENTENCING COURT.** In all criminal cases except simple misdemeanors under chapter 321, in which there is a plea of guilty, verdict of guilty, or special verdict upon which a judgment of conviction is rendered, the sentencing court shall order that restitution be made by each offender to the victims of ~~his or her~~ the offender's criminal activities and, to the extent that the offender is reasonably able to do so, to the county where conviction was rendered for court costs, court-appointed attorney's fees or the expense of a public defender when applicable. However, victims shall be paid in full before restitution payments are paid to the county for court costs, court-appointed attorney's fees or for the expense of a public defender. ~~When no victim has suffered pecuniary damages and~~ the offender is not reasonably able to pay all or a part of the court costs, court-appointed attorney's fees or the expense of a public defender, the court may require the offender in lieu of that portion of the court costs, court-appointed attorney's fees, or expense of a public defender for which the offender is not reasonably able to pay, to perform a needed public service for any governmental agency or for a private, nonprofit agency which provides a service to the youth, elderly or poor of the community. When community service is ordered, the court shall set a specific number of hours of service to be performed by the offender. The judicial district department of correctional services shall provide for the assignment of the offender to a public agency or private nonprofit agency to perform the required service.

Sec. 3. This Act applies only to persons sentenced on or after its effective date.

Approved March 29, 1983

**CHAPTER 16**  
**CREDIT FOR TAXES PAID ON OUT-OF-STATE INCOME**  
*S.F. 288*

**AN ACT** relating to the tax credit allowed Iowa resident taxpayers for income taxes paid to another state or foreign country on income earned outside of Iowa and making it retroactive.

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

Section 1. Section 422.8, subsection 1, Code 1983, is amended to read as follows:

1. The amount of income tax paid to another state or foreign country by a resident taxpayer of this state on income derived from sources ~~in another state or foreign country outside of Iowa~~ shall be allowed as a credit against the tax computed under ~~the provisions of this chapter~~, except that the credit shall not exceed what the amount of the Iowa tax would have been on the same income which was taxed by the other state or foreign country. The limitation on this credit shall be computed according to the following formula: Income earned ~~in another state or country outside of Iowa~~ and taxed by ~~such other another state or foreign country~~ shall be divided by the total income of the resident taxpayer ~~resident in~~ of Iowa. ~~Said~~ This quotient multiplied times the net Iowa tax as determined on the total income of the taxpayer as if entirely earned in Iowa shall be the maximum tax credit against the Iowa net tax.

Sec. 2. This Act is retroactive to January 1, 1983 for tax years beginning on or after that date.

Approved March 29, 1983

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**CHAPTER 17**  
**SCHOOL YEAR REQUIREMENTS**  
*H.F. 120*

**AN ACT** relating to school year requirements.

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

Section 1. Section 279.10, Code 1983, is amended to read as follows:  
279.10 SCHOOL YEAR.

1. The school year shall begin on the first day of July and each school regularly established shall continue for at least thirty-six weeks of five school one hundred eighty days each, except as provided in subsection 3, and may be maintained during the entire calendar year.

2. The board of directors shall hold a public hearing on any proposal prior to submitting it to the department of public instruction for approval.

3. The board of directors of a school district may request approval from the department of public instruction for a pilot program for an innovative school year. The number of days per year that school is in session may be more or less than those specified in subsection 1, but the innovative school year shall provide for an equivalent number of total hours that school is in session.

The board shall file a request for approval with the department not later than November 1 of the preceding school year. The request shall include a listing of the savings and goals to be attained under the innovative school year subject to rules adopted by the department under chapter 17A. The department shall notify the districts of the approval or denial of pilot programs not later than the next following January 15.

A request to continue an innovative school year pilot project after its initial year also shall include an evaluation of the savings and impacts on the educational program in the district.

Participation in a pilot project shall not modify provisions of a master contract negotiated between a school district and a certified bargaining unit pursuant to chapter 20 unless mutually agreed upon.

Sec. 2. Section 299.1, unnumbered paragraph 1, Code 1983, is amended to read as follows:

Any A person having control of any a child over seven and under sixteen years of age, in proper physical and mental condition to attend school, shall cause said the child to attend some public school for at least ~~twenty four consecutive school weeks~~ one hundred twenty days in each school year, commencing with the first week of school after the first day of September, unless the board of school directors ~~shall determine upon~~ establishes a later date, which date shall not be later than the first Monday in December.

Sec. 3. However, notwithstanding section 279.10, subsection 3, for the school year commencing July 1, 1983, the board of directors of a school district may request approval from the department of public instruction not later than June 1, 1983 for a pilot program in the manner provided in section 279.10, subsection 3. The department shall notify the districts of the approval or denial of the pilot programs not later than July 1, 1983.

Sec. 4. This Act, being deemed of immediate importance, takes effect from and after its publication in The Fonda Times, a newspaper published in Fonda, Iowa, and in the Buena Vista County Journal, a newspaper published in Newell, Iowa.

Approved April 4, 1983

I hereby certify that the foregoing Act, House File 120 was published in The Fonda Times, Fonda, Iowa on April 14, 1983 and in the Buena Vista County Journal, Newell, Iowa on April 14, 1983.

MARY JANE ODELL, *Secretary of State*

**CHAPTER 18**  
**VEHICLES USED BY GRAIN DEALERS**  
*S.F. 172*

**AN ACT** to eliminate the requirement that vehicles used by licensed grain dealers carry a special identification plate.

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

Section 1. Section 542.3, subsection 3, Code 1983, is amended to read as follows:

3. An application for a license to engage in business as a grain dealer shall be filed with the commission and shall be in a form prescribed by the commission. The application shall include the name of the applicant, its principal officers if the applicant is a corporation or the active members of a partnership if the applicant is a partnership and the location of the principal office or place of business of the applicant. A separate license shall be required for each location at which records are maintained for transactions of the grain dealer. ~~The application shall also list the number of trucks or tractor trailer units that will be used in the transportation of grain purchased under this chapter.~~ The application shall be accompanied by a complete financial statement of the applicant setting forth the assets, liabilities and the net worth of the applicant. The financial statement must be prepared according to generally accepted accounting principles. Assets shall be shown at original cost less depreciation. Upon a written request filed with the commission, the commission or a designated employee may allow asset valuations in accordance with a competent appraisal. Unpriced contracts shall be shown as a liability and valued at the applicable current market price of grain as of the date the financial statement is prepared.

Sec. 2. Section 542.6, subsections 3 and 4, Code 1983, are amended by striking the subsections.

Sec. 3. Section 542.7, Code 1983, is amended to read as follows:

542.7 **POSTING OF LICENSE AND REGISTRATION.** The grain dealer's license shall be posted in a conspicuous location in the place of business. ~~Each vehicle used by a license holder shall be registered with the commission and equipped with a special identification plate as prescribed by the commission so that the plate will be readily visible.~~ A grain dealer's license is not transferable. ~~The identification plate shall not be transferred from one vehicle to another, except in case of destruction or other disposition of the vehicle previously bearing the identification.~~ All transfers must first be approved by the commission. ~~If an identification plate for a vehicle becomes defaced or destroyed, the licensee shall request a replacement from the commission, which shall be issued upon payment of the fee.~~

Approved April 22, 1983

**CHAPTER 19**  
**RELEASE OF DEFENDANTS AND BAIL CONDITIONS**  
*S.F. 358*

**AN ACT** relating to the release of defendants and conditions required for bail.

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

Section 1. Section 811.2, subsection 1, unnumbered paragraph 1, Code 1983, is amended to read as follows:

All bailable defendants shall be ordered released from custody pending judgment on their personal recognizance, or upon the execution of an unsecured appearance bond in an amount specified by the magistrate unless the magistrate determines in the exercise of ~~his or her~~ the magistrate's discretion, that such a release will not reasonably assure the appearance of the defendant as required or that release will jeopardize the personal safety of another person or persons. When such determination is made, the magistrate shall, either in lieu of or in addition to the above methods of release, impose the first of the following conditions of release which will reasonably assure the appearance of the person for trial and the safety of another person or persons, or, if no single condition gives that assurance, any combination of the following conditions:

Sec. 2. Section 811.2, subsection 1, paragraph e, Code 1983, is amended to read as follows:

e. Impose any other condition deemed reasonably necessary to assure appearance as required, or the safety of another person or persons including a condition requiring that the defendant return to custody after specified hours.

Sec. 3. Section 811.2, subsection 2, Code 1983, is amended to read as follows:

2. DETERMINATION OF CONDITIONS. In determining which conditions of release will reasonably assure the defendant's appearance and the safety of another person or persons, the magistrate shall, on the basis of available information, take into account the nature and circumstances of the offense charged, the defendant's family ties, employment, financial resources, character and mental condition, the length of ~~his or her~~ the defendant's residence in the community, the defendant's record of convictions, and the defendant's record of appearance at court proceedings or of flight to avoid prosecution or failure to appear at court proceedings.

Approved April 22, 1983

**CHAPTER 20**  
**RULE AGAINST PERPETUITIES**  
*S.F. 433*

**AN ACT** relating to the rule against perpetuities.

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

Section 1. Section 558.68, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

**558.68 PERPETUITIES.**

1. A nonvested interest in property is not valid unless it must vest, if at all, within twenty-one years after one or more lives in being at the creation of the interest and any relevant period of gestation.

2. a. In determining whether a nonvested interest would violate the rule against perpetuities in subsection 1, the period of the rule shall be measured by actual events rather than by possible events, in any case in which that would validate the interest. For this purpose, if an examination of the facts in existence at the time the period of the rule begins to run reveals a life or lives in being within twenty-one years after whose deaths the nonvested interest will necessarily vest, if it ever vests, that life or lives are the measuring lives for purposes of the rule against perpetuities with respect to that nonvested interest and that nonvested interest is valid under the rule.

b. If no such life or lives can be ascertained at the time the period of the rule begins to run, the measuring lives for purposes of the rule are all of the following:

(1) The creator of the nonvested interest, if the period of the rule begins to run in the creator's lifetime.

(2) Those persons alive when the period begins to run, if reasonable in number, who have been selected by the creator of the interest to measure the validity of the nonvested interest or, if none, those persons, if reasonable in number, who have a beneficial interest whether vested or nonvested in the property in which the nonvested interest exists, the grandparents of all such beneficiaries and the issue of such grandparents alive when the period of the rule begins to run, and those persons who are the potential appointees of a special power of appointment exercisable over the property in which the nonvested interests exist who are the grandparents or issue of the grandparents of the donee of the power and alive when the period of the rule begins to run.

(3) Those other persons alive when the period of the rule begins to run, if reasonable in number, who are specifically mentioned in describing the beneficiaries of the property in which the nonvested interest exists.

(4) The donee of a general or special power of appointment if the donee is alive when the period of the rule begins to run and if the exercise of that power could affect the nonvested interest.

3. A nonvested interest that would violate the rule against perpetuities whether its period is measured by actual or by possible events shall be judicially reformed to most closely approximate the intention of the creator of the interest in order that the nonvested interest will vest, even though it may not become possessory, within the period of the rule.

4. This section is applicable to all nonvested interests created on, before, or after July 1, 1983.

Approved April 22, 1983

**CHAPTER 21**  
**JURISDICTION AND POWERS OF THE JUVENILE COURT**  
*S.F. 478*

**AN ACT** relating to the jurisdiction of the juvenile court, providing expanded authority to juvenile court referees, and allowing the juvenile court to estop parties before it from litigating concurrently issues of custody, guardianship, or placement of a child within the juvenile court's jurisdiction.

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

Section 1. Section 231.3, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

**231.3 DESIGNATION OF JUVENILE COURT JUDGE AND APPOINTMENT OF REFEREE.**

1. The chief judge of a judicial district shall designate one or more of the district judges and district associate judges to act as judges of the juvenile court for a county. The chief judge may designate a juvenile court judge to preside in more than one county.

2. The judge of the juvenile court may appoint and may remove a juvenile court referee. The referee shall be an attorney admitted to practice law in this state, and shall be qualified for duties by training and experience. The compensation of the referee shall be set by the appointing judge.

3. The referee shall have the same jurisdiction to conduct juvenile court proceedings and to issue orders, findings, and decisions as the judge of the juvenile court, except that the referee shall not issue warrants. However, the appointing judge may limit the referee's exercise of juvenile court jurisdiction.

4. The parties to a proceeding heard by the referee are entitled to a review by the judge of the juvenile court of the referee's order, finding, or decision, if the review is requested within ten days after the entry of the referee's order, finding, or decision. A request for review does not automatically stay the referee's order, finding, or decision. The review is on the record only, unless the judge, upon request or upon the judge's own motion, orders otherwise. In the interests of justice, the judge may allow a rehearing at any time.

5. In a county with a population of more than two hundred fifty thousand, the judge of the juvenile court may appoint and may remove a director of juvenile court services and shall set the director's compensation.

**Sec. 2. NEW SECTION. 232.3 CONCURRENT COURT PROCEEDINGS.**

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, or 633.

2. The juvenile court with jurisdiction of the pending action under this chapter, however, may, upon the request of a party to the action or on its own motion, authorize the party to litigate concurrently in another court a specific issue relating to the custody, guardianship, or

placement of the child who is the subject of the action. Before authorizing a party to litigate a specific issue in another court, the juvenile court shall give all parties to the action an opportunity to be heard on the proposed authorization. The juvenile court may request but shall not require another court to exercise jurisdiction and adjudicate a specific issue relating to the custody, guardianship, or placement of the child.

Sec. 3. Sections 232.63 and 232.124, Code 1983, are repealed.

Approved April 22, 1983

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**CHAPTER 22**  
**COLLECTION OF CORN AND SOYBEANS ASSESSMENT**  
*S.F. 509*

**AN ACT** relating to the collection of the Iowa corn and soybeans assessment at the time corn and soybeans are pledged to secure a loan extended under a federal price support loan program.

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

Section 1. Section 185.1, subsection 6, Code 1983, is amended to read as follows:

6. "First purchaser" means ~~any~~ a person, public or private corporation, governmental subdivision, association, co-operative, partnership, commercial buyer, dealer, or processor who ~~resells purchases soybeans purchased from a producer or offers for sale any product produced from such soybeans for any purpose for the first time for any purpose except to feed it to the purchaser's livestock or to manufacture a product from the soybeans purchased for the purchaser's personal consumption.~~

Sec. 2. Section 185.1, Code 1983, is amended by adding the following new subsection:

NEW SUBSECTION. 13. "Sale" or "purchase" includes but is not limited to the pledge or other encumbrance of soybeans as security for a loan extended under a federal price support loan program. Actual delivery of the soybeans occurs when the soybeans are pledged or otherwise encumbered to secure the loan. The purchase price of the soybeans is the principal amount of the loan extended and the purchase invoice for the soybeans is the documentation required for extension of the loan.

Sec. 3. Section 185C.1, subsection 6, Code 1983, is amended to read as follows:

6. "First purchaser" means ~~any~~ a person, public or private corporation, governmental subdivision, association, co-operative, partnership, commercial buyer, dealer, or processor who ~~resells purchases corn purchased from a producer or offers for sale any product produced from such corn for any purpose for the first time for any purpose except to feed it to the purchaser's livestock or to manufacture a product from the corn purchased for the purchaser's personal consumption.~~

Sec. 4. Section 185C.1, Code 1983, is amended by adding the following new subsection:

NEW SUBSECTION. 13. "Sale" or "purchase" includes but is not limited to the pledge or other encumbrance of corn as security for a loan extended under a federal price support loan

program. Actual delivery of the corn occurs when the corn is pledged or otherwise encumbered to secure the loan. The purchase price of the corn is the principal amount of the loan extended and the purchase invoice for the corn is the documentation required for extension of the loan.

Approved April 22, 1983

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**CHAPTER 23**  
**BIRTH DEFECTS INSTITUTE**  
*S.F. 188*

**AN ACT** relating to the birth defects institute within the state department of health.

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

Section 1. Section 136A.1, Code 1983, is amended to read as follows:

136A.1 PURPOSE. In order to provide for the protection and promotion of the health of the inhabitants of the state, the state department of health shall ~~have the responsibility for the development~~ develop and ~~administration of~~ administer the state's policy with respect to the conduct of scientific investigations and research concerning the causes, prevention, treatment and cure of birth defects. The department shall initiate, conduct, and supervise screening programs to discover genetic birth defects and related diseases and to prevent or treat the defects or diseases.

Sec. 2. Section 136A.2, Code 1983, is amended to read as follows:

136A.2 ESTABLISHMENT OF BIRTH DEFECTS INSTITUTE. There is established within the state department of health a birth defects institute ~~for the purposes of initiating to initiate and conducting~~ conduct investigations of the causes, mortality, methods of treatment, prevention and cure of birth defects and related diseases and to develop and administer genetic and metabolic screening programs and other related activities where the programs will aid in the prevention or treatment of a particular genetic or metabolic defect or disease. The birth defects institute shall assume responsibility for development and implementation of screening and educational programs for sickle cell anemia and other genetic blood disorders.

Sec. 3. NEW SECTION. 136A.2A GENETIC AND METABOLIC SCREENING DEFINED. Genetic and metabolic screening means the search through testing for persons with genetic and metabolic diseases so that early treatment or counseling can lead to the amelioration or avoidance of the adverse consequences of the diseases.

Sec. 4. Section 136A.3, Code 1983, is amended to read as follows:

136A.3 ACTIVITIES OF THE INSTITUTE. The birth defects institute may:

1. Conduct scientific investigations and surveys of the causes, mortality, methods of treatment, prevention and cure of birth defects.
2. Publish the results of ~~such~~ the investigations and surveys for the benefit of the public

health and collate ~~such~~ the publications for distribution to scientific organizations and qualified scientists and physicians.

3. Develop and administer genetic and metabolic screening programs to detect and prevent or treat birth defects, the programs to be conducted throughout the state.

4. Develop specifications for and designate a central laboratory in which tests required pursuant to the screening programs required in subsection 3 will be performed, taking into account the test costs to the financially responsible private parties and to the state.

5. Implement programs of professional education and training of medical students, physicians, nurses, scientists and technicians in the causes, methods of treatment, prevention and cure of birth defects.

6. Implement public educational programs to inform persons of the importance of genetic screening and of the various opportunities available.

7. Conduct and support clinical counseling services in medical facilities.

Sec. 5. NEW SECTION. 136A.4 RULES, REGULATIONS, AND STANDARDS. The birth defects institute, with assistance provided by the state department of health, shall adopt rules pursuant to chapter 17A to implement this chapter.

Sec. 6. NEW SECTION. 136A.5 CENTRAL REGISTRY— CONFIDENTIALITY. The birth defects institute may maintain a central registry to collect and store report data to facilitate the compiling of statistical information on the causes, treatment, prevention, and cure of genetic disorders and birth defects. Identifying information shall remain confidential pursuant to section 68A.7, subsection 2.

Sec. 7. NEW SECTION. 136A.6 COOPERATION OF OTHER AGENCIES. All state, district, county, and city health or welfare agencies shall cooperate and participate in the implementation of this chapter.

Sec. 8. Section 135.31 and chapter 141, Code 1983, are repealed.

Approved April 21, 1983

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## CHAPTER 24

### STAGGERED REGISTRATION OF VEHICLES

S.F. 453

**AN ACT** relating to the staggered registration of vehicles.

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

Section 1. 1982 Iowa Acts, chapter 1062, section 2, is amended to read as follows:

SEC. 2. Section 321.1, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. "Registration year" means the period of twelve consecutive months beginning on the first day of the month following the month of the birth of the owner of the vehicle for vehicles registered by the county treasurer and the calendar year for vehicles registered by the department or vehicles motor trucks and truck tractors with a combined gross weight exceeding five tons which are registered by the county treasurer ~~and mobile homes~~.

Sec. 2. Section 321.46, Code 1981, as amended by 1982 Iowa Acts, chapter 1062, section 8, is amended by inserting after subsection 3, paragraph g, the following new lettered paragraph:

NEW LETTERED PARAGRAPH. The credit shall be computed on the unexpired number of months computed from the date of purchase of the vehicle acquired.

Sec. 3. Section 321.46, subsection 3, paragraph g, Code 1981, as amended by 1982 Iowa Acts, chapter 1062, section 8, is amended to read as follows:

g. The credit allowed shall not exceed the amount of the registration fee for the vehicle acquired. ~~If the registration fee upon application is delinquent, the applicant shall be required to pay the delinquent fee from the first day the registration fee was due prorated to the month of application for new title.~~

Sec. 4. Section 321.46, Code 1981, as amended by 1982 Iowa Acts, chapter 1062, section 8, is amended by inserting after subsection 3 the following new subsection:

NEW SUBSECTION. 4. If the registration fee upon application is delinquent, the applicant shall be required to pay the delinquent fee from the first day the registration fee was due prorated to the month of application for new title.

Sec. 5. 1982 Iowa Acts, chapter 1062, section 13, is amended to read as follows:

SEC. 13. Section 321.106, Code 1981, is amended by striking the section and inserting in lieu thereof the following:

321.106 REGISTRATION FOR FRACTIONAL PART OF YEAR. When a vehicle is registered under chapter 326 or a motor truck, truck tractor, or road tractor is registered for a combined gross weight exceeding five tons and there is no delinquency and the registration is made in February or succeeding months through November, the registration fee shall be ~~computed on the basis of one-twelfth of the annual registration fee multiplied by the number of~~ prorated for the remaining unexpired months of the registration year. A fee shall not be required for the month of December for a vehicle registered on a calendar year basis on which there is no delinquency. When a vehicle is registered on a birth month basis and there is no delinquency and the registration is made in the month after the beginning of the registration year or succeeding months the registration fee shall be prorated for the remaining unexpired months of the registration year. A fee shall not be required for the month of the owner's birthday for a vehicle on which there is no delinquency. ~~Whenever any~~ If a fee computed under this section contains a fractional part of a dollar, the fee shall be computed to the nearest whole dollar. A fee computed under this section shall not be less than five dollars. The fee so computed shall be deemed to be the annual registration fee for the remainder of the registration year.

A reduction in the registration fee shall not be allowed by the department until the applicant files satisfactory evidence to prove that there is no delinquency in registration.

Sec. 6. 1982 Iowa Acts, chapter 1062, section 26, is amended to read as follows:

SEC. 26. Section 321.134, Code 1981, is amended by striking the section and inserting in lieu thereof the following:

321.134 MONTHLY PENALTY. On the first day of the second month following the beginning of each registration year a penalty of five percent of the annual registration fee shall be added to the registration fees not paid by that date and an additional penalty of five percent shall be added the first day of each succeeding month, until the fee is paid. A penalty shall not be less than five dollars. ~~If the owner of a vehicle surrenders the registration plates for a vehicle prior to the time they expire plates becoming delinquent, to the county treasurer of the county where the vehicle is registered, or to the department if the vehicle is registered under chapter 326, the owner may register the vehicle any time thereafter upon payment of the~~

registration fee for the registration year without penalty. The penalty on vehicles registered under chapter 326 shall accrue February 1 of each year.

The annual registration fee for trucks, truck tractors, and road tractors, as provided in sections 321.121 and 321.122, may be payable in two equal semiannual installments if the annual registration fee exceeds the registration fee for a vehicle with a gross weight exceeding five tons. The penalties provided in the preceding unnumbered paragraph shall be computed on the amount of the first installment only and on the first day of the seventh month of the registration period the same rate of penalty shall apply to the second installment, until the fee is paid. Semiannual installments shall do not apply to commercial vehicles subject to proportional registration, with a base state other than the state of Iowa, as defined in section 326.2, subsection 6. The penalty on vehicles registered under chapter 326 shall ~~accrue~~ accrues August 1 of each year.

If a penalty applies to any a vehicle registration fee provided for in sections 321.121 and 321.122, the same penalty shall be assessed on the fees collected to increase the registered gross weight of the vehicle, if the increased gross weight is requested within forty-five days from the date the delinquent vehicle is registered for the current registration period.

Sec. 7. 1982 Iowa Acts, chapter 1062, section 28, is amended to read as follows:

SEC. 28. Section 321.166, subsection 2, Code 1981, is amended to read as follows:

2. Every registration plate or pair of plates shall display a registration plate number which shall consist of alphabetical or numerical characters or a combination thereof and the name of this state, which may be abbreviated. Every registration plate issued by the county treasurer shall display the name of the county except plates issued for ~~motor trucks with a combined gross weight exceeding five tons~~, truck tractors, motorcycles, motorized bicycles, travel trailers, mobile homes, semitrailers and trailers. The year of expiration or the date of expiration shall be displayed on vehicle registration plates, except plates issued under section 321.19. ~~Registration plates issued for motor trucks and truck tractors shall be designed in such a manner that the gross weight for which the vehicle is registered may be displayed on the plate.~~ Special truck registration plates shall display the word "special".

Sec. 8. 1982 Iowa Acts, chapter 1062, section 34, is amended to read as follows:

SEC. 34. Chapter 321, Code 1981, is amended by adding the following new section:

**NEW SECTION. MULTIPLE REGISTRATION PERIODS AND ADJUSTMENTS.**

1. There are established twelve registration periods for the registration of vehicles by the county treasurer. Each registration period shall commence on the first day of each calendar month following the month of the birth of the owner of the vehicle and end on the last day of the twelfth month. ~~Every vehicle registered by the county treasurer shall be registered for a full twelve-month period, except mobile homes that are registered on a semiannual basis, vehicles registered under section 321.24 or 321.46, vehicles registered under chapter 326, and trucks with a gross weight exceeding five tons which may be registered on a semiannual basis.~~

2. The county treasurer may adjust the renewal or expiration date of vehicles when deemed necessary to equalize the number of vehicles registered in each twelve-month period or for the administrative efficiency of the county treasurer's office. The adjustment shall be accomplished by delivery of a written notice to the vehicle owner of the adjustment and allowance of a credit for the remaining months of the unused portion of the registration fee, rounded to the nearest whole dollar, which amount shall be deducted from the annual registration fee due at the time of registration. Upon receipt of the notification the owner shall, within thirty days, surrender the registration card and registration plates to the county treasurer of the county where the vehicle is registered, except that the registration plates shall not be surrendered if validation stickers or other emblems are used to designate the month and year of expiration of registration. Upon payment of the annual registration fee, less the credit allowed for the

remaining months of the unused portion of the registration fee, the county treasurer shall issue a new registration card and registration plates, validation stickers, or emblems which indicate the month and year of expiration of registration.

3. Vehicles subject to registration which are owned by a person other than a natural person shall be registered for a registration year as determined by the county treasurer.

Sec. 9. 1982 Iowa Acts, chapter 1062, section 35, is amended by adding the following new subsection:

**NEW SUBSECTION.** 4. When a registration fee computed contains a fractional part of a dollar, the fee shall be computed to the nearest whole dollar. However, the fee shall not be less than one dollar.

Sec. 10. Section 321.128, Code 1983, is amended to read as follows:

**321.128 PAYMENT AUTHORIZED.** The department is hereby authorized to ~~may~~ make such the payments according to the above provisions under sections 321.126 and 321.127, when sufficient proof of such destruction by accident, or the junking and entire elimination of identity as a motor vehicle, sale to a person whose residence or place of business is without the state, theft, or storage by an owner entering the military service of the United States in time of war, or removal for continuous use beyond the boundaries of the state, is properly certified, approved by the county treasurer, and filed with the department.

~~The decision of the department shall be final.~~

Sec. 11. Section 321.108, Code 1983, is repealed.

Sec. 12. This Act takes effect December 1 following enactment for registration fees payable on or after that date for vehicle registrations for the succeeding registration year.

Approved April 25, 1983

## CHAPTER 25

### AMOUNT OF LAND OWNED BY MERGED AREAS

*S.F. 88*

**AN ACT** relating to the amount of land owned by a merged area.

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

Section 1. Section 280A.35, unnumbered paragraph 1, Code 1983, is amended to read as follows:

A merged area may not purchase land which will increase the aggregate of land owned by such the merged area, excluding land which has been or may be acquired by donation or gift, by to more than three hundred twenty acres without the approval of the state board. Such The limitation shall does not apply to a merged areas area owning more than three hundred twenty acres, excluding land acquired by donation or gift, prior to January 1, 1969.

Approved April 25, 1983

**CHAPTER 26**  
**SHARED USE OF FACILITIES BY PUBLIC AGENCIES**  
*S.F. 119*

**AN ACT** relating to the shared use of facilities by public agencies.

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

Section 1. Chapter 28E, Code 1983, is amended by adding the following new section:  
**NEW SECTION. 28E.18 SHARED USE OF FACILITIES.** Before proceeding to construct or purchase a facility as otherwise provided by law, a public agency shall inquire of other public agencies having facilities within the same general geographic area concerning the availability of all or part of those facilities for rent or sharing by agreement with the inquiring public agency. If there are no suitable facilities available for rent or sharing, the governing body of the public agency shall record its findings in its meeting minutes.

Approved April 25, 1983

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**CHAPTER 27**  
**HEALTH DATA COMMISSION AND HEALTH COSTS**  
*H.F. 196*

**AN ACT** relating to health care by providing for the creation of a health data commission, its purposes, membership, powers, duties, and other related areas, by permitting a hospital service corporation to contract with an ambulatory surgical facility for surgical services, by permitting contracts between hospitals and radiologists and pathologists, by amending the membership of the board of directors of nonprofit hospital service corporations, nonprofit medical service corporations, and nonprofit pharmaceutical or optometric service corporations, and by providing a penalty.

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

Section 1. **NEW SECTION. INTENT AND PURPOSE.** As a result of rising health care costs and the concern expressed by health care providers, health care users, third-party payers, and the general public, there is an urgent need to abate these rising costs so as to place the cost of health care within reach of all Iowans without affecting the quality. It is the intent and purpose of sections 1 through 6 of this Act to maintain an acceptable quality of health care services in Iowa and yet at the same time improve the cost efficiency and effectiveness of health care services. To foster the cooperation of the separate industry forces, there is a need to compile and disseminate accurate and current data, including but not limited to price and utilization data, to meet the needs of the people of Iowa and improve the appropriate usage of

health care services. It is the intent of the general assembly to require the information necessary for a review and comparison of cost, utilization, and quality of health services. The information is to be compiled by a statewide clearinghouse and made available to interested persons to improve the decision-making processes regarding the purchase price and use of appropriate health care services. Patient confidentiality shall be protected.

**Sec. 2. NEW SECTION. HEALTH DATA COMMISSION ESTABLISHED—PURPOSE.** A state health data commission is established to act as a statewide health data clearinghouse for the acquisition, compilation, correlation, and dissemination of data from health care providers, the state Medicaid program, third-party payers, and other appropriate sources in furtherance of the purpose and intent of the legislature as expressed in section 1 of this Act.

The commission consists of the commissioners of health, insurance, and social services, one state senator and one state representative who shall not be of the same party, shall be non-voting members, and shall be appointed each year by the president of the senate and speaker of the house, respectively, and the chairperson of the board of directors of the corporation or the head of the association or other entity providing staff for the commission as provided by section 3 of this Act who shall be a nonvoting member. The commissioner members shall annually select the chairperson of the commission from among the three voting commissioner members. A majority of the six members including at least two voting members constitute a quorum.

The commission shall meet at least once during each calendar quarter. Meeting dates shall be set by members of the commission or by call of the chairperson upon five days notice to the members. Action of the commission shall not be taken except upon the affirmative vote of a majority of the voting members of the commission. The three voting commissioner members of the commission shall not receive a salary or per diem for being on the commission but shall receive reimbursement for necessary travel and expenses while engaged in commission business. Funds for reimbursement shall come from the moneys appropriated to the department of which the member is the head. The two legislative members of the commission are entitled to per diem and necessary travel and actual expenses as provided in subsection 6 of section 2.10. The commission staff and chairperson of the corporation, association, or entity under agreement with the commission pursuant to section 3, subsection 1 of this Act shall not receive any salary, wages, or per diem for serving the commission and shall not receive reimbursement for commission travel and related expenses or for other commission expenses.

**Sec. 3. NEW SECTION. POWERS AND DUTIES.**

1. The health data commission shall enter into an agreement with the health policy corporation of Iowa or any other corporation, association, or entity it deems appropriate to provide staff for the commission, to provide staff for the compilation, correlation, and development of the data collected by the commission, to conduct or contract for studies on health-related questions which will further the purpose and intent expressed in section 1 of this Act. The agreement may provide for the corporation, association, or entity to prepare and distribute or make available data to health care providers, health care subscribers, third-party payers, and the general public.

2. a. The commission may require that the state departments of health, insurance, and social services obtain for and make available to the commission data needed to carry out its purpose including but not limited to the data specified in this section. This data may be acquired from health care providers, third-party payers, the state Medicaid program, and other appropriate sources.

b. The data collected by and furnished to the commission pursuant to this section shall not

be public records under chapter 68A. The compilations prepared for release or dissemination from the data collected shall be public records under chapter 68A, which are not subject to section 68A.7, subsection 2, to the extent provided in section 4 of this Act. The confidentiality of patients is to be protected and the laws of this state in regard to patient confidentiality apply, except to the extent provided in section 4 of this Act.

3. The commission shall require that:

a. The commissioner of insurance and the commissioner of health encourage and assist third-party payers and hospitals to voluntarily implement the use of a uniform hospital billing form, and require that all third-party payers and all hospitals use, by July 1, 1984, the uniform hospital billing form designated or established by the commission. Uniform definitions for the billing form shall be established by the commission.

b. The commissioner of insurance require that all third-party payers, including but not limited to licensed insurers, medical and hospital service corporations, health maintenance organizations, and self-funded employee health plans, provide hospital inpatient and outpatient claims data and corresponding physician claims data to the commission pursuant to section 10 of this Act. This data shall include the patient's age, sex, zip code, third-party coverage, date of admission, procedure and discharge date, principal and other diagnoses, principal and other procedures, total charges and components of those charges, attending physician identification number and hospital identification number. Prior to July 1, 1984, the commissioner of insurance may limit the data collection to major third-party payers and a sample of those third-party payers with low market penetration; to more frequent diagnoses and procedures; and to hospital inpatient claims.

c. The corporation, association, or other entity providing research for the commission shall compile and disseminate comparative information on average charges, total and ancillary charge components, and length of stay on diagnosis-specific and procedure-specific cases on a hospital basis from the data defined in paragraph b. The data as collected by the commission shall not be public records under chapter 68A. The compilations prepared for release or dissemination from the data collected shall be public records under chapter 68A, which are not subject to section 68A.7, subsection 2, to the extent provided in section 4 of this Act. Prior to the release or dissemination of the compilations, the commission or the corporation, association, or other entity under agreement with the commission pursuant to section 3, subsection 1 of this Act, shall permit providers an opportunity to verify the accuracy of any information pertaining to the provider. The providers may submit to the commission any corrections of errors in the compilations of the data with any supporting evidence and comments the provider may submit. The commission shall correct data found to be in error.

d. If the data required by the commission or the members of the commission is available on computer or electronic tape, that a copy of this tape shall be provided when requested.

e. The commissioner of health and the commissioner of insurance establish a system which creates the use of a common identification number between the uniform hospital billing form and the hospital discharge abstract.

f. The commissioner of health establish a system of uniform physician identification numbers for use on the hospital discharge abstract forms.

g. The commissioner of social services make available to the commission data and information on the Medicaid program similar to that required of other third-party payers.

4. The commission may require that:

a. The commissioner of health require that the uniform discharge abstract form designated or established by the commission be used by all hospitals by July 1, 1984.

b. The commissioner of insurance require corporations regulated by the commissioner who provide health care insurance or service plans to provide health care policyholder or subscriber data by geographic area or other demographics.

c. The commissioner of health require hospitals to submit annually to the commissioner and to post notification in a public area that there is available for public examination in each facility the established charges for services, where applicable including but not limited to, routine daily room service, special care daily room service, delivery room service, operating room service, emergency room service and anesthesiology services, and as enumerated by the commission, for each of the twenty-five most common laboratory services, radiology services, and pharmacy prescriptions. In addition to the posting of the notification, the hospital shall post in each facility next to the notification, the established charges for routine daily room service, special care daily room service, delivery room service, operating room service, and emergency room service.

d. Additional or alternative information related to the intent and purpose of sections 1 through 6 of this Act as outlined in section 1 of this Act be submitted to the commission.

Sec. 4. **NEW SECTION. CONFIDENTIAL INFORMATION AND RECORDS.** Notwithstanding section 68A.7, subsection 2, section 135B.12, section 217.30, or any other statute, it is lawful to provide the information requested pursuant to section 3 of this Act as follows:

1. From hospitals, third-party payers, and other persons to the commissioners or departments of health, insurance, or social services.

2. From the commissioners of health, insurance, and social services to the health data commission.

3. From the health data commission to the corporation, association, or other entity providing research for the commission.

4. From the health data commission or its designee to interested persons.

Information provided pursuant to section 3 of this Act shall not identify a patient by name, address, or patient identification number unless authorized by the patient. Violation of this paragraph is a serious misdemeanor.

The commission shall determine the form in which information will be made available and to whom, when, and under what circumstances the information shall be made available.

A person shall not be civilly liable as a result of the person's acts, omissions, or decisions as a member of the commission or as an employee or agent in connection with the person's duties for the commission.

Sec. 5. **NEW SECTION. RELEASE OF INFORMATION.** Notwithstanding chapter 68A, the data furnished to the commission pursuant to section 3 of this Act shall not constitute a public record. A cause of action in the nature of defamation, invasion of privacy, or negligence shall not arise against a person for disclosing information in accordance with section 3 of this Act. However, this section shall not provide immunity for disclosing or furnishing false information with malice or willful intent to injure a person.

Sec. 6. **NEW SECTION. REPORTS AND TERMINATION OF COMMISSION.** The commission shall submit a report on the actions taken by the commission to the legislature not later than January 15, 1984 and January 15, 1985. The commission shall be terminated July 1, 1985. If the legislature does not extend the date for termination, a final report shall be submitted to the legislature by July 1, 1985.

Sec. 7. Section 135.11, Code 1983, is amended by adding the following new subsection:

**NEW SUBSECTION.** Establish, publish, and enforce rules not inconsistent with the law as necessary to obtain from persons licensed or regulated by the department the data required pursuant to section 3 of this Act by the state health data commission.

Sec. 8. Section 135B.26, Code 1983, is amended to read as follows:

135B.26 **COMPENSATION.** The contract between the hospital and doctor in charge of the laboratory or X-ray facilities may contain any provision for compensation of each upon which

they mutually agree, ~~provided, however, that no.~~ The contract shall be entered into which in any way creates may create the relationship of employer and employee between the hospital and the doctor, and a radiologist or pathologist. A percentage arrangement or a relationship of employer and employee between the hospital and the radiologist or pathologist is not and shall not be construed to be unprofessional conduct on the part of the doctor or in violation of the statutes of this state upon the part of the hospital.

Sec. 9. Section 135B.28, Code 1983, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Upon the effective date of regulations which may be adopted by the United States department of health and human services prohibiting combined billing by hospitals and hospital-based physicians under Title XVIII of the federal Social Security Act, the charges for all pathology and radiology services in a hospital, may upon the mutual agreement of the hospital, physician and third-party payer, be billed separately, the hospital component of the charges being included in the hospital bill and the doctor component being billed by the doctor.

Sec. 10. Section 505.8, unnumbered paragraph 2, Code 1983, is amended to read as follows:

He The commissioner shall, subject to the provisions of chapter 17A, establish, publish and enforce rules not inconsistent with the law for the enforcement of the provisions of this title and for the enforcement of the laws, the administration and supervision of which are imposed on the department and as necessary to obtain from persons authorized to do business in the state or regulated by the department that data required pursuant to section 3 of this Act by the state health data commission.

Sec. 11. Section 514.1, Code 1983, is amended to read as follows:

514.1 INSURANCE LAWS EXCLUDED GENERALLY. Any corporation hereafter organized under the provisions of chapter 504 or chapter 504A for the purpose of establishing, maintaining, and operating a nonprofit hospital service plan, whereby hospital service may be provided by the said corporation or by a hospital with which it has a contract for such service, to such of the public who become subscribers to said this plan under a contract which entitles each subscriber to hospital service, or any such corporation organized for the purpose of establishing, maintaining, and operating a plan whereby medical and surgical service may be provided at the expense of said this corporation, by duly licensed physicians and surgeons, dentists, podiatrists, osteopathic physicians, or osteopathic physicians and surgeons, to subscribers under contract, entitling each subscriber to medical and surgical service, as provided in said the contract or any such corporation organized for the purpose of establishing, maintaining, and operating a nonprofit pharmaceutical service plan or optometric service plan, whereby pharmaceutical or optometric service may be provided by the said this corporation or by a licensed pharmacy with which it has a contract for such service, to such of the public who become subscribers to said this plan under a contract which entitles each subscriber to pharmaceutical or optometric service, shall be governed by the provisions of this chapter and shall be exempt from all other provisions of the insurance laws of this state, unless specifically designated herein, not only in governmental relations with the state but for every other purpose, and no additions hereafter enacted shall not apply to such these corporations unless they be expressly designated therein. For the purposes of this chapter, the term "subscriber" shall include means an individual who enters into a contract for hospital services, medical or surgical services, dental services, or pharmaceutical or optometric services with a corporation subject to this chapter and includes any person eligible for medical assistance or additional medical assistance as defined under chapter 249A as hereafter amended, with

respect to whom the department of social services has entered into a contract with any firm operating under said chapter 514. For purposes of this chapter, "provider" is as defined in section 514B.1.

Sec. 12. Section 514.4, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

514.4 DIRECTORS. At least two-thirds of the directors of a hospital service corporation, medical service corporation, dental service corporation, or pharmaceutical or optometric service corporation subject to this chapter shall be at all times subscribers and not more than one-third of the directors shall be providers as provided in this section. The board of directors of each corporation shall consist of at least nine members.

A subscriber director is a director of the board of a corporation who is a subscriber and who is not a provider of health care pursuant to section 514B.1, subsection 5, a person who has material financial or fiduciary interest in the delivery of health care services or a related industry, an employee of an institution which provides health care services, or a spouse or a member of the immediate family of such a person. A subscriber director of a hospital or medical service corporation shall be a subscriber of the services of that corporation.

A provider director of a corporation subject to this chapter shall be at all times a person who has a material financial interest in or is a fiduciary to or an employee of or is a spouse or member of the immediate family of a provider having a contract with such corporation to render to its subscribers the services of such corporation or who is a hospital trustee.

A director may serve on a board of only one corporation at a time subject to this chapter.

The commissioner of insurance shall adopt rules pursuant to chapter 17A to implement the process of the election of subscriber directors of the board of directors of a corporation to ensure the representation of a broad spectrum of subscriber interest on each board. The rules shall provide for an independent subscriber nominating committee to serve until the composition of the board of directors meets the percentage requirements of this section. Once the composition requirements of this section are met, the nominations for subscriber directors shall be made by the subscriber directors of the board. A member of the board of directors of a corporation subject to this chapter shall not serve on the independent subscriber nominating committee. The nominating committee shall consist of subscribers as defined in this section and procedures to permit nomination by a petition of at least fifty subscribers or providers.

Population factors, representation of different geographic regions, and the demography of the service area of the corporation subject to this chapter shall be considered when making nominations for the board of directors of a corporation subject to this chapter.

A corporation shall not reimburse or compensate a provider director or a subscriber director more than forty dollars per diem plus necessary and actual expenses for attendance at a meeting of the board of directors.

A corporation serving states in addition to Iowa shall be required to implement this section only for directors who are residents of Iowa and elected as board members from Iowa.

Sec. 13. Section 514.5, unnumbered paragraph 1, Code 1983, is amended to read as follows:

Any A hospital service corporation organized under the provisions of said chapter 504 or 504A may enter into contracts for the rendering of hospital service to any of its subscribers with hospitals maintained and operated by the state or any of its political subdivisions, or by any corporation, association, or individual. Such hospital service corporation may also contract with an ambulatory surgical facility to provide surgical services to the corporation's subscribers. Hospital service is meant to include bed and board, general nursing care, use of the operating room, use of the delivery room, ordinary medications and dressings and other customary routine care. Ambulatory surgical facility means a facility constructed and

operated for the specific purpose of providing surgery to patients admitted to and discharged from the facility within the same day.

Sec. 14. NEW SECTION. 514.19 COMBINED SERVICE CORPORATIONS. A corporation subject to this chapter may combine with any other corporation subject to this chapter as permitted under chapter 504A and upon the approval by the commissioner of insurance. Each corporation shall comply with chapter 504A, the corporation's articles of incorporation, and the corporation's bylaws. The combined service corporation shall continue the service benefits previously provided by each corporation and may, subject to the approval of the commissioner of insurance, offer other service benefits not previously provided by the corporations before combining, which are permitted under chapter 514.

Sec. 15. Section 12 of this Act takes effect August 1, 1983 and applies to corporations in existence on the effective date of this Act and to corporations formed on or after the effective date of this Act. However, a corporation in existence on the effective date of this Act shall fill any vacancy or any expired term of a director position with a subscriber director and shall have at least a majority of subscribers on the board of directors of the corporation by August 1, 1984 and at least two-thirds of the board shall be subscribers by August 1, 1985. Provider directors serving on the effective date of this Act may complete their terms of office so long as at least a majority of the board is subscribers by August 1, 1984 and at least two-thirds of the board are subscribers by August 1, 1985. Such director shall not serve a term of more than three years or shall serve the remainder of the term being served, whichever is shorter. Only subscriber directors elected pursuant to the rules adopted by the commissioner of insurance pursuant to section 12 of this Act shall be considered in meeting the percentage requirements of the board composition required in this section.

Approved April 26, 1983

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## CHAPTER 28

### HEALTH MAINTENANCE ORGANIZATION ADVERTISING

*H.F. 577*

**AN ACT** permitting health maintenance organizations to advertise the names of health professionals providing health care services at the health maintenance organization.

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

Section 1. Section 514B.32, subsection 2, Code 1983, is amended to read as follows:

2. Solicitation of enrollees by a health maintenance organization granted a certificate of authority or its representatives ~~shall does not be construed to~~ violate any provision of law prohibiting solicitation or advertising by health professionals. Upon a prospective enrollee's request, a list of locations of services and a list of providers who have current agreements with the health maintenance organization shall be made available. ~~No health maintenance organization shall, in any advertising, identify by name any physician or surgeon, osteopathic physician or surgeon, dentist, optometrist, podiatrist, chiropractor, or professional corporation as defined by chapter 496C, with whom the health maintenance organization has an agreement to provide health care services.~~

Approved April 26, 1983

**CHAPTER 29**  
CLAIMS AGAINST A COUNTY  
*H.F. 201*

**AN ACT** to delete a requirement that claims against a county be verified by the signature of the claimant.

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

Section 1. Section 331.504, subsection 8, Code 1983, is amended to read as follows:

8. File for presentation to the board all unliquidated claims against the county and all claims for fees or compensation, except salaries fixed by state law. The claims, before being audited or paid, shall be itemized to clearly show the basis of the claim and whether for property sold or furnished for services rendered or for another purpose, ~~and shall be signed by the claimant.~~ An action shall not be brought against the county relating to a claim until the claim is filed as provided in this subsection and the payment refused or neglected.

Sec. 2. Section 331.506, subsection 3, paragraph a, Code 1983, is amended to read as follows:

a. For fixed charges including, but not limited to, freight, express, postage, water, light, telephone service or contractual services, after a ~~verified~~ bill is filed with the auditor.

Approved April 26, 1983

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**CHAPTER 30**  
CLASSIFICATION OF LATERAL DITCHES AND DRAINS  
*S.F. 239*

**AN ACT** relating to the simultaneous classification of the main and all laterals of a drainage district when a branch or lateral is improved.

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

Section 1. Section 455.48, subsection 2, Code 1983, is amended to read as follows:

2. When there has been a repair or improvement to a lateral ditch or drain as provided in section 455.135 and the lands benefited by the lateral have not been classified as provided in this section, ~~then~~ the board may order a classification of ~~said~~ the lands and the commission shall ascertain and fix the percentage of benefits and apportionment of costs to the lands benefited by such lateral ditches or drains on the same basis and in the same manner as if ~~said~~

the lateral was with its sublaterals being constructed as a subdistrict as provided in this chapter. Whenever When this procedure is followed for the classification of any lateral ditch or drain in a given district, the board shall simultaneously follow the same procedure for the main drains and all other lateral ditches or drains in the district which have not been classified as prescribed in this section.

Approved April 28, 1983

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**CHAPTER 31**  
**TWELVE SCHOOL GRADES REQUIREMENT**  
*H.F. 344*

**AN ACT** relating to the requirement that school districts maintain twelve grades and to provide for tuition payments by those districts not maintaining twelve grades.

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

Section 1. Section 257.28, Code 1983, is amended to read as follows:

**257.28 NONRESIDENT PUPILS.** The boards of directors of two or more school districts may by agreement provide for attendance of pupils residing in one district in the schools of another district for the purpose of taking courses not offered in the district of their residence. The boards may also provide by agreement that the districts will combine their enrollments for one or more grades. Courses and grades made available to students in this manner shall be considered as complying with any standards or laws requiring the offering of such courses and grades. The boards of directors of districts entering into such agreements may provide for sharing the costs and expenses of such courses.

Sec. 2. Section 275.1, unnumbered paragraph 1, Code 1983, is amended to read as follows:

It is declared to be the policy of the state to encourage economical and efficient school districts which will ensure an equal educational opportunity to all children of the state. All areas of the state shall be in school districts maintaining twelve grades. If any school district ceases to maintain twelve grades except as otherwise provided in sections 280.15, and 257.28, and 282.7, subsection 1, it shall reorganize within six months or the state board shall attach the school district not maintaining twelve grades to one or more adjacent districts. Voluntary reorganizations under this chapter shall be commenced only if the affected school districts are contiguous to one another. A reorganized district shall meet the requirements of section 275.3.

Sec. 3. Section 282.1, Code 1983, is amended to read as follows:

**282.1 SCHOOL AGE—NONRESIDENTS.** Persons between five and twenty-one years of age shall be are of school age. A board may establish and maintain evening schools for all residents of the corporation regardless of age and for which no tuition need be charged. Nonresident children shall be charged the maximum tuition rate as determined in section 282.24, subsection 1, with the exception that those sojourning residing temporarily in any a school corporation may attend school therein in the corporation upon such terms as prescribed by the board may determine and boards discontinuing grades under section 282.7, subsection 1, shall be charged tuition as provided in section 282.24, subsection 2.

Sec. 4. Section 282.7, unnumbered paragraph 1, Code 1983, is amended by striking the unnumbered paragraph and inserting in lieu thereof the following:

1. The board of directors of a school district by record action may discontinue any or all of grades seven through twelve and negotiate an agreement for attendance of the pupils enrolled in those grades in the schools of one or more contiguous school districts having approved school systems. If the board designates more than one contiguous district for attendance of its pupils, the board shall draw boundary lines within the school district for determining the school districts of attendance of the pupils. The portion of a district so designated shall be contiguous to the approved school district designated for attendance. Only entire grades may be discontinued under this subsection and if a grade is discontinued, all higher grades in that district shall also be discontinued. A school district that has discontinued one or more grades under this subsection has complied with the requirements of section 275.1 relating to the maintenance of twelve grades. A pupil who graduates from another school district under this subsection shall receive a diploma from the receiving district. Tuition shall be paid by the resident district as provided in section 282.24, subsection 2. The agreement shall provide for tuition, transportation, and authority and liability of the affected boards.

Sec. 5. Section 282.7, unnumbered paragraph 2, Code 1983, is amended to read as follows:

2. Any A school district which does not have an area vocational technical high school or program, established and approved under the provisions of chapter 258, may permit a resident child to attend school in another district which has such a school or program. ~~Said~~ The child shall meet the entrance requirements of the school district which has ~~such an~~ the area school or program. Tuition at the maximum rate prescribed in section 282.24, subsection 1, but not transportation, for such a child shall be paid by the resident district as required in section 282.20.

Sec. 6. Section 282.20, unnumbered paragraph 1, Code 1983, is amended to read as follows:

The school corporation in which the student resides shall pay from the general fund to the secretary of the corporation in which ~~he~~ the student is permitted to enroll, ~~the maximum a~~ tuition fee as prescribed in section 282.24.

Sec. 7. Section 282.24, Code 1983, is amended to read as follows:

**282.24 TUITION FEES ESTABLISHED.**

1. There is established a maximum tuition fee ~~to that~~ may be charged for students, elementary or and high school, students residing within another school district or corporation except students attending school in another district under section 282.7, subsection 1. That fee is the district cost per pupil of the receiving district as computed in section 442.9, subsection 1, paragraph "a".

Any A school corporation which owns facilities used as attendance centers for students shall maintain an itemized statement of the appraised value of all buildings owned by the school corporation. Beginning July 1, 1976, the appraisal shall be updated at least one time every five years.

The superintendent of public instruction shall, after July 1 but before September 1 of each year, notify every school in the state, affected by this section, what the computed maximum tuition rate shall be for the ensuing year.

~~Nothing in this section shall prevent~~ This subsection does not prevent the corporation or district in which the student resides from paying a tuition in excess of the maximum computed tuition rates, if the actual per pupil cost of the preceding year so warrants, but ~~in no case may~~ the receiving district or corporation shall not demand more than the maximum rate.

2. The tuition fee charged by the board of directors for pupils attending school in the district under section 282.7, subsection 1, shall not exceed the actual cost of providing the

educational program for either the high school or the junior high school in that district and shall not be less than the maximum tuition rate in that district. For the purpose of this section, high school means a school which commences with either grade nine or grade ten as determined by the board of directors of the district, and junior high school means the remaining grades commencing with grade seven.

Sec. 8. Section 282.17, Code 1983, is repealed.

Approved April 28, 1983

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## CHAPTER 32

### ACCESS TO STATE TAX RETURNS

*S.F. 369*

**AN ACT** to authorize the director of revenue to provide state tax returns and return information to the auditor of state for auditing purposes.

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

Section 1. Section 422.72, subsection 1, Code 1983, is amended by adding the following new unnumbered paragraph:

**NEW UNNUMBERED PARAGRAPH.** The director of revenue shall provide state tax returns and return information to the auditor of state, to the extent that the information is necessary to complete the annual audit of the department of revenue required by section 11.2. The state tax returns and return information provided by the director shall remain confidential and shall not be included in any public documents issued by the auditor of state.

Sec. 2. This Act, being deemed of immediate importance, takes effect from and after its publication in *The Council Bluffs Nonpareil*, a newspaper published in Council Bluffs, Iowa, and in the *Marshalltown Times-Republican*, a newspaper published in Marshalltown, Iowa.

Approved April 22, 1983

Pursuant to the authority vested in the undersigned, Secretary of State of the State of Iowa, under the provisions of Section 3.9, Code of Iowa, 1983, there being no newspaper by the name of *The Council Bluffs Nonpareil*, published in Council Bluffs, Iowa, I hereby designate *The Daily Nonpareil*, published in Council Bluffs, Iowa to publish the foregoing Act, Senate File 369.

MARY JANE ODELL, *Secretary of State*

I hereby certify that the foregoing Act, Senate File 369 was published in *The Daily Nonpareil*, Council Bluffs, Iowa, on April 26, 1983 and in the *Marshalltown Times-Republican*, Marshalltown, Iowa on April 27, 1983.

MARY JANE ODELL, *Secretary of State*

**CHAPTER 33**  
**HARVEST SEASON FOR WILD GINSENG**  
*S.F. 42*

**AN ACT** to set the time for the harvesting of wild ginseng.

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

Section 1. Section 107.24, subsection 11, Code 1983, is amended to read as follows:

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

Approved April 28, 1983

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**CHAPTER 34**  
**SALARY OF DEPUTY CLERKS OF COURT**  
*S.F. 138*

**AN ACT** relating to the annual salary of the deputy clerks of the district court in a county having two locations at which the district court is held.

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

Section 1. Section 331.904, subsection 1, Code 1983, is amended to read as follows:

1. The annual salary of the first and second deputy officer of the office of auditor, treasurer, recorder, and clerk and the deputy in charge of the motor vehicle registration and title division shall each be an amount not to exceed eighty percent of the annual salary of the deputy's principal officer as determined by the principal officer. In offices where more than two deputies are required, each additional deputy shall be paid an amount not to exceed seventy-five percent of the principal officer's salary, except that in a county having two locations at which the district court is held, an additional deputy clerk shall be paid an amount not to exceed eighty percent of the principal officer's salary. The amount of the annual salary of each deputy shall be certified by the principal officer to the board and, if a deputy's salary does not exceed the limitations specified in this subsection, the board shall certify the salary to the auditor. The board shall not certify a deputy's salary which exceeds the limitations of this subsection.

Approved April 28, 1983

**CHAPTER 35**  
**LIQUEFIED PETROLEUM GAS PUMPS**  
*S.F. 225*

**AN ACT** to require the metering, inspection and testing, sealing, and licensing of pumps used to dispense liquefied petroleum gas.

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

Section 1. Section 324.34, unnumbered paragraph 3, Code 1983, is amended to read as follows:

The department of revenue shall make reasonable rules governing the dispensing of special fuel by distributors, special fuel dealers and licensed special fuel users. The department shall require that all pumps located at special fuel dealer locations and licensed special fuel user locations through which fuel oil or liquefied petroleum gas can be dispensed, be metered, inspected, tested for accuracy, sealed and licensed by the state department of agriculture, and that special fuel delivered into the fuel supply tank of any motor vehicle or into a motor vehicle special fuel holding tank shall be dispensed only through tested metered pumps and may be sold without temperature correction or corrected to a temperature of sixty degrees. If the metered gallonage is to be temperature corrected, only a temperature compensated meter shall be used.

Approved April 28, 1983

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**CHAPTER 36**  
**WORKERS' COMPENSATION COVERAGE**  
*S.F. 51*

**AN ACT** relating to workers' compensation coverage and employers' liability coverage provided to corporate officers who voluntarily reject workers' compensation coverage.

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

Section 1. Section 85.1, Code 1983, is amended by adding the following new subsection:  
**NEW SUBSECTION. 4A.** The president, vice president, secretary, and treasurer of a corporation other than a family farm corporation, not to exceed four officers per corporation, if such an officer knowingly and voluntarily rejects workers' compensation coverage pursuant to section 5 of this Act.

Sec. 2. Section 85.1, subsection 5, Code 1983, is amended to read as follows:

5. Employers, including employers of employees engaged in any type of service in or about a private dwelling, employers of persons whose employment is of a casual nature and not for the purpose of the employer's trade or business, and employers of persons engaged in agriculture, may with respect to an employee or person or a classification of employees exempt by subsections 1, 2 and 4 and subsection 3, paragraph "a" from coverage provided by this chapter pursuant to subsection 1, 2, 3, 4, or 4A, other than the employee or classification of employees with respect to whom a rule of liability or a method of compensation is established by the Congress of the United States, assume a liability for compensation imposed upon employers by this chapter, for the benefit of employees within the coverage of this chapter. Employers of employees, persons or classifications of employees exempted by paragraph "b" of subsection 3 may with respect to such employee, person or classification of employees assume a liability for compensation imposed upon employers by this chapter, by the purchase of valid workers' compensation insurance specifically including separate classifications for (a) such persons who are the spouse of the employer, parents, brothers, sisters, children and stepchildren of either the employer or the spouse of the employer, and the spouses of the brothers, sisters, children, and stepchildren of either the employer or the spouse of the employer, (b) persons engaged in exchanging labor and (c) officers of a family farm corporation, spouses of the officers, the parents, brothers, sisters, children, and stepchildren of either the officers or the spouses of the officers, and the spouses of the brothers, sisters, children, and stepchildren of either the officers or the spouses of the officers, and (d) the spouse of a partner of a partnership, the parents, brothers, sisters, children, and stepchildren of either a partner or the spouse of a partner, and the spouses of the brothers, sisters, children, and stepchildren of either a partner or the spouse of a partner the employee or classification of employees. The purchase of and acceptance by an employer of valid workers' compensation insurance applicable to such the employee or person or classification of employees constitutes an assumption by the employer of liability without any further act on the part of the employer, but only with respect to such the employee or person or classification of employees as are within the coverage of the workers' compensation insurance contract. If under this subsection an employer voluntarily elects to assume the liability for the payment of compensation to such employees or persons or classification of employees by the purchase of valid workers' compensation insurance, the liability of the employer takes effect and continues from the effective date of the workers' compensation insurance contract as long as and only for the time period in which the insurance contract is in force. Upon an election, of such coverage, the employee or person or classification of employees shall accept compensation in the manner provided by the this chapter and the employer shall be relieved from any other liability for recovery of damage, or other compensation for injury.

Sec. 3. Section 85.61, subsection 3, paragraph d, Code 1983, is amended by striking the paragraph.

Sec. 4. Section 87.21, unnumbered paragraph 1, Code 1983, is amended to read as follows:

Any employer, except an employer with respect to an exempt as provided in employee under section 85.1 or a corporation exempt with respect to a corporate officer as provided in section 85.61, subsection 3, paragraph "d", who has failed to insure the employer's liability in one of the ways provided in this chapter, unless relieved from carrying such insurance as provided in section 87.11, is liable to an employee for a personal injury in the course of and arising out of the employment, and the employee may enforce the liability by an action at law for damages, or may collect compensation as provided in chapters 85, 85A, 85B, and 86. In actions by the employee for damages under this section, the following rules apply:

**Sec. 5. NEW SECTION. CORPORATE OFFICER EXCLUSION FROM WORKERS' COMPENSATION OR EMPLOYERS' LIABILITY COVERAGE.** The president, vice president, secretary, and treasurer of a corporation other than a family farm corporation, but not to exceed four officers per corporation, may exclude themselves from workers' compensation coverage under chapters 85, 85A, and 85B by knowingly and voluntarily rejecting workers' compensation coverage by signing, and attaching to the workers' compensation or employers' liability policy, initially and upon renewal of the policy, a written rejection, or if such a policy is not issued, by signing a written rejection which is witnessed by two disinterested individuals who are not, formally or informally, affiliated with the corporation and which is filed by the corporation with the industrial commissioner, in substantially the following form:

**REJECTION OF WORKERS' COMPENSATION OR EMPLOYERS' LIABILITY COVERAGE**

I understand that by signing this statement I reject the coverage of chapters 85, 85A, and 85B of the Code of Iowa relating to workers' compensation.

I understand that my rejection of the coverage of chapters 85, 85A, and 85B is not a waiver of any rights or remedies available to me or to others on my behalf in a civil action related to personal injuries sustained by me arising out of and in the course of my employment with the corporation.

I also understand that by signing this statement and checking alternative (1) below I reject employers' liability coverage for bodily injuries or death sustained by me arising out of and in the course of my employment with the corporation. (Check either alternative (1) or (2):)

- (1) I reject the employers' liability coverage.
- (2) I decline to reject the employers' liability coverage.

Signed .....  
 Corporate Office .....  
 Date .....  
 City, County, State of Residence .....  
 Witness .....  
 Witness .....

I also understand that the signing of this statement and checking of alternative (1) below by an authorized agent of the corporation rejects for the corporation employers' liability coverage for bodily injuries or death sustained by me arising out of and in the course of my employment with the corporation. (Check either alternative (1) or (2):)

- (1) The corporation rejects the employers' liability coverage.
- (2) The corporation declines to reject the employers' liability coverage.

Signed .....  
 Relationship to Corporation .....  
 Date .....  
 City, County, State of Residence .....  
 Witness .....  
 Witness .....

The rejection of workers' compensation coverage is not enforceable if it is required as a condition of employment. A corporate officer who signs a written rejection filed with the industrial commissioner may terminate the rejection by signing a written notice of termination which is witnessed by two disinterested individuals, who are not, formally or informally, affiliated with the corporation and which is filed by the corporation with the industrial commissioner.

**Sec. 6. NEW SECTION. ISSUANCE OF EMPLOYERS' LIABILITY COVERAGE.** An insurer intending to issue a policy providing employers' liability insurance only and covering a

corporate officer excluded from workers' compensation coverage by the signing of a written rejection of workers' compensation coverage under section 5 of this Act, shall file the policy with and obtain the approval of the commissioner of insurance. The filing shall include the premium rates which will apply to the employers' liability coverage.

Sec. 7. A corporate officer employed on or before January 1, 1983 who chooses to sign an acceptance of exemption for calendar year 1983 under section 85.61, subsection 3, paragraph d, shall sign, and the corporation shall file, the acceptance of exemption any time prior to December 31, 1983.

Notwithstanding the sixty-day limitation in section 85.61, subsection 3, paragraph d, an acceptance of exemption for a newly employed officer may be signed and filed with the industrial commissioner at any time prior to December 31, 1983.

Sec. 8. This Act, being deemed of immediate importance, takes effect from and after its publication in the Audubon News-Advocate, a newspaper published in Audubon, Iowa, and in the Guthrie Center Times, a newspaper published in Guthrie Center, Iowa. However, sections 1 through 6 of this Act take effect January 1, 1984.

Approved April 15, 1983

I hereby certify that the foregoing Act, Senate File 51 was published in the Audubon News-Advocate, Audubon, Iowa on April 20, 1983 and in the Guthrie Center Times, Guthrie Center, Iowa on April 27, 1983.

MARY JANE ODELL, *Secretary of State*

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**CHAPTER 37**  
**RULES OF EVIDENCE**  
*S.F. 504*

**AN ACT** relating to the repeal or modification of statutes and rules affected by the proposed Iowa rules of evidence.

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

Section 1. Section 232.74, Code 1983, is amended to read as follows:

232.74 EVIDENCE NOT PRIVILEGED OR EXCLUDED. Sections ~~622.7, 622.9~~ and 622.10 and any other statute or rule of evidence which excludes or makes privileged the testimony of a husband or wife against the other or the testimony of a health practitioner as to confidential communications, ~~shall do~~ not apply to evidence regarding a child's injuries or the cause thereof of the injuries in any judicial proceeding, civil or criminal, resulting from a report pursuant to this chapter or relating to the subject matter of such a report.

Sec. 2. Section 554.2724, Code 1983, is amended to read as follows:

554.2724 ADMISSIBILITY OF MARKET QUOTATIONS. ~~Whenever~~ If the prevailing price or value of any goods regularly bought and sold in any an established commodity market

is in issue, reports in official publications or trade journals or in newspapers or periodicals of general circulation published as the reports of such that market shall be are admissible in evidence. The circumstances of the preparation of such a report may be shown to affect its weight but not its admissibility. Reports are also admissible under Iowa rule of evidence 803(17).

Sec. 3. Section 622.52, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

622.52 EFFECT ON RULES. Sections 622.53 through 622.63, are not a limitation of the Iowa rules of evidence.

Sec. 4. Section 622.53, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

622.53 JUDICIAL RECORD—STATE OR FEDERAL COURTS. A judicial record of this state, including the filed certified shorthand notes of the official court reporter as transcribed or a court of the United States may be proved by the production of the original, or a copy of it certified by the clerk or person having the legal custody of it, authenticated by the custodian's seal of office, if there is a seal. That of another state may be proved by the attestation of the clerk and the seal of the court annexed, if there is a seal, together with a certificate of a judge, chief justice, or presiding magistrate that the attestation is in due form of law.

Sec. 5. Section 624.14, Code 1983, is amended to read as follows:

624.14 JUROR AS WITNESS—GROUNDS TO SET ASIDE VERDICT. If a juror has personal knowledge respecting a fact in controversy in a cause, the juror must declare the same in open court during the trial, and if, during the retirement of the jury, a juror declares any fact which could be evidence in the cause, as of the juror's own knowledge, the jury must return into court, and the juror must be sworn as a witness and examined in the presence of the parties, if the juror's evidence be admissible; and in support of a motion to set aside a verdict, proof fact of the knowledge in accordance with Iowa rule of evidence 606(A), and the juror may not testify in the trial of the case in which the juror is sitting. Proof of such a declaration may be made by any juror in support of a motion to set aside a verdict.

Sec. 6. Section 726.4, Code 1983, is amended to read as follows:

726.4 HUSBAND OR WIFE MAY BE WITNESS. In all prosecutions under section 726.3, 726.5 or 726.6, the husband or wife shall be is a competent witness for the state and may testify to any relevant acts or communications between them, anything in previous statutes to the contrary notwithstanding, provided, however, that no husband or wife shall be called or compelled to testify against the other under section 726.3, 726.5 or 726.6 except upon consent of such witness.

Sec. 7. Sections 622.1, 622.4, 622.5, 622.6, 622.7, 622.12, 622.17, 622.18, 622.19, 622.20, 622.37, 622.38, 622.39, 622.40, Code 1983, and R.Cr.P. 20(5) are repealed.

Approved April 28, 1983

**CHAPTER 38**  
**DOCUMENTS REGARDING CONVICTED PERSONS**  
*H.F. 578*

**AN ACT** relating to certain information and documents containing certain information, involving persons convicted of crimes.

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

Section 1. Chapter 901, Code 1983, is amended by adding the following new section:

**NEW SECTION. INFORMATION FOR PAROLE BOARD.** At the time of committing a defendant to the custody of the director of the division of adult corrections for incarceration, the trial judge and prosecuting attorney shall, and the defense attorney may, furnish the board of parole with a full statement of their recommendations relating to release or parole.

Sec. 2. Section 901.2, Code 1983, is amended by adding the following new unnumbered paragraph:

**NEW UNNUMBERED PARAGRAPH.** The purpose of the report by the judicial district department of correctional services is to provide the court pertinent information for purposes of sentencing and to include suggestions for correctional planning for use by correctional authorities subsequent to sentencing.

Sec. 3. Section 901.4, Code 1983, is amended to read as follows:

**901.4 PRESENTENCE INVESTIGATION REPORT CONFIDENTIAL.** 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. The At least three days prior to the date set for sentencing, the court may, in its discretion, shall make all of the presentence investigation report or parts of it available to the defendant, or the court may make the report or parts of it available while concealing for inspection to the defendant's attorney, and to the attorney for the state. However, the court may conceal the identity of the person who provided confidential information. The report of any medical examination or psychological or psychiatric evaluation shall be made available to the attorney for the state and to the defendant upon request. Such reports shall be are part of the record but shall be sealed and opened only on order of the court. In any case where If the defendant is committed to the custody of the division of adult corrections and is not a class "A" felon, a copy of the presentence investigation report shall be sent 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 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.

Sec. 4. Section 901.6, Code 1983, is amended to read as follows:

**901.6 JUDGMENT ENTERED.** If judgment is not deferred, and no sufficient cause is shown why judgment should not be pronounced and none appears to the court upon the record, judgment shall be pronounced and entered. In every case in which judgment is entered, the court shall include in the judgment entry the number of the particular section of the Code and the name of the offense under which the defendant is sentenced and a statement of the days credited pursuant to section 246.38 shall be incorporated into the sentence.

Approved April 29, 1983

**CHAPTER 39**  
**CONFINEMENT AND PROBATION AUTHORITY**  
*H.F. 572*

**AN ACT** relating to the authority of the court over certain persons who committed crimes.

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

Section 1. Section 903.3, Code 1983, is amended to read as follows:

903.3 WORK RELEASE. The court may direct that a prisoner sentenced to confinement for ninety days or less, or a prisoner who has served all but ninety days or less of his or her sentence, in a county jail, alternate jail facility, or community correctional residential treatment facility, be released from custody during specified hours, as provided by sections 356.26 to 356.35.

Sec. 2. Section 907.6, Code 1983, is amended to read as follows:

907.6 CONDITIONS OF PROBATION - REGULATIONS. The court, in ordering probation, may impose any reasonable rules and conditions which will Probationers are subject to the conditions established by the judicial district department of correctional services subject to the approval of the court, and any additional reasonable conditions which the court may impose to promote rehabilitation of the defendant and or protection of the community, including. Conditions may include but are not limited to adherence to regulations generally applicable to persons released on parole and including requiring unpaid community service as allowed pursuant to section 907.13.

Approved April 29, 1983

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**CHAPTER 40**  
**REGISTRATION OF VEHICLES LEASED BY GOVERNMENT**  
*H.F. 444*

**AN ACT** to exempt from registration fees and issue official registration plates for any official vehicle leased for a period of sixty days or more by a governmental body.

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

Section 1. Section 321.19, subsection 1, Code 1983, is amended to read as follows:

1. All vehicles owned or leased for a period of sixty days or more by the government and used in the transaction of official business by the representatives of foreign powers governments or by officers, boards, or departments of the government of the United States, and by

the state of Iowa, counties, municipalities and other political subdivisions of government the state including vehicles used by an urban transit company operated by a municipality and ~~such~~ self-propelling vehicles ~~as are~~ used neither for the conveyance of persons for hire, pleasure, or business nor for the transportation of freight other than those used by an urban transit company operated by a municipality, and all fire trucks, providing they are not owned and operated for a pecuniary profit, are ~~hereby~~ exempted from the payment of the fees ~~in imposed~~ by this chapter ~~prescribed~~, except as provided for urban transit companies in subsection 2, but ~~shall are not be~~ exempt from the penalties ~~herein~~ provided in this chapter. The department shall furnish, on application, free of charge, distinguishing plates for vehicles thus exempted, which plates except plates on Iowa highway safety patrol vehicles shall bear the word "official," and the department shall keep a separate record. Registration plates issued for Iowa highway safety patrol vehicles, except unmarked patrol vehicles, shall bear two red stars on a yellow background, one before and one following the registration number on the plate which registration number shall be the officer's badge number. Registration plates issued for a county sheriff's patrol vehicles shall display one seven pointed gold star on a green background followed by the letter "S" and the call number of the vehicle. ~~Provided that~~ However, the director of general services or the director of transportation may order the issuance of regular registration plates, for any ~~such~~ exempted vehicle, used by peace officers in the enforcement of the law and persons enforcing chapter 204 and other laws relating to controlled substances. For purposes of sale of exempted vehicles ~~exempted as herein indicated~~, 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 ~~minimal~~ of at least one-inch letters, and other information which may be required by the department. The in-transit card shall be 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.

Approved April 29, 1983

## CHAPTER 41

### MANUFACTURER'S AND IMPORTER'S CERTIFICATES

*H.F. 441*

**AN ACT** to require manufacturers and importers to provide manufacturer's and importer's certificates in the form prescribed by the department of transportation.

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

Section 1. Section 321.8, Code 1983, is amended to read as follows:

321.8 DIRECTOR TO PRESCRIBE FORMS. The director shall prescribe and provide suitable forms of applications, registration cards, certificates of title and all other forms requisite or deemed necessary to carry out the provisions of this chapter and any other laws, the enforcement and administration of which are vested in the department except manufacturer's or importer's certificates. Manufacturer's and importer's certificates shall be provided by the manufacturer or importer and be in the form prescribed by the department.

Approved April 29, 1983

**CHAPTER 42**  
**COUNTY ENTERPRISE COMMISSION MEMBERSHIP**  
*H.F. 358*

**AN ACT** relating to the membership of a county enterprise commission.

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

Section 1. Section 331.471, subsection 6, Code 1983, is amended by striking the subsection.

Approved April 29, 1983

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**CHAPTER 43**  
**AUCTIONEER'S ROLE IN SELLING REAL PROPERTY**  
*H.F. 278*

**AN ACT** defining the role of an auctioneer in selling real property without needing a real estate license.

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

Section 1. Section 117.7, subsection 5, Code 1983, 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 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 117.3 and 117.6, then the requirements of this chapter do apply to the auctioneer.

Approved April 29, 1983

**CHAPTER 44****DECEDENT'S PERSONAL PROPERTY TAX CERTIFICATE***H.F. 248*

**AN ACT** repealing the requirement to file a certificate of the county treasurer of payment of personal property taxes due on the estate of a decedent.

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

Section 1. Section 633.479, Code 1983, is amended to read as follows:

**633.479 DISCHARGE.** Upon final settlement of an estate, an order shall be entered discharging the personal representative from further duties and responsibilities. The order approving the final report shall constitute a waiver of the omission from the final report of any of the recitals required in section 633.477.

An order approving the final report and discharging the personal representative shall not be required if all distributees otherwise entitled to notice are adults, under no legal disability, have signed waivers of notice as provided in section 633.478, have signed statements of consent agreeing that the prayer of the final report shall constitute an order approving the final report and discharging the personal representative, and if ~~such~~ the statements of consent are dated not more than thirty days prior to the date of the final report, and if compliance with the provisions of sections 422.27, and 450.58, and ~~633.474~~, have been fulfilled and receipts and certificates are on file. In ~~such~~ those instances final order shall not be required and the prayer of the final report shall be considered as granted and shall have the same force and effect as an order of discharge of the personal representative and an order approving the final report. The clerk shall comply with section 633.480 with respect to issuing a change of title.

Sec. 2. Section 633.474, Code 1983, is repealed.

Approved April 29, 1983

**CHAPTER 45****BIDS FOR SOIL CONSERVATION PRACTICES CONSTRUCTION***H.F. 199*

**AN ACT** to provide that a person who is required by a soil conservation district to institute soil and water conservation practices or erosion control practices may be required to submit to the district three bids from contractors.

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

Section 1. Section 467A.44, subsection 3, Code 1983, is amended by adding the following new lettered paragraph:

**NEW LETTERED PARAGRAPH.** May require that a person under an order to employ soil and water conservation practices or erosion control practices submit up to three bids to the commissioners for the work and provide an explanation to the commissioners if a bid other than the lowest bid has been selected by that person.

Approved April 29, 1983

**CHAPTER 46**  
**HEARING OR GUIDE DOGS FOR DEAF OR BLIND**  
*H.F. 150*

**AN ACT** allowing deaf or blind persons to use and keep hearing or guide dogs and providing a penalty.

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

Section 1. NEW SECTION. 601I.7 USE OF HEARING DOG. A deaf person has the right to be accompanied by a hearing dog, under control and especially trained at a recognized training facility to assist the deaf by responding to sound, in any place listed in sections 601D.3 and 601D.4 without being required to make additional payment for the hearing dog. A landlord shall waive lease restrictions on the keeping of dogs for a deaf person with a hearing dog. The deaf person is liable for damage done to any premise or facility by a hearing dog.

Sec. 2. NEW SECTION. 601I.8 PENALTY FOR DENYING RIGHT. A person who denies or interferes with the right of a deaf person established by section 601I.7 is, upon conviction, guilty of a simple misdemeanor.

Sec. 3. Section 601D.5, Code 1983, is amended to read as follows:

601D.5 USE OF GUIDE DOGS. Every blind or partially blind person shall have the right to be accompanied by a guide dog, under control and especially trained for the purpose, in any of the places listed in sections 601D.3 and 601D.4 without being required to make any additional payment for the guide dog. He shall be A landlord shall waive lease restrictions on the keeping of a guide dog for a blind person. The blind person is liable for any damage done to the premises or facilities by such a guide dog.

Approved April 29, 1983

**CHAPTER 47****MUSEUM, LIBRARY, AND TOURIST CENTER REVENUE BONDS***S.F. 208*

**AN ACT** authorizing the issuance of industrial revenue bonds under chapter 419 for museums, libraries, and tourist information centers.

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

Section 1. Section 419.1, subsection 2, paragraph a, Code 1983, is amended to read as follows:

a. Any land, buildings or improvements, whether or not in existence at the time of issuance of the bonds issued under authority of this chapter, which are suitable for the use of any voluntary nonprofit hospital, clinic or health care facility as defined in section 135C.1, subsection 4, or of one or more physicians for an office building to be used exclusively by professional health care providers, including appropriate ancillary facilities, or of any private college or university, or any state institution governed under chapter 262 whether for the establishment or maintenance of the college or university, or of any industry or industries for the manufacturing, processing or assembling of any agricultural or manufactured products, even though the processed products may require further treatment before delivery to the ultimate consumer, or of any commercial enterprise engaged in storing, warehousing or distributing products of agriculture, mining or industry including but not limited to barge facilities and riverfront improvements useful and convenient for the handling and storage of goods and products, or of a national, regional or divisional headquarters facility of a company that does multistate business, or of a museum, library, or tourist information center, or of a telephone company, or of a beginning businessperson for any purpose, or of any commercial amusement or theme park, or of any housing unit or complex for the elderly or handicapped, or of any fair or exposition held in the state, other than the Iowa state fair, which is a member of the association of Iowa fairs, or

Approved April 29, 1983

**CHAPTER 48**  
**CITIES' USE OF FEDERAL ASSISTANCE**  
*H.F. 533*

**AN ACT** relating to the acceptance and use by cities of federal assistance for economic development projects.

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

Section 1. NEW SECTION. 364.18 FEDERAL AID. Subject to applicable state or federal regulations in effect at the time of the city action, a city may accept contributions, grants, or other financial assistance from the state or federal government. Upon a finding of public purpose, the city may disburse the assistance to any person to be used for economic development projects, including but not limited to the purchase or improvement of land and buildings for residential, commercial, or industrial use.

Sec. 2. Section 403.6, Code 1983, is amended by adding the following new subsection:

NEW SUBSECTION. Subject to applicable state or federal regulations in effect at the time of the city action, accept contributions, grants, and other financial assistance from the state or federal government to be used upon a finding of public purpose for grants, loans, loan guarantees, interest supplements, technical assistance, or other assistance as necessary or appropriate to private persons for an urban renewal project.

Sec. 3. This Act, being deemed of immediate importance, takes effect from and after its publication in The Daily Reporter, a newspaper published in Sioux City, Iowa, and The Clayton County Register, a newspaper published in Elkader, Iowa.

Approved April 26, 1983

I hereby certify that the foregoing Act, House File 533 was published in The Daily Reporter, Sioux City, Iowa on May 4, 1983 and in The Clayton County Register, Elkader, Iowa on May 4, 1983.

MARY JANE ODELL, *Secretary of State*

**CHAPTER 49**  
**SCHOOL AND PROBATIONARY MOTOR VEHICLE LICENSES**  
*H.F. 587*

**AN ACT** relating to motor vehicle licenses by allowing use of minors' school licenses for travel between schools of enrollment, by exempting certain prior holders of minors' school licenses from being required to take a motorcycle education course before being issued operators' licenses, and by exempting certain prior holders of one-year probationary operators' licenses from being required to take approved driver education courses before being issued operators' licenses and providing the bill is effective upon publication.

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

Section 1. Section 321.194, Code 1983, is amended to read as follows:

321.194 MINORS' SCHOOL LICENSES. Upon certification of a special need by the school board or the superintendent of the applicant's school, the department may issue a restricted license to ~~any~~ a person between the ages of fourteen and eighteen years ~~which~~. The license shall entitle the holder, while having the license in his or her immediate possession, to operate a motor vehicle during the hours of 6 a.m. to 9 p.m. over the most direct and accessible route between the licensee's residence and ~~school~~ schools of enrollment and between schools of enrollment for the purpose of attending duly scheduled courses of instruction and extracurricular activities at ~~such school~~ the schools or at any time when accompanied by a parent or guardian, driver education instructor, or prospective driver education instructor who is a holder of a valid operator's or chauffeur's license, and who is actually occupying a seat beside the driver. The license shall expire on the licensee's eighteenth birthday or upon issuance of a probationary operator's license or operator's license.

PARAGRAPH DIVIDED. Each application shall be accompanied by a statement from the school board or superintendent of the applicant's school. The statement shall be upon a form provided by the department. The school board or superintendent shall certify that a need exists for the license and that ~~they~~ the board and superintendent are not responsible for ~~any~~ actions of the applicant as it ~~pertains~~ which pertain to the use of the restricted license. The department of public instruction shall adopt rules pursuant to chapter 17A establishing criteria for issuing a statement of necessity. Upon receipt of a statement of necessity, the department shall issue a restricted license. The fact that the applicant resides at a distance less than one mile from ~~his or her school~~ the applicant's schools of enrollment is prima-facie evidence of the nonexistence of necessity for the issuance of ~~such~~ a license.

PARAGRAPH DIVIDED. A license issued under this section is subject to suspension or revocation in like manner as any other license or permit issued under ~~any~~ a law of this state ~~and the~~. The department may also suspend ~~such~~ a license upon receiving satisfactory evidence that the licensee has violated the restrictions of the license or has been involved in one or more accidents chargeable to the licensee. The department may suspend ~~any~~ a license issued under this section upon receiving a record of the licensee's conviction for one violation and shall revoke the license upon receiving a record of conviction for two or more violations of

any a law of this state or city ordinance, other than parking regulations, regulating the operation of motor vehicles on highways and after. After revoking a license under this section the department shall not grant application for any a new license or permit until the expiration of one year or until the licensee attains his or her licensee's sixteenth birthday whichever is the longer period.

Sec. 2. A person who possessed prior to January 1, 1982, a minor's school license under section 321.194 valid for the operation of a motorcycle, shall not be required to successfully complete a motorcycle education course when applying for a motor vehicle license valid for the operation of a motorcycle under section 321.189, subsection 1. However this section does not apply to persons who have had their minors' school licenses suspended or revoked due to motor vehicle violations.

Sec. 3. Notwithstanding section 321.177, subsection 1, a person who possessed prior to July 1, 1982, a one-year probationary operator's license under section 321.178, subsection 2, shall not be required to complete an approved driver education course when applying for an operator's license under section 321.189, subsection 1, and the minimum age of the applicant shall be sixteen years. However this section does not apply to a person who has had the person's one-year probationary operator's license revoked, suspended, or canceled due to moving traffic violations.

Sec. 4. This Act, being deemed of immediate importance, takes effect from and after its publication in The Sun, a newspaper published in Mount Vernon, Iowa, and in The North Scott Press, a newspaper published in Eldridge, Iowa.

Approved April 26, 1983

I hereby certify that the foregoing Act, House File 587 was published in The Sun, Mount Vernon, Iowa on May 5, 1983 and in The North Scott Press, Eldridge, Iowa on May 5, 1983.

MARY JANE ODELL, *Secretary of State*

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## CHAPTER 50

### DEFENDANT'S RELEASE BEFORE APPEARANCE BEFORE MAGISTRATE

S.F. 334

**AN ACT** relating to the release of a defendant before an appearance before a magistrate.

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

Section 1. Section 804.1, unnumbered paragraph 2, Code 1983, is amended to read as follows:

Whenever If the complaint charges a simple misdemeanor public offense, the magistrate may issue a citation instead of a warrant of arrest. The citation shall set forth substantially the nature of the offense and shall command the person against whom the complaint was made

to appear before the magistrate issuing the citation at a time and place stated therein in the citation. The magistrate shall prescribe the manner of service for the citation at the time the citation is issued.

Sec. 2. Section 804.21, subsection 1, Code 1983, is amended to read as follows:

1. Any A person arrested in obedience to a warrant shall, without unnecessary delay, be taken without unnecessary delay before the nearest or most accessible magistrate to the place where the arrest occurred, and the. The officer must shall at the same time deliver to the magistrate the warrant with the officer's return thereon endorsed on it and subscribed by the officer with his or her the officer's official title. However, this section, and sections 804.22 and 804.23, do not preclude the release of an arrested person within the period of time the person would otherwise remain incarcerated while waiting to be taken before a magistrate if the release is pursuant to pretrial release guidelines or a bond schedule promulgated by the judicial council acting pursuant to Iowa rule of civil procedure 380. If, however, a person is released pursuant to pretrial release guidelines, a magistrate must, within twenty-four hours of such release, or as soon as practicable on the next subsequent working day of the court, either (1) approve in writing of the release, or (2) disapprove of the release and issue a warrant for the person's arrest.

Sec. 3. Section 804.21, Code 1983, is amended by adding the following new subsections:

NEW SUBSECTION. 4. a. The judicial council shall promulgate rules and bond levels to be contained within a bond schedule for the release of an arrested person.

b. The bond schedule shall not be used unless both the following conditions are met:

- (1) The person was arrested for a crime other than a forcible felony, and
- (2) The courts are not in session.

NEW SUBSECTION. 5. This section does not prevent the release of the arrested person pending initial appearance upon the furnishing of bail in the amount endorsed on the warrant. The initial appearance of a person so released shall be scheduled for a time not more than ten days after the date of release.

Sec. 4. Section 804.22, Code 1983, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. This section and the rules of criminal procedure do not affect the provisions of chapter 805 authorizing the release of a person on citation or bail prior to initial appearance. The initial appearance of a person so released shall be scheduled for a time not more than ten days after the date of release.

Sec. 5. Section 805.1,\* Code 1983, is amended by striking the section and inserting in lieu thereof the following:

**805.1 WHEN POLICE CITATION MAY ISSUE.**

1. Except as to an offense for which an accused would not be eligible for bail after conviction pursuant to section 811.1, a law enforcement officer has authority to issue a citation in lieu of an arrest without a warrant or in lieu of continued custody after a warrantless arrest. The decision whether to issue a citation in lieu of arrest shall be made by an officer with grounds to make an arrest. The decision whether to issue a citation in lieu of continued custody after an arrest or to release the person on bail shall be made by the ranking officer on duty.

2. The citation procedure for traffic and other violations designated as scheduled violations is governed by sections 805.6 through 805.15.

3. A law enforcement officer who has grounds to charge a person with other simple misdemeanors shall issue a citation in lieu of arrest or, if an arrest has been made, the ranking officer on duty shall issue a citation or shall release the person pursuant to pretrial release guidelines or a bond schedule promulgated pursuant to section 804.21, subsection 1, in lieu of

\*See also ch 51, §6

keeping the person in custody. This requirement does not apply, and the officer may arrest or retain a person in custody in any of the following situations:

- a. When the person refuses or fails to offer satisfactory identification.
- b. When the person refuses to sign the citation.
- c. When detention is reasonably necessary to prevent bodily harm to the accused or to another.
- d. When the person appears to be under the influence of intoxicants or drugs and no one is available to take responsibility for the person's custody and safety.
- e. When the person has insufficient ties to the jurisdiction, or a contiguous jurisdiction, to assure the person's appearance and a substantial likelihood exists that the person will refuse to respond to a citation.
- f. When the person previously failed to respond to a citation or to appear after release on pretrial release guidelines.

4. In other cases in which a citation is authorized, a law enforcement officer who has grounds to make an arrest may instead issue a citation or, after arrest, the ranking officer on duty may issue a citation or may release the person pursuant to pretrial release guidelines or a bond schedule promulgated pursuant to section 804.21, subsection 1, in lieu of continued custody. In determining whether to issue a citation the officer shall consider the safety of the community and all of the following facts concerning the person:

- a. Place and length of residence.
- b. Family relationships.
- c. References.
- d. Present and past employment.
- e. Criminal record.
- f. Nature and circumstances of the alleged offense.
- g. Other facts relevant to the likelihood of the person's response to a citation.

In making this decision, the officer shall follow the recommendations of the pretrial release services of the judicial district department of correctional services, when available.

5. The issuance of a citation in lieu of arrest or continued custody does not affect the officer's authority to conduct an otherwise lawful search. The issuance of a citation in lieu of arrest shall be deemed an arrest for purposes of the speedy indictment requirements of R.Cr.P. 27, subsection 2, paragraph a, Ia. Ct. Rules, 2d ed.

6. Even if a citation is issued, the officer has authority to take the cited person to an appropriate medical facility if the person reasonably appears to need such care.

7. When an officer determines pursuant to subsection 3 or 4 that a citation should not be issued, the officer has authority to release the arrested person on bail or on other conditions as determined by the supreme court in pretrial release guidelines promulgated pursuant to section 804.21, subsection 1. In following the pretrial release guidelines the officer shall follow the recommendations of the pretrial release services of the judicial district department of correctional services, when available. When the arrested person furnishes bail, the officer shall maintain it in safekeeping and shall turn it over to the clerk of court not later than during the next subsequent regular business day that the clerk's office is open.

8. When the offense is one for which citation is not authorized, the person does not meet the pretrial release criteria and the person is not releasable under a bond schedule, the person may be released on bail or otherwise only after initial appearance before a magistrate as provided in chapter 804 and the rules of criminal procedure.

Sec. 6. Section 811.2, Code 1983, is amended by adding the following new subsection 3 and renumbering the remaining subsections:

**NEW SUBSECTION. 3.** This chapter does not preclude the release of an arrested person as authorized by section 804.21.

Sec. 7. This Act, being deemed of immediate importance, takes effect from and after its publication in the Quad City Times, a newspaper published in Davenport, Iowa, and in The Onawa Sentinel, a newspaper published in Onawa, Iowa.

Approved April 28, 1983

I hereby certify that the foregoing Act, Senate File 334, was published in the Quad City Times, Davenport, Iowa on May 5, 1983 and in The Onawa Sentinel, Onawa, Iowa on May 5, 1983.

MARY JANE ODELL, *Secretary of State*

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**CHAPTER 51**  
**INCARCERATION IN CORRECTION FACILITIES**  
*S.F. 503*

**AN ACT** relating to persons who are or may be incarcerated in correctional facilities.

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

Section 1. NEW SECTION. 247A.11 WORK RELEASE VIOLATORS – REIMBURSEMENT TO THE DIVISION OF ADULT CORRECTIONS FOR TRANSPORTATION COSTS. A work release client who escapes or participates in an act of absconding from the facility the client is assigned to shall reimburse the division of adult corrections for the cost of transportation incurred because of the escape or act of absconding. The amount of reimbursement shall be the actual cost incurred by the division and shall be credited to the support account from which the billing occurred. The director of the division of adult corrections shall recommend rules pursuant to chapter 17A, subject to approval by the council of social services pursuant to section 217.3, subsection 6, to implement this section.

Sec. 2. Chapter 218, Code 1983, is amended by adding the following new section:  
NEW SECTION. CONFISCATION OF CONTRABAND CURRENCY.

1. Except as provided for by the director of the division of adult corrections by rule, it is unlawful for an inmate of one of the penal or correctional facilities under the division of adult corrections to possess United States or foreign currency in the penal or correctional facility.

2. The director of the division of adult corrections shall adopt rules as to circumstances under which the possession of currency by an inmate of a penal or correctional facility under the division, is authorized.

3. The division of adult corrections may confiscate currency unlawfully possessed in violation of this section. Money confiscated pursuant to this section shall be deposited in a special fund in the state treasury which fund shall be established by the treasurer of state. Money deposited in the fund may be drawn upon by the division of adult corrections to pay for expenses incurred in operating the division's penal and correctional facilities and programs.

Sec. 3. Section 246.18, Code 1983, is amended to read as follows:

**246.18 EMPLOYMENT OF PRISONERS INMATES—INSTITUTIONS AND PARKS PUBLIC SERVICE.** Prisoners in the penitentiary or men's reformatory inmates shall be employed only on state account in the maintenance of the state institutions, in the erection, repair, authorized demolition, or operation of buildings and works used in connection with said the institutions, and in such industries as may be established and maintained in connection therewith with the institutions by the state director. The state director may detail prisoners, classified as trusties, from the state penitentiary or reformatory correctional institutions under the control of the state director to perform services public service for the conservation commission within the state parks and other agencies of state, county, or local government. The conservation commission shall provide proper supervision, housing and maintenance for said prisoners but the surveillance of said prisoners shall remain under employees of the state director supervision, security, transportation, and compensation of inmates used in public service projects shall be provided pursuant to agreements made by the director of the division of adult corrections and the agency of state, local, or county government for which the work is done. Housing and maintenance shall also be provided pursuant to the agreement unless the inmate is housed and maintained in the correctional facility. All such employment, including but not limited to that provided in this section, shall have as its primary purpose, and shall provide for, inculcation or the reactivation of attitudes, skills, and habit patterns which will be conducive to prisoner inmate rehabilitation.

However, an inmate shall not be employed in a public service project if the employment 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 employment in the project.

Sec. 4. Section 246.25, Code 1983, is amended to read as follows:

**246.25 LIMITATION ON CONTRACT.** The state director or the warden of the state penitentiary or the warden of the reformatory wardens and superintendents of the institutions shall not, nor shall any other person employed by the state, make any contract by which the labor or time of any a prisoner or inmate in such penitentiary or reformatory shall be contracted, let, farmed out, the institution is given, loaned, or sold to any person, firm, association, or corporation unless as provided by chapter 216 or section 246.18.

Sec. 5. Section 804.21, Code 1983, is amended by adding the following new subsection:

**NEW SUBSECTION.** When the court is not in session, a person arrested and placed in jail may be released on the person's own recognizance with or without other conditions, by the verbal or written order of a judge or magistrate. The verbal order may be communicated by telephone. The judge or magistrate may issue such order of release only upon the request of an attorney or person believed by the judge or magistrate to be reliable.

Sec. 6. Section 805.1,\* Code 1983, as amended by 1983 Iowa Acts, Senate File 334, section 5, is amended by striking the section and inserting in lieu thereof the following:

**805.1 WHEN POLICE CITATION MAY ISSUE.**

1. Except for an offense for which an accused would not be eligible for bail under section 811.1, a peace officer having grounds to make an arrest may issue a citation in lieu of making an arrest without a warrant or, if a warrantless arrest has been made, a citation may be issued in lieu of continued custody.

2. The citation procedure for traffic and other violations designated as scheduled violations is governed by sections 805.6 through 805.15.

3. a. State and local law enforcement agencies in the state of Iowa may cooperate to formulate uniform guidelines that will provide for the maximum possible use of citations in lieu of arrest and in lieu of continued custody for offenses for which citations are authorized. These guidelines shall be submitted to the Iowa law enforcement academy council for review. The Iowa law enforcement academy council shall then submit recommendations to the general assembly no later than January 1, 1984.

\*See also ch 50, §5

b. Factors to be considered by the agencies in formulating the guidelines relating to the issuance of citations for simple misdemeanors not governed by subsection 2, shall include but shall not be limited to all of the following:

- (1) Whether a person refuses or fails to produce means for a satisfactory identification.
- (2) Whether a person refuses to sign the citation.
- (3) Whether detention appears reasonably necessary in order to halt a continuing offense or disturbance or to prevent harm to a person or persons.
- (4) Whether a person appears to be under the influence of intoxicants or drugs and no one is available to take custody of the person and be responsible for the person's safety.
- (5) Whether a person has insufficient ties to the jurisdiction to assure that the person will appear or it reasonably appears that there is a substantial likelihood that the person will refuse to appear in response to a citation.
- (6) Whether a person has previously failed to appear in response to a citation or after release on pretrial release guidelines.

c. Additional factors to be considered in the formulation of guidelines relating to the issuance of citations for other offenses for which citations are authorized shall include but shall not be limited to all of the following concerning the person:

- (1) Place and length of residence.
- (2) Family relationships.
- (3) References.
- (4) Present and past employment.
- (5) Criminal record.
- (6) Nature and circumstances of the alleged offense.
- (7) Other facts relevant to the likelihood of the person's response to a citation.

4. The issuance of a citation in lieu of arrest or in lieu of continued custody does not affect the officer's authority to conduct an otherwise lawful search. The issuance of a citation in lieu of arrest shall be deemed an arrest for the purpose of the speedy indictment requirements of R.Cr.P. section 27, subsection 2, paragraph a, Ia. Ct. Rules, 2d ed.

5. Even if a citation is issued, the officer may take the cited person to an appropriate medical facility if it reasonably appears that the person needs care.

6. When a citation is not issued for an offense for which a citation is authorized, the arrested person may be released pending initial appearance on bail or on other conditions determined by pretrial release guidelines. When an arrested person furnishes bail, the officer then in charge of the place of detention shall secure it in safekeeping and shall see that it is forwarded to the office of the clerk of court during the clerk's next regular business day.

7. When the offense is one for which a citation is not authorized, the person does not qualify for release under pretrial release guidelines and the person cannot be released under a bond schedule, the person may be released on bail or otherwise only after initial appearance before a magistrate as provided in chapter 804 and the rules of criminal procedure.

Sec. 7. Any reference to the "division of adult corrections" and the "department of social services" appearing in this Act shall be changed to the "department of corrections" and other corrective changes in this Act and in the Code shall be made consistent with the intent of Senate File 464 if Senate File 464 is enacted into law.

Sec. 8. Section 246.19 is repealed.

Sec. 9. This Act, being deemed of immediate importance, takes effect from and after its publication in the Quad City Times, a newspaper published in Davenport, Iowa, and in The Onawa Sentinel, a newspaper published in Onawa, Iowa.

Approved April 28, 1983

I hereby certify that the foregoing Act, Senate File 503 was published in the Quad City Times, Davenport, Iowa on May 5, 1983 and in The Onawa Sentinel, Onawa, Iowa on May 5, 1983.

MARY JANE ODELL, *Secretary of State*

**CHAPTER 52**  
**WATER, AIR AND WASTE MANAGEMENT COMMISSION**  
**RULE-MAKING AUTHORITY**  
*S.F. 267*

**AN ACT** relating to the rule-making authority of the water, air and waste management commission and providing an effective date.

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

Section 1. 1982 Iowa Acts, chapter 1199, section 96, is amended by adding the following new subsection:

**NEW SUBSECTION.** 8. Notwithstanding the effective date established in 1982 Iowa Acts, chapter 1199, section 96, subsection 1, the water, air and waste management commission may, before July 1, 1983, adopt rules as provided in chapter 17A as necessary for the orderly implementation of 1982 Iowa Acts, chapter 1199. The rules adopted pursuant to this subsection shall not become effective before July 1, 1983. For purposes of 1982 Acts, chapter 1199, section 94, a rule adopted pursuant to this subsection, when effective, shall be deemed to modify or rescind any inconsistent or contrary rule which otherwise would have been continued by 1982 Acts, chapter 1199, section 94.

Sec. 2. This Act, being deemed of immediate importance, takes effect from and after its publication in The Fairfield Daily Ledger, Inc., a newspaper published in Fairfield, Iowa, and in The Chariton Leader, a newspaper published in Chariton, Iowa.

Approved April 25, 1983

I hereby certify that the foregoing Act, Senate File 267 was published in The Fairfield Daily Ledger, Inc., Fairfield, Iowa, on May 2, 1983, and The Chariton Leader, Chariton, Iowa, on May 3, 1983.

MARY JANE ODELL, *Secretary of State*

**CHAPTER 53**  
**ELECTIONS IN REORGANIZED SCHOOL DISTRICTS**  
*S.F. 466*

**AN ACT** relating to the method of election of boards of directors of reorganized school districts.

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

Section 1. Section 275.12, subsection 2, paragraph c, Code 1983, is amended to read as follows:

c. Election of not more than one-half of the total number of school directors at large from the entire district and the remaining directors from and as residents of designated single-member or multi-member director districts into which the entire school district shall be divided on the basis of population for each director. In such case, all directors shall be elected by the electors of the entire school district. Changes in the boundaries of director districts shall not be made during a period commencing sixty days prior to the date of the annual school election.

Sec. 2. Section 275.18, Code 1983, is amended to read as follows:

275.18 SPECIAL ELECTION CALLED—TIME. When the boundaries of the territory to be included in a proposed school corporation and the number and method of the election of the school directors of such the proposed school corporation have been determined as herein provided in this chapter, the area education agency administrator with whom such the petition is filed shall give written notice of the proposed date of the election to the county commissioner of elections of the county in the proposed school corporation which has the greatest taxable base therein. The proposed date shall be as soon as possible pursuant to sections 39.2, subsections 1 and 2, and 47.6, subsections 1 and 2, but not later than ~~December 31~~ November 30 of the calendar year prior to the calendar year in which the reorganization will take effect. The county commissioner of elections shall give notice of the election by one publication in the same newspaper in which previous notices have been published regarding the proposed school reorganization, and in addition thereto, if more than one county is involved, by one publication in a legal newspaper in each county other than that of the first publication, ~~which~~. The publication shall be not less than four nor more than twenty days prior to the election. ~~In the case of districts located in more than one county, no notice~~ Notice for an election shall not be published until the expiration of time for appeal, which shall be the same as that provided in section ~~285.12, has expired~~ 275.15 or 275.16, whichever is applicable; and in the event of if there is an appeal, not until the same appeal has been disposed of.

Sec. 3. Section 275.24, Code 1983, is amended to read as follows:

275.24 EFFECTIVE DATE OF CHANGE. When any a school district is enlarged, reorganized, or changes its boundary by the method hereinabove provided pursuant to sections 275.12 to 275.22, the effective date of such change shall be July 1 following the election of the new board or, if no new board is elected, then take effect on July 1 following the enlargement, reorganization or boundary change date of the reorganization election held pursuant to section 275.18 if the election was held by the prior November 30. Otherwise the change shall take effect on July 1 one year later.

Sec. 4. Section 275.25, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

**275.25 ELECTION OF DIRECTORS.**

1. If the proposition to establish a new school district carries under the method provided in this chapter, the area education agency administrator with whom the petition was filed shall give written notice of a proposed date for a special election for directors of the newly formed school district to the commissioner of elections of the county in the district involved in the reorganization which has the greatest taxable base. The proposed date shall be as soon as possible pursuant to sections 39.2, subsections 1 and 2, and 47.6, subsections 1 and 2, but not later than the third Tuesday in January of the calendar year in which the reorganization takes effect. The election shall be conducted as provided in section 277.3, and nomination petitions shall be filed pursuant to section 277.4, except as otherwise provided in this subsection. Nomination petitions shall be filed with the secretary of the board of the existing school district in which the candidate resides, signed by not less than ten eligible electors of the newly formed district, and filed not less than thirty days prior to the date set for the special school election.

2. The number of directors of a school district is either five or seven as provided in section 275.12. In school districts that include a city of fifteen thousand or more population as shown by the most recent decennial federal census, the board shall consist of seven members elected in the manner provided in subsection 3. If it becomes necessary to increase the membership of a board, two directors shall be added according to the procedure described in section 277.23.

The county board of supervisors shall canvass the votes and the county commissioner of elections shall report the results to the area education agency administrator who shall notify the persons who are elected directors.

3. The directors who are elected to serve shall serve until their successors are elected and qualify. At the special election, the newly elected director receiving the most votes shall be elected to serve until the director's successor qualifies after the fourth regular school election date occurring after the effective date of the reorganization; the two newly elected directors receiving the next largest number of votes shall be elected to serve until the directors' successors qualify after the third regular school election date occurring after the effective date of the reorganization; and the two newly elected directors receiving the next largest number of votes shall be elected to serve until the directors' successors qualify after the second regular school election date occurring after the effective date of the reorganization. However, in districts that include all or a part of a city of fifteen thousand or more population and in districts in which the proposition to establish a new corporation provides for the election of seven directors, the three newly elected directors receiving the most votes shall be elected to serve until the directors' successors qualify after the fourth regular school election date occurring after the effective date of the reorganization.

4. The board of the newly formed district shall organize within fifteen days after the special election upon the call of the area education agency administrator. The new board shall have control of the employment of personnel for the newly formed district for the next following school year under section 275.33. Following the organization of the board of the newly formed district, the board may establish policy, organize curriculum, enter into contracts, complete planning, and take action as necessary for the efficient management of the newly formed community school district.

5. Section 49.8, subsection 4 does not permit a director to remain on the board of a school district after the effective date of a boundary change which places the director's residence outside the boundaries of the district. Vacancies caused by this occurrence on a board shall be filled in the manner provided in sections 279.6 and 279.7.

Sec. 5. Section 275.41, subsection 5, Code 1983, is amended to read as follows:

5. The boards of directors of school districts which are involved in the merger which have three or more directors who are retained, shall each designate two of the directors who are retained to serve terms that expire at the organizational meeting following the second regular school election held thereafter. All other directors who are retained shall serve terms that expire at the organizational meeting following the third regular school election held thereafter. If there is an insufficient number of board members eligible to be retained from a former school district, the board of the former school district may appoint members to fill the vacancies. A vacancy occurs if there is an insufficient number of former board members who reside in the newly-formed district or if there is an insufficient number who are willing to serve on the board of the newly-formed district.

Approved May 5, 1983

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## CHAPTER 54

### CLASS 1 AND 2 GRAIN DEALER LICENSES

S.F. 402

**AN ACT** to provide a thirty-day grace period for a class 2 grain dealer to apply for a class 1 grain dealer license.

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

Section 1. Section 542.3, subsection 2, paragraph b, Code 1983, is amended to read as follows:

b. A class 2 license is required for any grain dealer not holding a class 1 license. A class 2 licensee whose purchases from producers during a fiscal year exceed a limit of two hundred fifty thousand dollars in value shall apply immediately file within thirty days of the date the limit is reached a complete application for a class 1 license. If a class 1 license is denied, the person immediately shall cease doing business as a grain dealer.

Approved May 5, 1983

**CHAPTER 55****CLAIMS FOR MATERIALS FURNISHED ON PUBLIC IMPROVEMENTS***S.F. 360*

**AN ACT** relating to defining who is entitled to claims for materials furnished on public improvements.

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

Section 1. Section 573.7, Code 1983, is amended by adding the following new unnumbered paragraph:

**NEW UNNUMBERED PARAGRAPH.** A person furnishing only materials to a subcontractor who is furnishing only materials is not entitled to a claim against the retainage or bond under this chapter and is not an obligee or person protected under the bond pursuant to section 573.6.

Approved May 5, 1983

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**CHAPTER 56****SUPERVISION OF AND RESTITUTION BY OFFENDERS***S.F. 359*

**AN ACT** relating to the office or individual charged with supervision of an offender and the preparation of a restitution plan of payment as a condition of probation, work release, or parole.

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

Section 1. Section 910.4, unnumbered paragraph 3, Code 1983, is amended to read as follows:

When the offender is committed by the court to be supervised by a judicial district department of correctional services, is committed to a county jail, or to an alternate facility, the judicial district department of correctional services office or individual charged with supervision of the offender shall prepare a restitution plan of payment taking into consideration the offender's income, physical and mental health, age, education, employment and family circumstances. The judicial district department of correctional services office or individual charged with supervision of the offender shall review the plan of restitution ordered by the court, and shall submit a restitution plan of payment to the sentencing court. When community service is ordered by the court as restitution, the restitution plan of payment shall set out a

plan to meet the requirement for the community service. The court may approve or modify the plan of restitution and restitution plan of payment. When there is a significant change in the offender's income or circumstances, the judicial district department of correctional services office or individual which has supervision of the plan of payment shall submit a modified restitution plan of payment to the court. When there is a transfer of supervision from one agent, agency, or judicial district department of correctional services office or individual charged with supervision of the offender to another, the sending agent, agency or judicial district department office or individual shall forward to the receiving agent, agency, or judicial district department, office or individual all necessary information regarding the balance owed against the original amount of restitution ordered and the balance of public service required. When the offender's circumstances and income have significantly changed, the receiving agent, agency, or judicial district department office or individual shall submit a new plan of payment to the sentencing court for approval or modification based on the considerations enumerated in this section.

Sec. 2. Section 910.5, subsection 3, Code 1983, is amended to read as follows:

3. If an offender is to be placed on work release from a facility under control of a county sheriff, restitution shall be a condition of work release. The judicial district department of correctional services office or individual charged with supervision of the offender shall prepare a restitution plan of payment or may modify any previously existing restitution plan of payment. The new or modified plan of payment shall reflect the offender's present circumstances concerning the offender's income, physical and mental health, education, employment and family circumstances. Failure of the offender to comply with the restitution plan of payment including the community service requirement, if any, ~~shall constitute~~ constitutes a violation of a condition of work release. The judicial district department of correctional services office or individual charged with supervision of the offender may modify the plan of restitution at any time to reflect the offender's present circumstances.

Sec. 3. Section 910.6, Code 1983, is amended to read as follows:

910.6 PAYMENT PLAN—COPY TO VICTIMS. ~~Each agent, agency, or judicial district department of correctional services~~ An office or individual preparing a restitution plan of payment or modified restitution plan of payment ~~shall forward~~, when it is approved by the court if approval is required under section 910.4, or when the plan is completed if court approval under section 910.4 is not required, shall forward a copy to the clerk of court in the county in which the offender was sentenced. The clerk of court shall forward a copy of the plan of payment or modified plan of payment to the victim or victims.

Sec. 4. Section 910.7, Code 1983, is amended to read as follows:

910.7 PETITION FOR HEARING. At any time during the period of probation, parole or incarceration, the offender or the agent, agency or judicial district department of correctional services office or individual who prepared the offender's restitution plan, may petition the court and the court shall grant a hearing on any matter related to the plan of restitution or restitution plan of payment. The court at any time prior to the expiration of the offender's sentence, may modify the plan of restitution or the restitution plan of payment, or both, and may extend the period of time for the completion of restitution.

Sec. 5. Section 910.9, unnumbered paragraph 3, Code 1983, is amended to read as follows:

Court costs, court-appointed attorney's fees, and expenses for public defenders, shall not be withheld by the clerk of court until all victims have been paid in full. Payments to victims shall be made by the clerk of court at least quarterly. Payments by a clerk of court shall be made no later than the last business day of the quarter, but may be made more often at the discretion of the clerk of court. The clerk of court receiving final payment from an offender, shall notify all victims that full restitution has been made, and a copy of the notice shall be sent

to the sentencing court. Each ~~agent, agency, or judicial district department of correctional services office or individual charged with~~ supervising an offender who is required to perform community service as full or partial restitution shall keep records to assure compliance with the portions of the plan of restitution and restitution plan of payment relating to community service and, when the offender has complied fully with the community service requirement, notify the sentencing court.

Approved May 5, 1983

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**CHAPTER 57**  
JUDICIAL REVIEW OF NO-PROBABLE-CAUSE DECISIONS  
*S.F. 304*

**AN ACT** relating to the time limit for petitioning for judicial review of a no-probable-cause decision of the Iowa civil rights commission.

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

Section 1. Section 601A.17, subsection 1, Code 1983, is amended by adding the following new unnumbered paragraph:

**NEW UNNUMBERED PARAGRAPH.** Notwithstanding the time limit provided in section 17A.19, subsection 3, a petition for judicial review of no-probable-cause decisions and other final agency actions which are not of general applicability must be filed within thirty days of the issuance of the final agency action.

Approved May 5, 1983

**CHAPTER 58**  
**REGISTRATION OF VEHICLES OWNED BY NONRESIDENTS**  
*S.F. 303*

**AN ACT** requiring nonresidents to register certain vehicles operated by residents and providing a penalty.

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

Section 1. Section 321.55, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

**321.55 REGISTRATION REQUIRED FOR CERTAIN VEHICLES OWNED OR OPERATED BY NONRESIDENTS.** A nonresident owner or operator engaged in remunerative employment within the state or carrying on business within the state and owning or operating a motor vehicle, trailer, or semitrailer within the state shall register each such vehicle and pay the same fees for registration as are paid for like vehicles owned by residents of this state. However, this paragraph does not apply to a person commuting from the person's residence in another state or whose employment is seasonal or temporary, not exceeding ninety days.

A nonresident owner of a motor vehicle operated within the state by a resident of the state shall register the vehicle and pay the same fees for registration as are paid for like vehicles owned by residents of this state. However, this paragraph does not apply to vehicles being operated by residents temporarily, not exceeding ninety days. It is unlawful for a resident to operate within the state an unregistered motor vehicle required to be registered under this paragraph.

Sec. 2. Section 805.8, subsection 2, paragraph n, unnumbered paragraph 1, Code 1983, is amended to read as follows:

For violation of registration provisions under section 321.17; violation of intrastate hauling on foreign registration under ~~sections~~ section 321.54 ~~and~~; improper operation or failure to register under section 321.55; use of registration under section 321.99; and display of registration or plates under section 321.98, the scheduled fine is twenty dollars.

Approved May 5, 1983

**CHAPTER 59**  
**QUALIFICATIONS FOR AREA EDUCATION AGENCY ADMINISTRATORS**  
*S.F. 266*

**AN ACT** relating to qualifications for area education agency administrators.

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

Section 1. Section 260.9, subsection 2, Code 1983, is amended to read as follows:

2. Five years' experience in special education, media services, or educational services administration; or an earned doctorate in special education, media services, or educational services or any subspecialty of special education these services.

Approved May 5, 1983

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**CHAPTER 60**  
**PILOT COOPERATIVE TRANSPORTATION PROGRAMS**  
*S.F. 202*

**AN ACT** relating to the coordination of public and private transportation programs and providing pilot projects.

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

Section 1. Section 601J.2, Code 1983, is amended by adding the following new unnumbered paragraphs after subsection 2:

NEW UNNUMBERED PARAGRAPH. The department shall establish two pilot projects to enable the department to evaluate the feasibility of a cooperative effort among public and private transportation providers, including public school transportation providers. One pilot project shall be located in an urban area and the other in a rural area. The department shall consult with all groups affected by the projects' implementation, and may offer reasonable incentives to potential participants in the pilot projects in order to encourage participation. The department shall monitor the progress of the projects and issue reports as requested by the general assembly, but at least annually.

NEW UNNUMBERED PARAGRAPH. Notwithstanding section 601J.3, unnumbered paragraph 1, for the purposes of the two pilot projects authorized by this Act, the department, upon the request of a political subdivision and a public or private provider of transportation, may assist those political subdivisions and public and private providers of transportation requesting assistance in the development of a fiscal and service plan which may be used by them to coordinate and consolidate all forms of urban and rural transportation services.

Approved May 5, 1983

**CHAPTER 61**  
**EMPLOYMENT FEES PROHIBITED**  
*S.F. 151*

**AN ACT** to prohibit employers from charging applicants a fee as a condition of application or employment.

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

Section 1. Section 94.5, Code 1983, is amended to read as follows:

94.5 **FAILURE TO PROCURE EMPLOYMENT.** ~~Every A person, firm, or corporation who shall agree~~ agrees or ~~promise~~ promises, or who ~~shall advertise~~ advertises through the public press, or by letter, to furnish employment or situations to ~~any a person or persons~~, and in pursuance of ~~such the~~ the advertisement, agreement, or promise, ~~shall receive~~ any receives money, personal property, or other valuable ~~thing whatsoever~~ consideration, and who ~~shall fail~~ fails to procure for ~~such the~~ the person ~~or persons~~ acceptable situations or employment as agreed upon, within the time stated or agreed upon, or if no time ~~be is~~ is specified then within a reasonable time, shall upon demand return all ~~such~~ money, personal property, or valuable consideration of whatever character. ~~The provisions of this~~ This section, however, ~~shall~~ does not apply to registration fees of one dollar or less. An employer shall not require an applicant to pay a fee or charge as a condition of application or hire with the employer.

Sec. 2. Section 94.6, Code 1983, is amended to read as follows:

94.6 **LIMITATION OF FEE.** ~~No such A person, firm, or corporation licensed under section 95.1~~, shall ~~not~~ charge a fee for the furnishing or procurement of ~~any a~~ situation or employment paying less than two hundred fifty dollars per month which ~~shall exceed~~ exceeds twenty-five percent of the wages paid for the first month of ~~any such~~ employment or situation furnished or procured, but in no event shall the charge for the furnishing or procurement of any situation or employment be in excess of eight percent of the annual gross earnings. An employer shall not require an applicant to pay a fee or charge as a condition of application or hire with the employer. The provisions of this section shall not apply to the furnishing or procurement of vaudeville acts, circus acts, theatrical, stage or platform attractions or amusement enterprises or to fees charged solely to employers where no fee is charged to the employee.

Approved May 5, 1983

**CHAPTER 62**  
**PROMOTION LIST FOR CITY CIVIL SERVICE**  
*S.F. 116*

**AN ACT** relating to the certified eligible list for promotion for city civil service.

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

Section 1. Section 400.11, unnumbered paragraph 3, Code 1983, is amended to read as follows:

Except where ~~such~~ the preferred list exists, persons on the certified eligible list for promotion shall hold preference for promotion for two years following the date of certification, except for certified eligible lists of fire fighters as defined in section 411.1, subsection 3, which lists shall hold preference for three years upon approval of the commission, after which said the lists shall be canceled and no promotion to such the grade shall not be made until a new list has been certified eligible for promotion.

Approved May 5, 1983

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**CHAPTER 63**  
**SMALL CLAIMS COURT JURISDICTION AND FEES**  
*H.F. 315*

**AN ACT** to increase the jurisdictional amount of small claims court to two thousand dollars and to increase the small claims docket fee.

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

Section 1. Section 631.1, subsection 1, Code 1983, is amended to read as follows:

1. The following actions or claims are small claims and shall be commenced, heard and determined as provided in this chapter:

A civil action for a money judgment where the amount in controversy is ~~one~~ two thousand dollars or less, exclusive of interest and costs.

Sec. 2. Section 631.6, subsection 1, Code 1983, is amended to read as follows:

1. The docket fee for a small claims action is ~~eight~~ ten dollars. Other fees imposed for small claims shall be the same as those required in regular actions in district court, four dollars of the fee shall remain in the county treasury for the use of the county and six dollars of the fee shall be paid into the state treasury.

Sec. 3. Section 631.6, unnumbered paragraph 6, Code 1983, is amended to read as follows:

All fees and costs, other than docket fees, collected in small claims actions shall be remitted to the county treasurer as provided in section ~~606.16~~ 331.705, subsection 4. The fee specified in subsection 4 shall be remitted to the secretary of state.

Sec. 4. All small claims docket fees collected by the county and remitted to the state prior to the effective date of this Act are legalized and declared to be valid.

Sec. 5. If a court having proper jurisdiction declares section 1 of this Act unconstitutional because the dollar amount is excessive for a court which does not provide a jury trial, the amount in controversy provided in section 1 shall revert to one thousand dollars.

Approved May 6, 1983

## CHAPTER 64

### DUTIES OF ASSESSORS REGARDING MOBILE HOMES

*H.F. 119*

**AN ACT** to revise the duties of assessors relative to the registration and licensing of mobile homes.

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

Section 1. Section 135D.26, subsection 2, Code 1983, is amended to read as follows:

2. After complying with the provisions of subsection 1, the owner shall notify the assessor who shall inspect the new premises for compliance. If a security interest is noted on the certificate of title, the assessor shall require an affidavit, as defined in section 622.85, from the mobile home owner, declaring that the owner has complied with subsection 1, paragraph "c", and shall send notice of the proposed conversion to the secured party by regular mail not less than ten days before the conversion becomes effective. When the mobile home is properly converted, the assessor shall then collect the mobile home vehicle title, ~~registration card, and, unless the registration plates are retained to be attached to another mobile home, the registration plates from the owner.~~ The assessor shall enter the property upon the tax rolls.

Sec. 2. Section 441.17, subsection 10, Code 1983, is amended to read as follows:

10. Measure the exterior length and exterior width of all mobile homes except those for which ~~said~~ measurements are contained in the manufacturer's and importer's certificate of origin, and report ~~said~~ the information to the county treasurer. Check all mobile homes and travel trailers for ~~violations of registration and for inaccuracy or~~ of measurements as necessary or upon written request of the county treasurer and ~~check travel trailers for violations of registration and report such the findings immediately to the county treasurer.~~ If a mobile home has been converted to real estate the ~~registration certificate, registration plates, and title shall be collected and returned to the county treasurer for cancellation. If the registration fees and any taxes due for prior years have not been paid, the assessor shall collect the unpaid registration fees and taxes due as a condition of conversion. It shall be the further duty of the~~ The assessor ~~to shall~~ make sufficiently frequent inspections and checks within ~~his entire the assessor jurisdiction~~ of all mobile homes and mobile home parks and travel trailers and make all the required and needed reports to carry out the ~~intents and~~ purposes of this section.

Approved May 3, 1983

**CHAPTER 65**  
**CANCELLATION OF OUTSTANDING WARRANTS**  
*H.F. 242*

**AN ACT** relating to the cancellation of outstanding warrants.

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

Section 1. Section 331.554, subsection 6, Code 1983, is amended to read as follows:

6. The amount of a check ~~or warrant~~ outstanding for more than two years shall be paid to the treasurer and credited to the general fund of the county as unclaimed fees and trusts. The treasurer shall provide a list of the checks ~~and warrants~~ to the auditor who shall maintain a record of the unclaimed fees and trusts. A person may claim an unclaimed fee or trust within five years after the money is credited to the general fund upon proper proof of ownership. Claims for unclaimed fees and trusts shall be paid from the general fund of the county.

Sec. 2. Section 331.554, Code 1983, is amended by adding the following new subsection:

**NEW SUBSECTION.** A warrant outstanding for more than two years shall be canceled by the auditor and the amount of the warrant shall be credited to the fund upon which the warrant was drawn. A person may file a claim with the auditor for the amount of the canceled warrant within five years of the date of the cancellation, and upon showing of proper proof that the claim is true and unpaid, the auditor shall issue a warrant drawn upon the fund from which the original canceled warrant was drawn. This subsection does not apply to warrants issued upon drainage or levee district funds or any fund upon which the county treasurer has issued a warrant order or stamped a warrant for want of funds.

Approved May 3, 1983

**CHAPTER 66****BIENNIAL COMMUNITY-BASED CORRECTIONS PLAN***H.F. 247*

**AN ACT** requiring the department of social services to prepare and the council on social services to submit a biennial plan relating to the management of the community-based corrections programs and services.

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

Section 1. **NEW SECTION. 905.11 BIENNIAL PLAN.** The department of social services shall prepare a biennial plan relating to the management of the community-based corrections programs and services.

The plan shall include:

1. Goals, objectives, operations, and funding allocations for programs and projects to accomplish the requirements of this chapter and the orderly development of the community-based corrections programs and services.

2. The plans for coordination with the state agencies responsible for substance abuse services, mental health services, employment programs and other programs needed to improve the availability of services.

The plan shall be prepared and submitted by the department of social services to the council on social services. The council shall submit the plan to the governor and the general assembly in January of each odd-numbered year.

Approved May 3, 1983

**CHAPTER 67****ACCESS TO LANDLOCKED PROPERTY***H.F. 364*

**AN ACT** relating to ways condemned by landowners having no access to their property.

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

Section 1. Section 471.4, subsection 2, Code 1983, is amended to read as follows:

2. **OWNERS OF LAND WITHOUT A WAY ~~THERETO TO THE LAND~~.** Upon the owner or lessee of lands, which have no public or private way ~~thereto to the lands~~, for the purpose of providing a public way, not exceeding forty feet in width, which will connect with ~~some an~~ existing public road. Such ~~The~~ condemned ~~roadway~~ public way shall be located on a division,

subdivision or "forty" line, (or immediately adjacent thereto), and along the line which is the nearest feasible route to an existing public road, or along a route established for a period of ten years or more by an easement of record or by use and travel to and from the property by the owner and the general public. ~~Such road~~ The public way shall not interfere with buildings, orchards, or cemeteries. When passing through enclosed lands, such roads the public way shall be fenced on both sides thereof by the condemner upon request of the owner of the condemned land. The condemner or the condemner's assignee, shall provide easement for access to the owner of property severed by the condemnation. The public way shall be maintained by the condemner or the condemner's assignee, and shall not be considered any part of the primary or secondary road systems.

A public way condemned under this subsection shall not be considered an existing public road in subsequent condemnations to provide a public way for access to an existing public road.

Approved May 3, 1983

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**CHAPTER 68**  
**COSMETOLOGY SCHOOL INSTRUCTORS**  
*H.F. 500*

**AN ACT** relating to the number of instructors at a school of cosmetology.

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

Section 1. Section 157.8, Code 1983, is amended by adding the following new unnumbered paragraph:

**NEW UNNUMBERED PARAGRAPH.** The number of instructors for each school shall be based upon total enrollment, with a minimum of two instructors employed on a full-time basis for up to thirty students and an additional instructor for each additional fifteen students. However, a school operated by an area community college prior to September 1, 1982 with only one instructor per fifteen students is not subject to this paragraph and may continue to operate with the ratio of one instructor to fifteen students.

Approved May 3, 1983

**CHAPTER 69**  
**ACTIONS BASED ON A FARM PRODUCT SECURITY INTEREST**  
*H.F. 517*

**AN ACT** to limit the time for filing an action based upon a security interest in farm products to two years from the date of sale of the products.

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

Section 1. Section 614.1, subsection 4, Code 1983, is amended to read as follows:

4. **UNWRITTEN CONTRACTS—INJURIES TO PROPERTY—FRAUD—OTHER ACTIONS.** Those founded on unwritten contracts, those brought for injuries to property, or for relief on the ground of fraud in cases heretofore solely cognizable in a court of chancery, and all other actions not otherwise provided for in this respect, within five years, except as provided by ~~subsection 8~~ subsections 8 and 10.

Sec. 2. Section 614.1, Code 1983, is amended by adding the following new subsection:

**NEW SUBSECTION. 10. SECURED INTEREST IN FARM PRODUCTS.** Those founded on a secured interest in farm products, within two years from the date of sale of the farm products against the secured interest of the creditor.

Approved May 3, 1983

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**CHAPTER 70**  
**RECORDING OF FINANCING STATEMENTS**  
*H.F. 570*

**AN ACT** regarding the recording of financing statements under the uniform commercial code.

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

Section 1. Section 554.9403, subsection 3, Code 1983, is amended to read as follows:

3. A continuation statement may be filed by the secured party within six months prior to the expiration of the five-year period specified in subsection 2. Any such continuation statement must be signed by the secured party, identify the original statement by file number and state that the original statement is still effective. A continuation statement signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record and complying with section 554.9405, subsection 2, including payment of the required fee. Upon timely filing of the continuation statement, the effectiveness of the original statement is continued for five years

after the last date to which the filing was effective whereupon it lapses in the same manner as provided in subsection 2 unless another continuation statement is filed prior to such lapse. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the original statement. Unless a statute on disposition of public records provides otherwise, the filing officer may remove a lapsed statement from the files and destroy it immediately if he the filing officer has retained a microfilm or other photographic record, or in other cases after one year after the lapse. The filing officer shall so arrange matters by physical annexation of financing statements to continuation statements or other related filings, or by other means, that if he physically destroys the financing statements of a period more than five years past, those which have been continued by a continuation statement or which are still effective under subsection 6 shall be retained.

Sec. 2. Section 554.9404, subsection 2, Code 1983, is amended to read as follows:

2. On presentation to the filing officer of such a termination statement he the filing officer must note it in the index. If he the filing officer has received the termination statement in duplicate, he the filing officer shall return one copy of the termination statement to the secured party stamped to show the time of receipt thereof. If the filing officer has a microfilm or other photographic record of the financing statement, and of any related continuation statement, statement of assignment and statement of release, he may remove the originals from the files at any time after receipt of the termination statement, or if he has no such record, he may remove them from the files at any time after one year after receipt of the termination statement.

Sec. 3. Section 554.9407, subsection 2, Code 1983, is amended to read as follows:

2. Upon written request of any person, the filing officer shall issue a certificate showing whether there is on file on the date and hour stated therein, any presently effective financing statement naming a particular debtor and any financing statement changes and if there is, giving the date and hour of filing of each such filing and the names and addresses of each secured party therein. The uniform fee for such a certificate shall be four dollars if the request for the certificate is on a form conforming to standards prescribed by the secretary of state; otherwise, five dollars. Upon request and the payment of the appropriate fee the filing officer shall furnish a certified copy of any filed financing statement or financing statement changes for a uniform fee of one dollar per page.

Sec. 4. Section 554.9407, Code 1983, is amended by adding the following new subsection as subsection 2 and renumbering the remaining subsections:

NEW SUBSECTION. 2. Upon a verbal request of a person, the filing officer shall verbally give information concerning a presently effective financing statement. The uniform fee for responding to a verbal request is four dollars. The requesting party may request a certificate from the filing officer confirming the information given. The uniform fee for a certificate is one dollar.

Sec. 5. Section 554.9407, subsection 3, paragraph a, Code 1983, is amended by striking the paragraph.

Approved May 3, 1983

**CHAPTER 71****INDEMNIFICATION OF CORPORATE OFFICERS, EMPLOYEES AND AGENTS***H.F. 606*

**AN ACT** permitting or requiring a corporation to indemnify a director, officer, employee, or agent of the corporation for judgments, penalties, fines, settlements, and reasonable expenses actually incurred as a defendant or respondent in an administrative or court proceeding.

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

Section 1. NEW SECTION. 496A.4A INDEMNIFICATION OF DIRECTORS AND OFFICERS.

1. As used in this section:

a. "Director" means any person who is or was a director of the corporation and any person who, while a director of the corporation, is or was serving at the request of the corporation as a director, officer, partner, trustee, employee or agent of another foreign or domestic corporation, partnership, joint venture, trust, other enterprise or employee benefit plan.

b. "Corporation" includes any domestic or foreign predecessor entity of the corporation in a merger, consolidation or other transaction in which the predecessor's existence ceased upon consummation of the transaction.

c. "Expenses" includes attorneys' fees.

d. "Official capacity" means:

(1) When used with respect to a director, the office of director in the corporation, and

(2) When used with respect to a person other than a director, as contemplated in subsection 9, the elective or appointive office in the corporation held by the officer or the employment or agency relationship undertaken by the employee or agent in behalf of the corporation, but in each case does not include service for any other foreign or domestic corporation or any partnership, joint venture, trust, other enterprise, or employee benefit plan.

e. "Party" includes a person who was, is, or is threatened to be made, a named defendant or respondent in a proceeding.

f. "Proceeding" means any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative.

2. A corporation shall have power to indemnify any person made a party to any proceeding by reason of the fact that the person is or was a director if:

a. The person acted in good faith; and

b. The person reasonably believed

(1) In the case of conduct in the person's official capacity with the corporation, that the conduct was in its best interests, and

(2) In all other cases, that the person's conduct was at least not opposed to its best interests, and

c. In the case of any criminal proceeding, the person had no reasonable cause to believe the person's conduct was unlawful.

Indemnification may be made against judgments, penalties, fines, settlements and reasonable

expenses, actually incurred by the person in connection with the proceeding; except that if the proceeding was by or in the right of the corporation, indemnification may be made only against such reasonable expenses and shall not be made in respect of any proceeding in which the person shall have been adjudged to be liable to the corporation. The termination of any proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, be determinative that the person did not meet the requisite standard of conduct set forth in this subsection.

3. A director shall not be indemnified under subsection 2 in respect of any proceeding charging improper personal benefit to the director, whether or not involving action in the director's official capacity, in which the director shall have been adjudged to be liable on the basis that personal benefit was improperly received by the director.

4. Unless limited by the articles of incorporation,

a. A director who has been wholly successful, on the merits or otherwise, in the defense of any proceeding referred to in subsection 2 shall be indemnified against reasonable expenses incurred by the director in connection with the proceeding; and

b. A court of appropriate jurisdiction, upon application of a director and such notice as the court shall require, shall have authority to order indemnification in the following circumstances:

(1) If it determines a director is entitled to reimbursement under paragraph a, the court shall order indemnification, in which case the director shall also be entitled to recover the expenses of securing such reimbursement; or

(2) If it determines that the director is fairly and reasonably entitled to indemnification in view of all the relevant circumstances, whether or not the director has met the standard of conduct set forth in subsection 2 or has been adjudged liable in the circumstances described in subsection 3, the court may order such indemnification as the court shall deem proper, except that indemnification with respect to any proceeding by or in the right of the corporation or in which liability shall have been adjudged in the circumstances described in subsection 3 shall be limited to expenses.

A court of appropriate jurisdiction may be the same court in which the proceeding involving the director's liability took place.

5. No indemnification under subsection 2 shall be made by the corporation unless authorized in the specific case after a determination has been made that indemnification of the director is permissible in the circumstances because the director has met the standard of conduct set forth in subsection 2. Such determination shall be made:

a. By the board of directors by a majority vote of a quorum consisting of directors not at the time parties to the proceeding; or

b. By special legal counsel, selected by the board of directors by vote as set forth in paragraph a of this subsection 5, or, if the requisite quorum of the full board cannot be obtained therefor, by a majority vote of the full board, in which selection directors who are parties may participate; or

c. By the shareholders.

Authorization of indemnification and determination as to reasonableness of expenses shall be made in the same manner as the determination that indemnification is permissible, except that if the determination that indemnification is permissible is made by special legal counsel, authorization of indemnification and determination as to reasonableness of expenses shall be made in a manner specified in paragraph b of this subsection for the selection of such counsel. Shares held by directors who are parties to the proceeding shall not be voted on the subject matter under this subsection 5.

6. Reasonable expenses incurred by a director who is a party to a proceeding may be paid or reimbursed by the corporation in advance of the final disposition of such proceeding upon receipt by the corporation of

a. A written affirmation by the director of the director's good faith belief that the director has met the standard of conduct necessary for indemnification by the corporation as authorized in this section, and

b. A written undertaking by or on behalf of the director to repay such amount if it shall ultimately be determined that the director has not met such standard of conduct, and after determination that the facts then known to those making the determination would not preclude indemnification under this section. The undertaking required by this paragraph shall be an unlimited general obligation of the director but need not be secured and may be accepted without reference to financial ability to make repayment. Determinations and authorizations of payments under this subsection 6 shall be made in the manner specified in subsection 5.

7. No provision for the corporation to indemnify or to advance expenses to a director who is made a party to a proceeding, whether contained in the articles of incorporation, the bylaws, a resolution of shareholders or directors, an agreement or otherwise, except as contemplated by subsection 10, shall be valid unless consistent with this section or, to the extent that indemnity hereunder is limited by the articles of incorporation, consistent therewith. Nothing contained in this section shall limit the corporation's power to pay or reimburse expenses incurred by a director in connection with the director's appearance as a witness in a proceeding at a time when the director has not been made a named defendant or respondent in the proceeding.

8. For purposes of this section, the corporation shall be deemed to have requested a director to serve an employee benefit plan whenever the performance by the director of the director's duties to the corporation also imposes duties on, or otherwise involves services by, the director to the plan or participants or beneficiaries of the plan; excise taxes assessed on a director with respect to an employee benefit plan pursuant to applicable law shall be deemed fines; and action taken or omitted by the director with respect to an employee benefit plan in the performance of the director's duties for a purpose reasonably believed by the director to be in the interest of the participants and beneficiaries of the plan shall be deemed to be for a purpose which is not opposed to the best interests of the corporation.

9. Unless limited by the articles of incorporation:

a. An officer of the corporation shall be indemnified as and to the same extent provided in subsection 4 for a director and shall be entitled to the same extent as a director to seek indemnification pursuant to the provisions of subsection 4;

b. A corporation shall have the power to indemnify and to advance expenses to an officer, employee or agent of the corporation to the same extent that it may indemnify and advance expenses to directors pursuant to this section; and

c. A corporation, in addition, shall have the power to indemnify and to advance expenses to an officer, employee or agent who is not a director to such further extent, consistent with law, as may be provided by its articles of incorporation, bylaws, general or specific action of its board of directors, or contract.

10. A corporation shall have power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the corporation, or who, while a director, officer, employee or agent of the corporation, is or was serving at the request of the corporation as a director, officer, partner, trustee, employee or agent of another foreign or domestic corporation, partnership, joint venture, trust, other enterprise or employee benefit plan, against any liability asserted against the person and incurred by the person in any such capacity or arising out of the person's status as such, whether or not the corporation would

have the power to indemnify the person against such liability under the provisions of this section.

11. Any indemnification of, or advance of expenses to, a director in accordance with this section, if arising out of a proceeding by or in the right of the corporation, shall be reported in writing to the shareholders with or before the notice of the next shareholders' meeting.

Sec. 2. Section 491.3, subsection 8, Code 1983, is amended to read as follows:

8. A corporation organized under or subject to this chapter may make indemnification as provided in section ~~496A.4~~ 496A.4A.

Sec. 3. Section 491.16, Code 1983, is amended to read as follows:

491.16 INDEMNIFICATION OF OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS—INSURANCE. The provisions of section ~~496A.4, subsection 19,~~ 496A.4A shall apply to corporations organized under or subject to this chapter.

Sec. 4. Section 496A.4, subsection 19, Code 1983, is amended by striking the subsection.

Sec. 5. Section 524.801, subsection 8, Code 1983, is amended to read as follows:

8. To indemnify any director, officer or employee, a former director, officer or employee of the state bank in the manner and in the instances authorized by section ~~496A.4, subsection 19~~ 496A.4A.

Sec. 6. Section 534.8, subsection 4, Code 1983, is amended to read as follows:

4. Any association operating under this chapter shall have the power to indemnify any present or former director, officer or employee in the manner and in the instances authorized in section ~~496A.4, subsection 19~~ 496A.4A.

Approved May 3, 1983

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**CHAPTER 72**  
**COPIES OF ACCIDENT REPORTS**  
*H.F. 57*

**AN ACT** relating to the accident report filed by law enforcement officers with the department of transportation.

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

Section 1. Section 321.271, unnumbered paragraph 2, Code 1983, is amended to read as follows:

All written reports filed by a law enforcement officer as required under section 321.266 shall be made available to any party to an accident, the party's insurance company or its agent, or the party's attorney, on written request to the department and the payment of a fee of four dollars for each copy. If a copy of an investigating officer's report of a motor vehicle accident filed with the department is retained by the law enforcement agency of the officer who filed the report, a copy shall be made available to any party to the accident, the party's insurance company or its agent, or the party's attorney, on written request and the payment of a fee.

Approved May 3, 1983

**CHAPTER 73****DUTIES OF IOWA COMMISSION ON AGING***S.F. 431*

**AN ACT** relating to the Iowa commission on the aging by establishing a long-term care ombudsman program and transferring the administration of the care review committees of health care facilities to the Iowa commission on the aging.

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

Section 1. **NEW SECTION. 249B.22 PURPOSE.** The purpose of this Act is to establish the long-term care ombudsman program operated by the Iowa commission on the aging in accordance with the requirements of the Older Americans Act of 1965, 42 U.S.C. secs. 3026(a)(6)(d), 3027(a)(12) and 3030d(a)(10) amended to the effective date of this Act, and to adopt the supporting federal regulations and guidelines for its implementation. In accordance with chapter 17A, the commission on the aging shall adopt and enforce rules for the implementation of this Act.

Sec. 2. **NEW SECTION. 249B.23 DEFINITIONS.** As used in sections 249B.24 through 249B.26:

1. "Administrative action" means an action or decision made by an owner, employee, or agent of a long-term care facility, or by a governmental agency, which affects the service provided to residents covered in sections 249B.24 through 249B.26.

2. "Long-term care facility" means a long-term care unit of a hospital, a foster group home, a group living arrangement, or a facility licensed under section 135C.1 whether the facility is public or private.

3. "Ombudsman program" means the state long-term care ombudsman program operated by the commission on the aging and administered by the long-term care ombudsman.

4. "Federal Act" means the Older Americans Act of 1965, 42 U.S.C. secs. 3001 et seq., as amended to the effective date of this Act.

Sec. 3. **NEW SECTION. 249B.24 LONG-TERM CARE OMBUDSMAN - DUTIES.** The Iowa commission on the aging, in accordance with section 3027(a)(12) of the federal Act, shall establish the office of long-term care ombudsman within the commission. The long-term care ombudsman shall perform the following duties:

1. Investigate and resolve complaints about administrative actions that may adversely affect the health, safety, welfare, or rights of older persons in long-term care facilities.

2. Monitor the development and implementation of federal, state, and local laws, regulations, and policies that relate to long-term care facilities in Iowa.

3. Provide information to other agencies and to the public about the problems of older persons in long-term care facilities.

4. Train volunteers and assist in the development of citizens' organizations to participate in the long-term care ombudsman program.

5. Carry out other activities consistent with the ombudsman provisions of the federal Act.

6. Report annually to the general assembly on the activities of the ombudsman's office.

The ombudsman shall have access to long-term care facilities, private access to residents, access to residents' personal and medical records, and access to other records maintained by

the facilities or governmental agencies pertaining only to the person on whose behalf a complaint is being investigated.

Sec. 4. NEW SECTION. 249B.25 AUTHORITY AND RESPONSIBILITIES OF THE COMMISSION. To ensure compliance with the federal Act the commission on the aging shall establish the following:

1. Procedures to protect the confidentiality of a resident's records and files.
2. A statewide uniform reporting system.
3. Procedures to enable the long-term care ombudsman to elicit, receive, and process complaints regarding administrative actions which may adversely affect the health, safety, welfare, or rights of older persons in long-term care facilities.

Sec. 5. NEW SECTION. 249B.26 CARE REVIEW COMMITTEE.

1. The care review committee program is under the statewide long-term care ombudsman program within the commission.
2. The responsibilities of the care review committee are in accordance with the rules adopted by the commission pursuant to chapter 17A. When adopting the rules, the commission shall consider the needs of residents of each category of licensed health care facility as defined in chapter 135C.1, subsection 4 and the services each facility may render. The commission shall coordinate the development of any rules with the mental health and mental retardation commission to the extent the rules would apply to a facility primarily serving persons who are mentally ill, mentally retarded, or developmentally disabled. The commission shall coordinate the development of any rules with other state agencies.

Sec. 6. Section 135C.25, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

**135C.25 CARE REVIEW COMMITTEE APPOINTMENTS—DUTIES.**

1. Each health care facility shall have a care review committee whose members shall be appointed by the executive director of the Iowa commission on the aging or the director's designee. A person shall not be appointed a member of a care review committee for a health care facility unless the person is a resident of the service area where the facility is located. The care review committee for any facility caring primarily for persons who are mentally ill, mentally retarded, or developmentally disabled shall only be appointed after consultation with the director of the division of mental health and mental retardation on the proposed appointments. Recommendations to the executive director or the director's designee for membership on care review committees are encouraged from any agency, organization, or individual. The administrator of the facility shall not be appointed to the care review committee and shall not be present at committee meetings except upon request of the committee.

2. Each care review committee shall periodically review the needs of each individual resident of the facility and shall perform the functions pursuant to sections 135C.38 and 249B.26.

Approved May 2, 1983

**CHAPTER 74**  
**SINGLE-TRIP PERMITS FOR MOBILE HOMES**  
*S.F. 213*

**AN ACT** providing for the issuance of a single trip permit to transport a mobile home or factory-built structure on the highways of the state where the overall length of the mobile home or factory-built structure and the power unit does not exceed ninety-five feet.

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

Section 1. Section 321E.28, subsection 1, Code 1983, is amended to read as follows:

1. Single-trip permits issued under the provisions of this section shall be limited to mobile homes and factory-built structures of widths including appurtenances exceeding twelve feet five inches but not exceeding sixteen feet zero inches, ~~where the mobile home or factory-built structure does not exceed sixty-seven feet six inches in length excluding the hitch or any overhang,~~ and where the overall length of the mobile home or the factory-built structure and the power unit does not exceed ~~eighty-five~~ ninety-five feet.

Approved May 2, 1983

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**CHAPTER 75**  
**CLASS "A" MOTOR HOME REGISTRATION FEES**  
*S.F. 450*

**AN ACT** relating to the registration fees for class "A" motor homes.

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

Section 1. Section 321.124, subsection 3, Code 1983, is amended to read as follows:

3. The annual registration fee for motor homes and multipurpose vehicles is as follows:

a. For class "A" motor homes with a list price of ~~thirty-five~~ eighty thousand dollars or more as certified to the department by the manufacturer, four hundred dollars for the first five registrations and three hundred dollars for each succeeding registration.

b. For class "A" motor homes with a list price of ~~twenty~~ forty thousand dollars or more but less than ~~thirty-five~~ eighty thousand dollars as certified to the department by the manufacturer, ~~one two~~ hundred forty dollars for the first five registrations and one hundred ~~five~~ fifty dollars for each succeeding registration.

c. For class "A" motor homes with a list price of twenty thousand dollars or more but less than forty thousand dollars as certified to the department by the manufacturer, one hundred

forty dollars for the first five registrations and one hundred five dollars for each succeeding registration.

e d. For class "A" motor homes with a list price of less than twenty thousand dollars as certified to the department by the manufacturer, one hundred twenty dollars for the first five registrations and eighty-five dollars for each succeeding registration.

d e. For a class "A" motor home which is a passenger-carrying bus which has been registered at least five times as a motor truck and which has been converted, modified or altered to provide temporary living quarters, ninety dollars for the first ten registrations and sixty-five dollars for each succeeding registration. In computing the number of registrations, the registrations shall be cumulative beginning with the registration of the class "A" motor home as a motor truck prior to its conversion, modification, or alteration to provide temporary living quarters.

e f. For class "B" motor homes, ninety dollars for the first five registrations and sixty-five dollars for each succeeding registration.

f g. For class "C" motor homes, one hundred ten dollars for the first five registrations and eighty dollars for each succeeding registration.

g h. For multipurpose vehicles, seventy-five dollars for the first five registrations and fifty-five dollars for each succeeding registration.

Sec. 2. This Act takes effect December 1 following enactment for registration fees payable on or after that date for vehicle registrations for the succeeding registration year.

Approved May 2, 1983

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## CHAPTER 76

### INTERMEDIATE CARE AND SKILLED NURSING FACILITIES PATIENTS

S.F. 463

**AN ACT** permitting intermediate care facilities and skilled nursing facilities to admit patients with histories of dangerous or disturbing behavior.

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

Section 1. Section 135C.23, subsection 2, Code 1983, is amended to read as follows:

2. ~~No~~ A health care facility shall not knowingly admit or retain ~~any~~ a resident:

a. Who is dangerous to ~~himself~~ the resident or other residents.

b. Who is in an ~~active or~~ acute stage of alcoholism, drug addiction, mental illness, or an active state of communicable disease.

c. Whose condition or conduct is such that ~~he~~ the resident would be unduly disturbing to other residents.

d. Who is in need of medical procedures, as determined by a physician, or services which cannot be or are not being carried out in the facility.

This section does not prohibit the admission of a patient with a history of dangerous or

disturbing behavior to an intermediate care facility or skilled nursing facility when the intermediate care facility or skilled nursing facility has a program which has received prior approval from the department to properly care for and manage the patient. An intermediate care facility or skilled nursing facility is required to transfer or discharge a resident with dangerous or disturbing behavior when the intermediate care facility or skilled nursing facility cannot control the resident's dangerous or disturbing behavior. The department, in coordination with the state mental health and mental retardation commission, shall adopt rules pursuant to chapter 17A for programs to be required in intermediate care facilities and skilled nursing facilities that admit patients or have residents with histories of dangerous or disturbing behavior.

Approved May 2, 1983

## CHAPTER 77

### REDISTRICTING SCHOOL DIRECTOR DISTRICTS

*S.F. 485*

**AN ACT** requiring director districts of certain school districts to be redistricted following each federal decennial census as necessary to reflect population changes within the districts.

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

Section 1. Section 39.24, Code 1983, is amended to read as follows:

39.24 SCHOOL OFFICERS. Members of boards of directors of community and independent school districts, and boards of directors of merged areas shall be elected at the school election. Their respective terms of office shall be three years, except as otherwise provided by section 275.23A or 280A.11.

Sec. 2. Section 49.8, subsection 4, Code 1983, is amended to read as follows:

4. When the boundaries of any a county supervisor, city council, or school director district, or any other district from which one or more members of any public representative body other than the general assembly are elected by the voters thereof, are changed by annexation, reprecincting or other means, the change shall not result in the term of any officer elected from the former district being terminated before or extended beyond the expiration of the term to which the officer was last elected, except as provided under section 275.23A.

Sec. 3. **NEW SECTION.** 275.23A REDISTRICTING FOLLOWING FEDERAL DECEN-NIAL CENSUS.

1. School districts which have directors who represent director districts as provided in section 275.12, subsection 2, paragraphs b through e, shall be divided into director districts on the basis of population as determined from the most recent federal decennial census. The director districts shall be as nearly equal as practicable to the ideal population for the districts as determined by dividing the number of director districts to be established into the population of the school district. The director districts shall be composed of contiguous territory as compact as practicable.

2. If following a federal decennial census a school district fails to meet population equality requirements, the board of directors of the school district shall adopt a resolution redrawing the director districts not earlier than November 15 of the year immediately following the year in which the federal decennial census is taken nor later than May 30 of the second year immediately following the year in which the federal decennial census is taken. A copy of the adopted plan shall be filed with the area education agency administrator of the area education agency in which the school's electors reside.

3. The school board shall notify the state commissioner of elections and the county commissioner of elections of each county in which a portion of the school district is located whenever the boundaries of director districts are changed. The board shall provide the commissioners with maps showing the new boundaries. If, following a federal decennial census a school district elects not to redraw director districts under this section, the school board shall so certify to the state commissioner of elections, and the school board shall also certify to the state commissioner the populations of the retained director districts as determined under the latest federal decennial census. Upon failure of a district board to make the required changes by the dates established under this section, the state commissioner of elections shall make or cause to be made the necessary changes as soon as possible, and shall assess any expenses incurred to the school district. The state commissioner may request the services of personnel of and materials available to the legislative service bureau to assist the commissioner in making any required boundary changes.

4. If more than one incumbent director, whose term extends beyond the organizational meeting of the board of directors after the regular school election following the adoption of the redrawn districts, reside in a redrawn director district, the terms of office of the affected directors expire at the organizational meeting of the board of directors following the next regular school election.

5. The boundary changes under this section take effect July 1 following their adoption for the next regular school election.

6. Section 275.9 and sections 275.14 through 275.23 do not apply to changes in director district boundaries made under this section.

Sec. 4. In order to allow for the implementation of section 275.23A created under this Act, the school boards for school districts which do not comply with section 275.23A, subsection 1 shall adopt a resolution redrawing the school's director districts not later than May 30 of the year following the year in which this Act takes effect.

Approved May 2, 1983

**CHAPTER 78****TIME OFF SENTENCE FOR GOOD BEHAVIOR***S.F. 53*

**AN ACT** relating to time off for good behavior of inmates.

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

Section 1. Section 356.46, unnumbered paragraph 1, Code 1983, is amended to read as follows:

Every prisoner in the county jail may, upon the recommendation of the sheriff or person in charge of the detention of the prisoner, and at the discretion of the sentencing judge, receive a reduction of his sentence of not more than twenty percent in an amount to be determined by the judge, if:

Approved May 2, 1983

**CHAPTER 79****DISSOLUTION OF A UNIFIED LAW ENFORCEMENT DISTRICT***S.F. 118*

**AN ACT** providing for the discontinuation of a tax levy for, and dissolution of, a unified law enforcement district.

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

Section 1. Section 28E.22, unnumbered paragraph 3, Code 1983, is amended to read as follows:

"Shall an annual levy, the amount of which will not exceed a rate of one dollar and fifty cents per thousand dollars of assessed value of the taxable property in the unified law enforcement district be authorized for providing additional moneys needed for unified law enforcement services in the district for a period of not exceeding five years?"

Yes \_\_\_\_\_

No \_\_\_\_\_

Sec. 2. Chapter 28E, Code 1983, is amended by adding after section 28E.28 the following new section:

**NEW SECTION. 28E.28A REFERENDUM ON TAX LEVY—DISSOLUTION OF DISTRICT.**

1. After five years from the date that a district is established, the public safety commission, upon receipt of a petition signed by fifteen percent of the qualified electors residing in the

district, shall submit a proposition to the electorate of the district at the next general election to discontinue the annual levy for unified law enforcement services in the district. If a majority of the qualified electors in each city and the unincorporated area of the county, as applicable, approve the proposition, the tax levy shall be discontinued.

2. If the discontinuation of the tax levy necessitates the dissolution of the district, the public safety commission shall dispose of any remaining property, the proceeds of which shall be applied first against any outstanding obligations of the district and any balance shall be remitted to the county and each city in the district in the same proportion that each jurisdiction contributed to the district's budget in its final fiscal year. The board of supervisors, on behalf of the unincorporated area of the county and the city councils of the cities included in the dissolved district shall continue to levy taxes and appropriate funds to the public safety fund as provided in section 28E.24 until all outstanding obligations of the dissolved district are paid.

Sec. 3. Section 331.381, subsection 1, Code 1983, is amended to read as follows:

1. Proceed in response to a petition to establish a unified law enforcement district in accordance with sections 28E.21 to ~~28E.28~~ 28E.28A, or the board may proceed under those sections on its own motion.

Sec. 4. Section 331.425, subsection 1, Code 1983, is amended to read as follows:

1. A public safety fund, if a unified law enforcement district is established under sections 28E.21 to ~~28E.28~~ 28E.28A.

Approved May 2, 1983

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## CHAPTER 80

### ABSTRACTS OF MOTOR VEHICLE OPERATING RECORD

S.F. 231

**AN ACT** allowing sheriffs to provide abstracts of operating records.

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

Section 1. Section 321A.3, Code 1983, is amended to read as follows:

**321A.3 DIRECTOR TO FURNISH ABSTRACT OF OPERATING RECORD—FEES TO BE CHARGED AND DISPOSITION OF FEES.**

1. The director shall upon request furnish any person a certified abstract of the operating record of any a person subject to chapter 321 or this chapter, which. The abstract shall also fully designate the motor vehicles, if any, registered in the name of the person, ~~and, if.~~ If there shall be is no record of any 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 director shall so certify. A fee of four dollars shall be paid for each abstract except by state, county, city or court officials.

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 four dollars for each

abstract which the sheriff shall transfer to the director quarterly. The sheriff may charge an additional fee sufficient to cover costs incurred by the sheriff in producing the abstract.

3. The abstracts shall be not be admissible as evidence in any an action for damages or criminal proceedings arising out of a motor vehicle accident.

Approved May 2, 1983

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## CHAPTER 81

### NOTIFICATION OF SCHOOL CHILDREN IMMUNIZATION

*S.F. 281*

**AN ACT** relating to the requirement of notification of immunization of school children.

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

Section 1. Section 139.9, subsection 6, Code 1983, is amended to read as follows:

6. It shall be the duty of the ~~The~~ local board of health to shall furnish the state department of health ~~within thirty sixty days of after~~ the first official day of school evidence that each person enrolled in any elementary or secondary school has been immunized ~~in accordance with as~~ required in this section subject to the ~~provisions in~~ subsection 4. The state department of health shall promulgate rules pursuant to chapter 17A relating to the reporting of evidence of immunization.

Approved May 2, 1983

**CHAPTER 82**  
**APPLICATIONS FOR MOTOR VEHICLE REGISTRATION**  
*S.F. 379*

**AN ACT** relating to the motor vehicle code by extending the time period under which a vehicle may be operated under a "registration applied for" card, by extending the time period under which a dealer may file an application for registration and certificate of title, and by allowing a dealer under certain circumstances to display for sale a motor vehicle without first having obtained a certificate of title.

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

Section 1. Section 321.25, unnumbered paragraph 1, Code 1983, is amended to read as follows:

A vehicle may be operated upon the highways of this state without registration plates for a period of ~~twenty~~ thirty days after the date of delivery of the vehicle to the purchaser from a dealer if a card bearing the words "registration applied for" is attached on the rear of the vehicle. The card shall have plainly stamped or stenciled the registration number of the dealer from whom the vehicle was purchased and the date of delivery of the vehicle. 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 ~~seven~~ fifteen calendar days from the date of delivery of the vehicle.

Sec. 2. Section 321.46, unnumbered paragraph 1, Code 1983, is amended to read as follows:

The transferee shall within ~~seven~~ fifteen calendar days after purchase or transfer apply for and obtain from the county treasurer of the person's residence, or if a nonresident, the county treasurer of the county where the primary users of the vehicle are located or the county where all other vehicles owned by the nonresident are registered, a transfer of registration and a new certificate of title for ~~such~~ the vehicle except as provided in section 321.25 or 321.48. The transferee shall present with the application the certificate of title endorsed and assigned by the previous owner and the signed registration card. The transferee shall be required to list a motor vehicle license number as part of the application for a registration transfer and a new title. The motor vehicle license number shall not be the social security number of the transferee unless requested by the transferee.

Sec. 3. Section 321.48, subsection 1, Code 1983, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. 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 days from the date the vehicle was acquired and the provisions of section 321.104, subsection 2 shall not apply.

Approved May 2, 1983

**CHAPTER 83**  
**PRACTICE OF CHIROPRACTIC**  
*S.F. 474*

**AN ACT** relating to the practice of chiropractic.

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

Section 1. Section 151.1, subsection 2, Code 1983, is amended to read as follows:

2. Persons who treat human ailments by the adjustment of the museuloskeletal neuromusculoskeletal structures, primarily spinal adjustments by hand, or by other procedures incidental to said adjustments limited to heat, cold, exercise and supports, the principles of which chiropractors are subject to examination under the provisions of section 151.3, but not as independent therapeutic means, by hand or instrument, through spinal care.

Sec. 2. Section 151.1, Code 1983, is amended by adding the following new subsection:

NEW SUBSECTION. 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. 3. Section 151.3, subsection 3, Code 1983, is amended to read as follows:

3. Pass an examination prescribed by the chiropractic examiners in the subjects of anatomy, physiology, nutrition and dietetics, symptomatology and diagnosis, hygiene and sanitation, chemistry, histology, pathology, and principles and practice of chiropractic, including a clinical demonstration of vertebral palpation, nerve tracing and adjusting.

Sec. 4. Section 151.4, Code 1983, is amended by adding a new unnumbered paragraph after subsection 3:

NEW UNNUMBERED PARAGRAPH. An approved college of chiropractic may include but is not limited to offerings of courses of study in procedures for withdrawing a patient's blood, performing or utilizing laboratory tests, and performing physical examinations for diagnostic purposes. A chiropractor, employed by an approved college of chiropractic and who has been trained to withdraw blood may withdraw blood and instruct, and supervise a student in the withdrawing of blood.

Sec. 5. Section 151.8, Code 1983, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A chiropractor using the additional procedures and practices authorized by this Act shall be held to the standard of care applicable to any other health care practitioner in this state.

Sec. 6. NEW SECTION. 151.10 EDUCATION REQUIREMENTS. A person who is an applicant for a license to practice chiropractic shall only be required to be tested for the adjunctive procedures specified in section 151.1, subsection 3 which the person chooses to

utilize. A person licensed to practice chiropractic shall only be required to complete continuing education requirements for the adjunctive procedures specified in section 151.1, subsection 3 which the person chooses to utilize. A person who is an applicant for a license to practice chiropractic or a person licensed to practice chiropractic shall not be required to utilize any of the adjunctive procedures specified in section 151.1, subsection 3 to obtain a license or continue to practice chiropractic, respectively.

Sec. 7. NEW SECTION. 151.11 RULES. The board of chiropractic examiners shall adopt rules necessary to administer section 151.1, to protect the health, safety, and welfare of the public, including rules governing the practice of chiropractic and defining any terms, whether or not specified in section 151.1, subsection 3. Such rules shall not be inconsistent with the practice of chiropractic and shall not expand the scope of practice of chiropractic or authorize the use of procedures not authorized by this chapter. These rules shall conform with chapter 17A, Code 1983.

Approved May 2, 1983

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## CHAPTER 84

### DISTRIBUTOR'S PICKUP OF BEVERAGE CONTAINERS

*H.F. 135*

**AN ACT** establishing time limits for obligations of distributors relating to the pickup of beverage containers.

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

Section 1. Section 455C.3, subsection 2, Code 1983, is amended to read as follows:

2. A distributor shall accept and pick up from a dealer served by the distributor or a redemption center for a dealer served by the distributor at least weekly, or when the distributor delivers the beverage product if deliveries are less frequent than weekly, any empty beverage container of the kind, size and brand sold by the distributor, and shall pay to the dealer or person operating a redemption center the refund value of a beverage container and the reimbursement as provided under section 455C.2 within one week following pickup of the containers or when the dealer or redemption center normally pays the distributor for the deposit on beverage products purchased from the distributor if less frequent than weekly. A distributor or employee or agent of a distributor is not in violation of this subsection if a redemption center is closed when the distributor attempts to make a regular delivery or a regular pickup of empty beverage containers. This subsection ~~shall~~ does not apply to a distributor selling alcoholic liquor to the Iowa beer and liquor control department.

Approved May 6, 1983

**CHAPTER 85****PUBLIC SCHOOL BOARD GAMBLING LICENSE***H.F. 317*

**AN ACT** relating to the licensing of public school boards for the purpose of conducting gambling activities.

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

Section 1. Section 99B.7, subsection 2, paragraph c, unnumbered paragraph 2, Code 1983, is amended to read as follows:

The board of directors of a school district may authorize that public schools within that district, and the policymaking body of a nonpublic school, may authorize that games of skill, games of chance, bingo and raffles may be held at bona fide school functions, such as carnivals, fall festivals, bazaars and similar events. Each school shall obtain a license pursuant to this section prior to permitting such the games or activities on the premises. However, the board of directors of a public school district may also be issued a license under this section. However, a board of directors of a public school shall not spend or authorize the expenditure of public funds for the purpose of purchasing a license. The department shall provide by rule a short form application for a license issued to a board of directors. Upon written approval by the board of directors, the license may be used by any school group or parent support group in the district to conduct activities authorized by this section. The board of directors shall not authorize a school group or parent support group to use the license more than twice in twelve months.

Approved May 6, 1983

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**CHAPTER 86****POLYGRAPH EXAMINATIONS RESTRICTED***H.F. 37*

**AN ACT** relating to the use of polygraph examinations as a condition of employment and providing a penalty.

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

Section 1. For the purposes of this chapter "polygraph" means any mechanical or electrical instrument or device of any type used or allegedly\* used to examine, test or question individuals for the purpose of determining truthfulness.

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\*According to enrolled Act

Sec. 2. NEW SECTION. POLYGRAPH EXAMINATION PROHIBITED. An employer shall not require an applicant for employment or a current employee to take a polygraph examination as a condition of employment. An employer who requires a polygraph examination as a condition of employment is guilty of a simple misdemeanor.

Sec. 3. Section 2 shall not apply to the state or a political subdivision of the state when in the process of selecting a candidate for employment as a peace officer.

Approved May 6, 1983

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**CHAPTER 87**  
**REGULATION OF RESIDENTIAL SERVICE COMPANIES**  
*H.F. 448*

**AN ACT** providing for the regulation of residential maintenance service companies by the commissioner of insurance, and providing penalties.

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

Section 1. Sections 2 through 18 of this Act shall be codified as one new chapter.

Sec. 2. NEW SECTION. DEFINITIONS. As used in this Act, unless the context otherwise requires:

1. "Residential service contract" means a contract or agreement between a residential customer and a service company which undertakes, for a predetermined fee and for a specified period of time, to maintain, repair, or replace all or any part of the structural components, appliances, or electrical, plumbing, heating, cooling, or air-conditioning systems of residential property containing not more than four dwelling units.

2. "Service company" means a person who issues and performs, or arranges to perform, services pursuant to a residential service contract.

3. "Licensed service company" means a service company which is licensed by the commission pursuant to this Act.

4. "Commissioner" means the commissioner of insurance.

Sec. 3. NEW SECTION. LICENSE REQUIRED. A person shall not issue a residential service contract or undertake or arrange to perform services pursuant to a residential service contract unless the person is a corporation and is a licensed service company.

Sec. 4. NEW SECTION. APPLICATION FOR LICENSE.

1. Application for a license as a service company shall be made to and filed with the commissioner on forms approved by the commissioner and shall include all of the following information:

- a. The name and principal address of the applicant.
- b. The state of incorporation of the applicant.
- c. The name and address of the applicant's registered agent for service of process within Iowa.

2. The application shall be accompanied by all of the following:

a. A certificate of good standing for the applicant issued by the secretary of state and dated not more than thirty days prior to the date of the application.

b. A surety bond as provided in section 6 of this Act.

c. A copy of the most recent financial statement, including balance sheets and related statements of income, of the applicant, prepared in accordance with generally accepted accounting principles, audited by a certified public accountant and dated not more than twelve months prior to the date of the application.

d. An affidavit of an authorized officer of the service company stating the number of contracts issued by the service company in the preceding calendar year, and stating that the net worth of the service company satisfies the requirements of section 7 of this Act.

e. A license fee in the amount of two hundred fifty dollars.

3. If the application contains the required information and is accompanied by the items set forth in subsection 2, and if the net worth requirements of section 7 of this Act are satisfied, as evidenced by the audited financial statements, the commissioner shall issue the license. If the form of application is not properly completed or if the required accompanying documents are not furnished or in proper form, the commissioner shall not issue the license and shall give the applicant written notice of the grounds for not issuing the license. A notice of license denial shall be accompanied by a refund of fifty percent of the fee submitted with the application.

Sec. 5. NEW SECTION. LICENSE EXPIRATION AND RENEWAL. Each license issued under this Act shall expire on June 30 next following the date of issuance. If the service company maintains in force the surety bond described in section 6 of this Act and if its license is not subject to or under suspension or revocation under section 10 of this Act, its license shall be renewed by the commissioner upon receipt by the commissioner on or before the expiration date of a renewal application accompanied by the items required by section 4, subsection 2, paragraphs b, c, d, and e, and section 16 of this Act. If the commissioner denies renewal of the license, the denial shall be in writing setting forth the grounds for denial and shall be accompanied by a refund of fifty percent of the license renewal fee.

Sec. 6. NEW SECTION. REQUIRED BOND. To assure the faithful performance of obligations under residential service contracts issued and outstanding in this state, a service company shall, prior to the issuance or renewal of a license, file with the commissioner a surety bond in the amount of one hundred thousand dollars, which has been issued by an authorized surety company and approved by the commissioner as to issuer, form, and contents. The bond shall not be canceled or be subject to cancellation unless thirty days' advance notice in writing is filed with the commissioner. Notwithstanding the provisions of chapter 17A, if a bond is canceled for any reason and a new bond in the required amount is not received by the commissioner on or before the effective date of cancellation, the license of the service company is automatically revoked as of the date the bond ceases to be in effect. A service company whose license is revoked under this section may file an application for a new license pursuant to section 4 of this Act.

The bond posted by a service company pursuant to this section shall be for the benefit of, and subject to recovery thereon by any residential service contract holder sustaining actionable injury due to the failure of the service company to faithfully perform its obligations under a residential service contract because of insolvency of the service company.

If a service company ceases to do business in this state and furnishes to the commissioner satisfactory proof that it has discharged all obligations to contract holders, the surety bond shall be released.

Sec. 7. NEW SECTION. 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.

For purposes of this Act, "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. 8. NEW SECTION. FILING OF FORMS OF CONTRACT.**

1. A residential service contract shall not be issued or used in this state unless it has been filed with and approved by the commissioner. If the commissioner fails to inform the service company of objections to the form of the residential service contract within thirty days after filing, the residential contract shall be deemed to have been approved by the commissioner provided it otherwise complies with this section.

2. Residential service contracts shall:

a. Be written in nontechnical, readily understood language, using words with common and everyday meanings.

b. Clearly, conspicuously, and plainly specify all of the following:

(1) The services to be performed by the service company, and the terms and conditions of performance.

(2) The fee, if any, to be charged for a service call.

(3) Each of the systems, appliances, and components covered by the contract.

(4) Any exclusions and limitations respecting the extent of coverage.

(5) The period during which the contract will remain in effect.

(6) All limitations respecting the performance of services, including any restrictions as to the time periods when services may be requested or will be performed.

(7) The following statement: "The issuer of this contract is subject to regulation by the insurance department of the state of Iowa. Complaints which are not settled by the issuer may be sent to the Iowa insurance department."

c. Provide for the performance of services only. A residential service contract shall not provide for a payment to, or reimbursement or indemnification of the holder of the contract.

d. Provide for the performance of services upon a request by telephone to the service company without a requirement that claim forms or applications be filed prior to the rendition of services.

e. Provide for the initiation of services by or under the direction of the service company within forty-eight hours of the request for the services by the holder of the contract.

3. Any application for a residential service contract shall notify the purchaser that the person submitting the application to the service company for the purchaser is acting as the representative of the service company and not of the purchaser in that transaction.

**Sec. 9. NEW SECTION. REBATES AND COMMISSIONS.** A service company shall not pay a person who is acting as the agent, representative, attorney, or employee of the owner or prospective owner of residential property, a commission or any other consideration, either directly or indirectly, as an inducement or compensation for the issuance, purchase, or acquisition of a residential service contract. As used in this section, the phrase "commission or any other consideration" does not include bona fide payments or reimbursements for any of the following:

1. Goods or facilities actually furnished or services actually performed, if the payments or reimbursements are reasonably related to the value of the goods, facilities, or services furnished.

2. Inspection fees, 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. Advertising, marketing, and educational expenses actually incurred in the sale of the service company's service contracts which are applicable on a similar and essentially equal basis to all its customers and the agents of its customers.

4. Reasonable expenses for food, beverage, and similar items if furnished within the context of a service company's customary business, educational, or promotional practices.

**Sec. 10. NEW SECTION. SUSPENSION OR REVOCATION OF LICENSE.**

1. In addition to the license revocation provisions of section 6 of this Act, the commissioner may suspend or revoke or refuse to renew the license of a service company for any of the following grounds:

a. The service company violated a lawful order of the commission or any provision of this Act.

b. The service company failed to pay any final judgment rendered against it in this state within sixty days after the judgment became final.

c. The service company has without just cause refused to perform or negligently or incompetently performed services required to be performed under its residential service contracts and the refusal, or negligent or incompetent performance has occurred with such frequency, as the commissioner determines, as to indicate the general business practices of the service company.

d. The service company violated section 14 of this Act.

e. The service company failed to maintain the net worth required by section 7 of this Act.

f. The service company failed to maintain the reserve account required by section 12 of this Act.

g. The service company failed to maintain its corporate certificate of good standing with the secretary of state.

2. If the license of a service company is terminated under section 6 of this Act because of failure to maintain bond, the commissioner shall give written notice of termination to the service company. The notice shall include the effective date of the termination.

**Sec. 11. NEW SECTION. RULES.** The commissioner may adopt rules under chapter 17A to implement this Act.

**Sec. 12. NEW SECTION. RESERVE ACCOUNT.**

1. A service company shall maintain in an independent depository a reserve account containing cash or marketable securities in an amount equal to fifty percent of aggregate annual fees collected on residential service contracts issued in this state, if any, and for actual expenditures for services rendered under those contracts.

2. The depository shall make its records concerning the service company reserve accounts available to the commissioner or a designee for inspection on the premises of the depository.

3. The service company shall submit with each license renewal application an affidavit by an authorized officer of the depository attesting to the balance in the reserve account and that the reserve account is being maintained in accordance with this Act.

**Sec. 13. NEW SECTION. OPTIONAL EXAMINATION.** The commissioner or a designee of the commissioner may make an examination of the books and records of a service company and verify its assets, liabilities, and reserves. The actual costs of the examination shall be borne by the service company.

**Sec. 14. NEW SECTION. DECEPTIVE ACTS OR PRACTICES — PENALTY.** The commissioner shall adopt rules which regulate residential service contracts to prohibit misrepresentation, false advertising, defamation, boycotts, coercion, intimidation, false statements and entries and unfair discrimination or practices. If the commissioner finds that a person has violated the rules adopted under this section, the commissioner shall issue an order to that person to cease and desist and may order any or all of the following:

1. Payment of a civil penalty of not more than one thousand dollars for each and every act or violation, but not to exceed an aggregate of ten thousand dollars, unless the person knew or reasonably should have known the person was in violation of this section, in which case the

penalty shall be not more than five thousand dollars for each and every act or violation, but not to exceed an aggregate penalty of fifty thousand dollars in any one six-month period. The commissioner shall, if it finds the violations of this section were directed, encouraged, condoned, ignored, or ratified by the employer of such person, assess such fine to the employer and not such person.

2. Suspension or revocation of the license of a person, if the person knew or reasonably should have known the person was in violation of this section.

Sec. 15. NEW SECTION. RATE REVIEW. Using the information obtained in the annual reports and any additional information requested by the commissioner, the commissioner shall evaluate the fees charged for the residential service contract to determine if they are reasonable in relation to the value of the claims made. The commissioner may order an adjustment of the fees if the commissioner determines that the fees are not reasonable in relation to the value of the claims made.

Sec. 16. NEW SECTION. ANNUAL REPORT. A licensed service company shall file with the commissioner an annual report within ninety days of the close of its fiscal year. The annual report shall be in a form prescribed by the commissioner and contain all of the following:

1. A current financial statement including a balance sheet and statement of operations prepared in accordance with generally accepted accounting principles and certified by an independent certified public accountant.

2. The number of residential service contracts issued during the preceding fiscal year, the number canceled or expired during the year, the number in effect at year end and the amount of residential service contract fees received.

3. Any other information relating to the performance and solvency of the residential service company required by the commissioner.

Sec. 17. NEW SECTION. EXCLUSIONS. This Act does not apply to any of the following:

1. A performance guarantee given by a builder of a residence or the manufacturer or seller or lessor of residential property if no identifiable charge is made for the guarantee.

2. A service contract, guarantee or warranty between a residential customer and a service company which will perform the work itself and not through subcontractors for the service, repair or replacement of appliances or electrical, plumbing, heating, cooling or air-conditioning systems.

3. A contract between a service company and a person who actually performs the maintenance, repairs, or replacements of structural components, or appliances, or electrical, plumbing, heating, cooling, or air-conditioning systems, if someone other than the service company actually performs these functions.

4. A service contract, guarantee or warranty issued by a retail merchant to a retail customer, guaranteeing or warranting the repair, service or replacement of appliances or electrical, plumbing, heating, cooling or air-conditioning systems sold by said retail merchant.

Sec. 18. NEW SECTION. LENDING INSTITUTION. A bank, savings and loan association, insurance company or other lending institution shall not require the purchase of a residential service contract as a condition of a loan. A lending institution shall not sell a residential service contract to a borrower unless the borrower signs an affidavit acknowledging that the purchase is not required. Violation of this section is punishable as provided in section 14 of this Act.

Approved May 6, 1983

**CHAPTER 88****CHILD ABUSE INVESTIGATION IMMUNITY***H.F. 214*

**AN ACT** providing immunity from liability resulting from assistance in an investigation of child abuse.

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

Section 1. Section 232.73, Code 1983, is amended to read as follows:

**232.73 IMMUNITY FROM LIABILITY.** ~~Anyone~~ A person participating in good faith in the making of a report or photographs or X rays pursuant to this chapter or aiding and assisting in an investigation of a child abuse report pursuant to section 232.71 shall have immunity from any liability, civil or criminal, which might otherwise be incurred or imposed. ~~Any such participant~~ The person shall have the same immunity with respect to participation in good faith in any judicial proceeding resulting from ~~such~~ the report or relating to the subject matter of ~~such~~ the report.

Approved May 6, 1983

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**CHAPTER 89****COMMUNITY-BASED CORRECTIONAL PROGRAM ADVISORY COMMITTEES***H.F. 279*

**AN ACT** relating to the membership of project advisory committees and administrative rules relating to community-based correctional programs.

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

Section 1. Section 905.1, subsection 7, Code 1983, is amended to read as follows:

7. "Project advisory committee" means a committee of no more than seven persons which shall act in an advisory capacity to the director on matters pertaining to the planning, operation and other pertinent functions of each project in the judicial district. The members of the project advisory committee for each ~~such~~ project shall be initially appointed by the director from among the general public. ~~No member~~ Not more than one half of the project advisory committee shall hold public office or public employment during membership on ~~such~~ the committee. A person who holds public office and serves on the board of directors under chapter 905.3 shall not be a member of a project advisory committee under this section. The terms of the initial members of the project advisory committee shall be staggered to permit the terms

of just over half of the members to expire in two years and those of the remaining members to expire in one year. Subsequent appointments to the project advisory committee shall be by vote of a majority of the whole project advisory committee for two-year terms.

Sec. 2. Section 905.4, Code 1983, is amended by adding the following new subsection:

**NEW SUBSECTION. 10.** Establish a project advisory committee to act in an advisory capacity on matters pertaining to the planning, operation, and other pertinent functions of each project in the judicial district.

Sec. 3. Section 905.7, Code 1983, is amended by adding the following new subsection:

**NEW SUBSECTION. 7.** Provide for community participation in the planning and programming of the district department's community-based correctional program.

Approved May 6, 1983

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**CHAPTER 90**  
**FINANCING OF PUBLIC PROJECT**  
*H.F. 377*

**AN ACT** relating to the financing of public projects through bonds, warrants, special assessments, and other obligations, by amending procedures for the issuance of bonds, warrants, special assessments, and other obligations, by providing for the registration of bonds or other obligations, by authorizing interim financing of projects, and making corresponding amendments to the Code.

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

Section 1. Chapter 76, Code 1983, is amended by adding sections 2 through 6 of this Act.

Sec. 2. **NEW SECTION. 76.10 REGISTRATION OF PUBLIC BONDS.** Notwithstanding any other provision in the Code:

1. All public bonds or obligations issued before or after the effective date of this Act may be in registered form. An issuer of public bonds or obligations may designate for a term as agreed upon, one or more persons, corporations, partnerships or other associations located within or without the state to serve as trustee, transfer agent, registrar, depository or paying or other agent in connection with the public bonds or obligations and to carry out services and functions which are customary in such capacities or convenient or necessary to comply with the intent and provisions of this chapter.

2. An issuer of public bonds or obligations may provide for the immobilization of the bonds through the designation of a bond depository or through a book-entry system of registration.

3. Any designated trustee, transfer agent, registrar, depository or paying or other agent may serve in multiple capacities with respect to an issue of public bonds or obligations.

4. Public bonds or obligations or certificates of ownership of the public bonds or obligations may be issued in any form or pursuant to any system necessary to be in compliance with standards issued from time to time by the municipal securities rule-making board of the United

States, the American national standards institute, any other securities industry standard, or the requirements of section 103 of the Internal Revenue Code of 1954.

5. Registration or immobilization of a public bond or obligation does not disqualify it as a lawful investment for depository institutions, trustees, public bodies, or other investors regulated by law.

Sec. 3. NEW SECTION. 76.11 CONFIDENTIALITY OF BOND HOLDERS—EXCEPTIONS. Records of identity of owners of public bonds or obligations maintained as provided in section 76.10 or by the issuer of the bonds are confidential records entitled to protection under section 9 of this Act. However, the issuer of the bonds or a state or federal agency may obtain information as necessary.

Sec. 4. NEW SECTION. 76.12 REPRODUCTION AND VALIDITY OF SIGNATURES.

1. A provision requiring that public bonds or obligations or certificates of ownership of public bonds or obligations issued by a public entity be executed or signed by particular public officers permits the signatures to be affixed by printing or other mechanical means. However, each instrument shall bear at least one original and manual signature, which may be the signature of any officer designated by law to execute the instrument or the signature of a registrar or trustee authenticating the instrument.

2. Public bonds and obligations are valid and binding if they bear the signature of the officials in office on the date of execution of the bonds, notwithstanding that any or all of the persons whose signatures appear on the public bonds or obligations have ceased to hold the office before the delivery of the public bonds or obligations. Reprinted or reissued bonds are valid and binding if they bear facsimilies of the signatures of either the public officials who executed the original issue of the bonds or the officials in office at the time of execution of the reprinted or reissued bonds.

Sec. 5. NEW SECTION. 76.13 INTERIM FINANCING.

1. A public body authorized to issue bonds may issue project notes in anticipation of the receipt of any of the following:

- a. Proceeds from the issuance of public bonds or obligations previously authorized.
- b. Proceeds to be received pursuant to law or agreement from any state or federal agency.
- c. Income or revenues from sources to be received and expended for the project during the project construction or acquisition period.
- d. Any combination of paragraphs a through c.

2. Notes shall be issued in the form and manner provided in a resolution of the governing body of the issuer. The resolution may set forth and appropriate the moneys anticipated by the notes.

3. The resolution may provide that to the extent issued in anticipation of public bonds or obligations, notes shall be paid from the proceeds of the issuance of public bonds or obligations. To the extent issued in anticipation of bonds, note proceeds shall be expended only for the purposes for which the bond proceeds may be expended.

4. Notes shall not be issued in anticipation of public bonds or obligations in an amount greater than the authorized amount of the public bonds or obligations and moneys appropriated for the same purposes.

5. a. Notes may be sold at public or private sale and bear interest at rates set by the governing body of the issuer at the time of their issuance notwithstanding chapter 74A.

b. The authority of a public body to issue project notes under this section is in addition to any other authority of the public body to issue other obligations as otherwise provided by law.

Sec. 6. NEW SECTION. 76.14 DEFINITION. As used in this chapter, unless the context otherwise requires, "public bond or obligation" means any obligation issued by or on behalf of the state, an agency of the state, or a political subdivision of the state.

Sec. 7. Section 76.3, Code 1983, is amended to read as follows:

**76.3 TAX LIMITATIONS.** Tax limitations in any law or proposition for the issuance of bonds or obligations, including any law or proposition for the issuance of bonds or obligations in anticipation of levies or collections of taxes or both, shall be based on the latest equalized actual valuation then existing and shall only restrict the amount of bonds or obligations which may be issued. For the sole purpose of computing the amount of bonds which may be issued as a result of the application of ~~any such a~~ tax limitation, all interest on the bonds or obligations in excess of that accruing in the first twelve months may be excluded from the first annual levy of taxes, so that the need for including more than one year's interest in the first annual levy of taxes to pay the bonds or obligations and interest ~~shall~~ does not operate to further restrict the amount of bonds or obligations which may be issued, and in certifying the annual levies to the county auditor or auditors ~~such~~ the first annual levy of taxes shall be sufficient to pay all principal of and interest on ~~said~~ the bonds or obligations becoming due prior to the next succeeding annual levy and the full amount of ~~such~~ the first annual levy shall be entered for collection by ~~said~~ the auditor or auditors, as provided in this chapter.

Sec. 8. Section 76.6, Code 1983, is amended to read as follows:

**76.6 PLACE OF PAYMENT.** The principal and interest of all public bonds or obligations of a public corporation in this state are payable at the office of the treasurer or public official charged with the duty of making payment, unless the proceedings of the governing body authorizing the issuance of the public bonds or obligations provide that the public bonds or obligations and interest ~~thereon may also be on the public bonds or obligations~~ are payable at one or more banks or trust companies within or without the state of Iowa, or as ~~may be~~ otherwise provided by chapter 419, or by mail, wire transfer, or similar means.

Sec. 9. Section 68A.7, Code 1983, is amended by adding the following new subsection:

**NEW SUBSECTION.** Records of identity of owners of public bonds or obligations maintained as provided in section 76.10 or by the issuer of the public bonds or obligations. However, the issuer of the public bonds or obligations and a state or federal agency shall have the right of access to the records.

Sec. 10. Section 74.1, subsection 4, Code 1983, is amended to read as follows:

4. ~~The procedures of this~~ This chapter also apply ~~applies~~ to anticipatory warrants, ~~pledge orders~~, improvement certificates, anticipatory certificates or similar obligations payable from special assessments against benefited properties, or payable from charges, fees or other operating income from a publicly owned enterprise or utility.

Sec. 11. Section 74A.3, Code 1983, is amended by adding the following new unnumbered paragraph:

**NEW UNNUMBERED PARAGRAPH.** The interest rates authorized by this section to be set by the issuing governmental body or agency shall be set in each instance by the governing body which, in accordance with applicable provisions of law then in effect, authorizes the issuance of the bonds, warrants, pledge orders, certificates, obligations, or other evidences of indebtedness.

Sec. 12. Chapter 74A, Code 1983, is amended by adding the following new section:

**NEW SECTION. 74A.8 INTEREST RATE ON ISSUE DATE.** An interest rate limit, provision that no interest rate limit exists, or authorization to set interest rates, as provided by this chapter or any other law, applies to all bonds, warrants, pledge orders, certificates, obligations, or other evidences of indebtedness issued and delivered after the effective date of the provision, regardless of whether the bonds, warrants, pledge orders, certificates, obligations, or other evidences of indebtedness were authorized to be issued pursuant to election, public hearing, or otherwise before the effective date of the provision. This section operates both retroactively and prospectively.

Sec. 13. Section 75.2, Code 1983, is amended to read as follows:

75.2 NOTICE OF SALE. When public bonds are offered for sale, the official or officials in charge of ~~such~~ the bond issue shall, by advertisement published ~~for two or more successive weeks in~~ at least one twice at unspecified intervals one of which shall be not less than four nor more than twenty days before the sale in a newspaper located in the county or a county contiguous to the place of sale, give notice of the time and place of sale of ~~said~~ the bonds, the amount to be offered for sale, and any further information which ~~may be deemed~~ the official or officials deem pertinent.

Sec. 14. Section 75.3, Code 1983, is amended to read as follows:

75.3 SEALED AND OPEN BIDS. Sealed bids may be received at any time prior to the calling for open bids, if open bids are provided for in the notice of sale. After the sealed bids are all filed, the official or officials shall call for open bids, if open bids are provided for in the notice of sale. After all of the open bids have been received the substance of the best open bid shall be noted in the minutes. If open bids are not permitted in the notice of sale, sealed bids may be received until it is announced that all sealed bids shall be opened. The official or officials shall then open any sealed bids that ~~may~~ have been filed and they shall note in the minutes the substance of the best sealed bid.

Sec. 15. Section 75.5, Code 1983, is amended to read as follows:

75.5 SELLING PRICE. ~~No~~ All public bond shall bonds issued under this chapter may be sold for at a price not less than ninety-eight percent of par, plus accrued interest from the date of the bonds to the date of delivery of the bonds.

Sec. 16. Section 75.9, Code 1983, is amended to read as follows:

75.9 EXCHANGE OF BONDS. ~~Nothing in this~~ This chapter shall be deemed to ~~does not~~ prevent the exchange of bonds for legal indebtedness evidenced by bonds, warrants, ~~or judgments as, or otherwise as~~ provided by law. Bonds shall not be exchanged for notes issued pursuant to section 76.13 in anticipation of the issuance of bonds.

Sec. 17. Section 75.10, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

75.10 DENOMINATIONS OF BONDS. Notwithstanding any contrary provision in the Code, public bonds may be in one or more denominations as provided by the proceedings of the governing body authorizing their issuance.

Sec. 18. Section 296.2, Code 1983, is amended to read as follows:

296.2 PETITION FOR ELECTION. Before ~~such~~ indebtedness can be contracted in excess of one and one-quarter percent of the assessed value of the taxable property, a petition signed by a number equal to twenty-five percent of those voting at the last election of school officials shall be filed with the president of the board of directors, asking that an election be called, stating the amount of bonds proposed to be issued and the purpose or purposes for which the indebtedness is to be created, and that the ~~necessary schoolhouse or schoolhouses~~ purpose or purposes cannot be built and equipped, or that sufficient land cannot be purchased to add to a site already owned, accomplished within the limit of one and one-quarter percent of the valuation. The petition may request the calling of an election on one or more propositions and a proposition may include one or more purposes.

Sec. 19. Section 296.3, Code 1983, is amended to read as follows:

296.3 ELECTION CALLED. The president of the board of directors on receipt of a petition under section 296.2 ~~shall~~, within ten days after considering the suggestions of the area education agency board, or the board of a district contiguous to the district for which the petition is received, under section 297.7, subsection 3, shall call a meeting of the board which shall

call the election, fixing the time of the election, which may be at the time and place of holding the regular school election, unless the board determines by unanimous vote that the proposition or propositions requested by a petition to be submitted at an election are grossly unrealistic or contrary to the needs of the school district. The decision of the board may be appealed to the state board of public instruction as provided in chapter 290. The president shall notify the county commissioner of elections of the time of the election.

Sec. 20. Chapter 364, Code 1983, is amended by adding after section 364.13 the following new sections:

**NEW SECTION. 364.13A SPECIAL ASSESSMENTS—LIEN AND PRECEDENCE.** A special assessment levied pursuant to section 364.11 or 364.12, including all interest and penalties is a lien against the benefited property from the date of filing the schedule of assessments until the assessment is paid. Special assessments have equal precedence with ordinary taxes and are not divested by judicial sale.

**NEW SECTION. 364.13B SPECIAL ASSESSMENTS—PROCEDURES FOR LEVY.** The procedures for making and levying a special assessment pursuant to this chapter and for an appeal of the assessment are the same procedures as provided in sections 384.59 through 384.67 and sections 384.72 through 384.75.

Sec. 21. Section 384.24, subsection 3, paragraph o, Code 1983, is amended to read as follows:

o. The rehabilitation and improvement of parks already owned, including the removal, replacement and planting of trees thereon in the parks, and facilities, equipment, and improvements commonly found in city parks.

Sec. 22. Section 384.28, Code 1983, is amended by adding the following new unnumbered paragraph:

**NEW UNNUMBERED PARAGRAPH.** Definitions of city enterprises, essential corporate purposes, and general corporate purposes are not mutually exclusive and shall be liberally construed. The detailing of examples is not intended to modify or restrict the meaning of general words used. If a project or activity may be reasonably construed to be included in more than one classification, the council may elect at any time between the classifications and the procedures respectively applicable to each classification.

Sec. 23. Section 384.37, subsection 5, Code 1983, is amended to read as follows:

5. "Lot" means a lot, part of lot, tract, or parcel of land under one ownership, including improvements, against which a separate assessment is made. Two or more contiguous lots, tracts, or parcels upon which a single improvement has been erected by a common owner are one lot for purposes of this part under common ownership may be treated as one lot for purposes of this division if such lots the parcels bear common improvements or if the council finds that the parcels have been assembled into a single unit for the purpose of use or development.

Sec. 24. Section 384.63, unnumbered paragraph 2, Code 1983, is amended to read as follows:

The council shall, by resolution, provide that the deficiencies for the lots specially benefited by a public improvement shall be certified to the county treasurer, who shall record them in a separate book entitled "Special Assessment Deficiencies", and to the appropriate city official charged with the responsibility of issuing building permits, who shall notify the council when a private improvement is subsequently constructed on any lot subject to a deficiency. Certification to the county treasurer shall include a legal description of each lot. The council shall establish by ordinance a period of amortization for a public improvement for which there are deficiencies, based upon the useful life of the public improvement, but not to exceed ten years shall commence with the adoption of the resolution of necessity and extend for the same period for which installments of assessments for the project are made payable. Deficiencies

may be assessed only during the period of amortization, which shall also be certified to the county treasurer and the city official charged with the responsibility of issuing building permits. Certification to the county treasurer shall include a legal description of each lot. When a private improvement is constructed on a lot subject to a deficiency, during the period of amortization, the council shall, by resolution, assess a pro rata portion of the deficiency on that lot, in the same proportion to the total deficiency on that lot as the number of ~~full calendar years remaining in the period of amortization is to the total number of years in the period of amortization~~ future installments of special assessments remaining to be paid is to the total number of installments of assessments for the project, subject to the twenty-five percent limitation of section 384.62. A deficiency assessment becomes a lien on the property and is payable in the same manner, and subject to the same interest and penalties as the other special assessments. The council shall direct the clerk to certify a deficiency assessment to the county treasurer, and to send a notice of the deficiency assessment by certified mail to each owner, as provided in section 384.60, subsection 5, but publication of the notice is not required. An owner may appeal from the amount of the assessment within thirty days of the date notice is mailed. County officials shall collect a deficiency assessment, commencing in the year following the assessment, in the manner provided for the collection of other special assessments. Upon collection, the county treasurer shall make the appropriate credit entries in the "Special Assessment Deficiencies" book, and shall credit the amounts collected as provided for other special assessments on the same public improvement, or to the city, to the extent that the deficiency has been previously paid from other city funds.

Sec. 25. Section 384.65, subsection 1, Code 1983, is amended to read as follows:

1. The first installment of each assessment, or the total amount if less than fifty dollars, is due and payable on July 1 next succeeding the date of the levy, unless the assessment is filed with the county ~~auditor~~ 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. 26. Section 384.83, subsection 2, Code 1983, is amended to read as follows:

2. a. Before the governing body institutes proceedings for the issuance of revenue bonds, it shall fix a time and place of meeting at which it proposes to take action and give notice by publication in the manner directed in section 362.3. The notice must include a statement of the time and place of the meeting, the maximum amount of the proposed revenue bonds, the purpose or purposes for which the revenue bonds will be issued, and the city utility, combined utility system, city enterprise, or combined city enterprise whose net revenues will be used to pay the revenue bonds and interest ~~thereon~~ on them. The governing body shall at the meeting receive oral or written objections from any resident or property owner of the city. After all objections have been received and considered, the governing body may, at the meeting or any adjournment ~~thereof~~ of the meeting, take additional action for the issuance of the bonds or abandon the proposal to issue bonds. Any resident or property owner of the city may appeal a decision of the governing body to take additional action to the district court of the county in which any part of the city is located within fifteen days after the additional action is taken, but the additional action of the governing body is final and conclusive unless the court finds that the governing body exceeded its authority. The provisions of this subsection with respect to notice, hearing, and appeal in connection with the issuance of revenue bonds are in lieu of those contained in chapter 23 or any other law.

b. Separate purposes may be incorporated in a single notice of intention to institute proceedings or separate purposes may be incorporated in separate notices and, after an opportunity for filing objections, the governing body may include in a single issue of revenue bonds any number or combination of purposes.

Sec. 27. Section 384.84, subsection 1, Code 1983, is amended to read as follows:

1. The governing body of a city utility, combined utility system, city enterprise, or combined city enterprise may establish, impose, adjust, and provide for the collection of rates to produce gross revenues at least sufficient to pay the expenses of operation and maintenance of the city utility, combined utility system, city enterprise, or combined city enterprise and, ~~whenever~~ when revenue bonds or pledge orders are issued and outstanding pursuant to this division, shall establish, impose, adjust, and provide for the collection of rates to produce gross revenues at least sufficient to pay the expenses of operation and maintenance of the city utility, combined utility system, city enterprise, or combined city enterprise, and to leave a balance of net revenues sufficient at all times to pay the principal of and interest on the revenue bonds and pledge orders as they become due and to maintain a reasonable reserve for the payment of principal and interest, and a sufficient portion of net revenues must be pledged for that purpose. Rates must be established by ordinance of the council or by resolution of the trustees, published in the same manner as an ordinance. All rates or charges for the services of sewer systems, sewage treatment, solid waste collection, solid waste disposal, or any of these, if not paid as provided by ordinance of council, or resolution of trustees, ~~constitute are~~ are a lien upon the premises served by any of these services ~~upon certification to the county auditor that the rates or charges are owing.~~ The rates or charges lien has equal precedence with ordinary taxes, may be certified to the county auditor and collected in the same manner as taxes, and is not divested by a judicial sale.

Sec. 28. Section 419.3, subsection 2, Code 1983, is amended to read as follows:

2. The bonds referred to in subsection 1 of this section may be executed and delivered at any time and from time to time; be in such form and denominations; without limitation as to the denomination of any bond, any other law to the contrary notwithstanding; be of such tenor; be fully registered, registrable as to principal or in bearer form; be transferable; be payable in such installments and at such time or times, not exceeding thirty years from their date; be payable at such place or places in or out of the state of Iowa; bear interest at such rate or rates, payable at such place or places in or out of the state of Iowa; be evidenced in such manner and may contain other provisions not inconsistent ~~herewith~~ with this chapter; all as shall be provided in respect of the foregoing or other matters in the proceedings of the governing body ~~whereunder~~ where the bonds are authorized to be issued. The governing body may provide for the exchange of coupon bonds for fully registered bonds and of fully registered bonds for coupon bonds and for the exchange of any such bonds after issuance for bonds of larger or smaller denominations, all in ~~such~~ the manner as may be provided in the proceedings authorizing their issuance, provided the bonds in changed form or denominations shall be exchanged for the surrendered bonds in the same aggregate principal amounts and in such manner that no overlapping interest is paid, and ~~such~~ the bonds in changed form or denominations shall bear interest at the same rate or rates and shall mature on the same date or dates as the bonds for which they are exchanged. ~~Where any~~ If an exchange is made under this section, the bonds surrendered by the holders at the time of the exchange shall be canceled or held by a trustee for subsequent exchanges in accordance with this section. The exchange shall be made only at the request of the holders of the bonds to be surrendered, and the governing body may require all expenses incurred in connection with the exchange to be paid by the holders. ~~In case~~ If any of the officers whose signatures appear on the bonds or coupons ~~shall cease to be officers before the delivery of such~~ the bonds, such signatures ~~shall be~~, nevertheless, ~~be~~ valid and sufficient for all purposes, the same as if ~~they~~ the officers had remained in office until delivery.

Sec. 29. Section 419.16, Code 1983, is amended to read as follows:

419.16 INTENT OF LAW. In order to provide available alternatives to enable municipalities to accomplish the purposes of this chapter in the manner deemed most advisable by the ~~their governing body bodies~~, it is the intent of this chapter that a lessee or contracting party under a sale contract or loan agreement is not required to be the eventual user of a project, provided, ~~that any sublessee or assignee shall assume all of the obligations of the lessee or contracting party under the lease, sale contract or loan agreement, the lessee or contracting party remains primarily liable for all of its obligations under the lease, sale contract or loan agreement,~~ and the use of the project is consistent with the purposes of this chapter.

Sec. 30. Section 554.9403, subsection 6, Code 1983, is amended to read as follows:

6. If the debtor is a transmitting utility (section 554.9401, subsection 5), and a filed financing statement so states, or if a filed financing statement relates to a lien, pledge, or security interest incident to bonds issued under chapter 419 and the filed financing statement so states, it is effective until a termination statement is filed. A real estate mortgage which is effective as a fixture filing under section 554.9402, subsection 6, remains effective as a fixture filing until the mortgage is released or satisfied of record or its effectiveness otherwise terminates as to the real estate.

Approved May 6, 1983

## CHAPTER 91

### LIMITS ON FILING SCHOOL DISTRICT REORGANIZATION PETITIONS

*H.F. 477*

**AN ACT** to prohibit the filing of school district reorganization petitions with an area education agency within six months after the occurrence of certain conditions.

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

Section 1. Section 275.12, subsection 1, Code 1983, is amended to read as follows:

1. A petition describing the boundaries, or accurately describing the area included therein by legal descriptions, of the proposed district, which boundaries or area described shall conform to plans developed or the petition shall request change of the plan, shall be filed with the area education agency administrator of the area education agency in which the greatest number of electors reside. However, the area education agency administrator shall not accept a petition if any of the school districts affected have approved the issuance of general obligation bonds at an election pursuant to section 296.6 during the preceding six-month period. ~~Such~~ The petition shall be signed by voters in each existing school district or portion affected or portion thereof equal in number to at least twenty percent of the number of eligible voters or four hundred voters, whichever is the smaller number. School districts district or portion affected or portion thereof shall be defined to mean that means the area to be included in the plan of the proposed new school district.

Sec. 2. Section 275.17, Code 1983, is amended to read as follows:

275.17 **REFILING FILING A PETITION.** If an area education agency board does not approve the change in boundaries of school districts in accordance with a petition, an identical a

petition describing the identical or similar boundaries shall not be refilled filed for a period of six months following the date of the hearing or the vote of the board, whichever is later.

Sec. 3. Section 275.22, Code 1983, is amended to read as follows:

275.22 CANVASS AND RETURN. The precinct election officials shall count the ballots, and make return to and deposit the ballots with the county commissioner of elections, who shall enter the return of record in his the commissioner's office. The county commissioner of elections shall certify the results of the election to the area education agency administrator. If the majority of the votes cast by the qualified electors ~~are~~ is in favor of the proposition, as provided in section 275.20, a new school corporation shall be organized. If the majority of votes cast is opposed to the proposition, a new petition describing the identical or similar boundaries shall not be filed for at least six months from the date of the election. The area education agency administrator shall file a written description of the boundaries as provided in section 274.4.

Approved May 6, 1983

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## CHAPTER 92

### BOARD OF ACCOUNTANCY AND APPLICATIONS TO PRACTICE

*H.F. 494*

**AN ACT** relating to certified public accountants, accounting practitioners, and the board of accountancy.

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

Section 1. Section 116.3, subsection 1, unnumbered paragraph 1, Code 1983, is amended to read as follows:

There is established a board of accountancy. The board of accountancy shall consist of seven eight members, five of whom shall be certified public accountants, one of whom shall be from the accounting practitioner advisory committee, and two ~~members who~~ of whom shall not be certified public accountants or licensed accounting practitioners and who shall represent the general public. A certified or licensed member shall be actively engaged in practice as a certified public accountant or accounting practitioner and shall have been so engaged for five years preceding appointment, the last two of which shall have been in Iowa. Professional associations or societies composed of certified public accountants may recommend the names of potential board members to the governor, but the governor shall not be bound by the recommendations. A board member shall not be required to be a member of any professional association or society composed of certified public accountants. Members, except the member from the accounting practitioner advisory committee, shall be appointed by the governor to staggered terms, subject to confirmation by the senate. The board member from the accounting practitioner advisory committee shall serve a one-year term and must be the most senior member of the accounting practitioner advisory committee who has not served a term on the board of accountancy in the previous two years. The term "board" "Board" as used in this

chapter means the board of accountancy established by this section. Upon the expiration of each of the terms and of each succeeding term, except that of the member from the accounting practitioner advisory committee, a successor shall be appointed for a term of three years beginning and ending as provided in section 69.19. Members except the member from the accounting practitioner advisory committee shall serve a maximum of three terms or nine years, whichever is less. Vacancies occurring in the membership of the board for any cause shall be filled in the same manner by the governor for the unexpired term and ~~shall be~~ are subject to senate confirmation. The public members of the board of accountancy shall be allowed to participate in administrative, clerical, or ministerial functions incident to giving the examination, but shall not determine the content of the examination or determine the correctness of the answers.

Sec. 2. Section 116.4, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

116.4 APPLICATIONS. Applications for certification as a certified public accountant and licensure as an accounting practitioner shall be on forms prescribed and furnished by the board. Character references may be required, but shall not be obtained from certified public accountants or accounting practitioners. An applicant shall not be ineligible for licensure because of age, citizenship, sex, race, religion, marital status or national origin although the application may require citizenship information. The board may consider the past felony record of an applicant only if the felony conviction relates directly to practice of accountancy.

Sec. 3. Section 116.5, Code 1983, is amended by adding the following new subsection:

NEW SUBSECTION. 4. If an applicant for certification as a certified public accountant does not successfully complete the required portions of the examination required by subsection 3 but does successfully complete the portions of the examination required for licensure as an accounting practitioner, the applicant may apply for a license as an accounting practitioner. The applicant remains eligible to retake the examination for certification as a certified public accountant in accordance with this section.

Sec. 4. Section 116.10, Code 1983, is repealed.

Approved May 6, 1983

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## CHAPTER 93

### SOIL CONSERVATION LOAN PROGRAM

*H.F. 518*

**AN ACT** relating to the amount of money an individual farmer may be loaned under the soil conservation loan program.

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

Section 1. Section 175.2, subsection 18, Code 1983, is amended to read as follows:

18. "Conservation farm equipment" means the specialized planters, cultivators, and tillage equipment used for reduced tillage or no-till planting of row crops.

Sec. 2. Section 175.34, subsection 2, paragraph d, Code 1983, is amended to read as follows:

d. The amount of financing that may be provided under the soil conservation loan program shall not exceed the cost of implementing the permanent soil and water conservation practice or of acquiring the conservation farm equipment which the owner or operator is seeking to implement or acquire less any amounts the owner or operator will receive in public cost-sharing funds under chapter 467A or other provisions of state or federal law for ~~such~~ the implementation or acquisition. However, the maximum amount of loans that an owner or operator may receive ~~in one year~~ pursuant to this program shall not exceed ~~twenty five~~ fifty thousand dollars for permanent soil and water conservation practices and fifty thousand dollars for conservation farm equipment.

Approved May 6, 1983

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## CHAPTER 94

### JUVENILE VICTIM RESTITUTION PROGRAM

*H.F. 528*

**AN ACT** relating to the revision of the juvenile victim restitution program.

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

Section 1. **DECLARATION OF PURPOSE.** The general assembly finds that programs which provide for victim restitution, community service, and other creative dispositions should be encouraged for use by juvenile courts pursuant to sections 232.29 and 232.46.

Sec. 2. **NEW SECTION. 232A.1 DEFINITIONS.** For purposes of this chapter, "agency" means the criminal and juvenile justice planning agency established in chapter 80C.

Sec. 3. **NEW SECTION. 232A.2 PROGRAM CREATED.** A juvenile victim restitution program is created which shall be funded through moneys appropriated by the general assembly to the agency. The primary purpose of the program is to provide funds to compensate victims for losses due to the delinquent acts of juveniles.

Upon completion of a district's plan, the agency shall provide funds in conformance with the procedures and policies of the state. The agency shall reclaim any portion of an initial allocation to a judicial district that is unencumbered on December 31 of any year. The agency shall immediately reallocate the reclaimed funds to those judicial districts from which funds were not reclaimed in the manner provided in this section for the original allocation. Any portion of an amount allocated that remains unencumbered on June 30 of any year shall revert to the general fund of the state.

Sec. 4. **NEW SECTION. 232A.4 REPORTS REQUIRED.** Each judicial district shall submit a report of the progress and financial status of its juvenile victim restitution program to the agency on a quarterly basis. The agency shall prepare and submit a report on the progress and financial status of the programs to the general assembly no later than March 15, 1984, and again every year thereafter.

Sec. 5. NEW SECTION. RESTITUTION FOR DELINQUENT ACTS. If a judge of a juvenile court finds that a juvenile has committed a delinquent act and requires the juvenile to compensate the victim of that act for losses due to the delinquent act of the juvenile, the juvenile shall make such restitution according to a schedule established by the judge from funds earned by the juvenile pursuant to employment engaged in by the juvenile at the time of disposition. If a juvenile enters into an informal adjustment agreement pursuant to section 232.29 to make such restitution, the juvenile shall make such restitution according to a schedule which shall be a part of the informal adjustment agreement. The restitution shall be made under the direction of a probation officer working under the direction of the juvenile court. In those counties where the county maintains an office to provide juvenile victim restitution services, the probation officer may use that office's services. If the juvenile is not employed, the juvenile's probation officer shall make a reasonable effort to find private or other public employment for the juvenile. However, if the juvenile offender does not have employment at the time of disposition and private or other public employment is not obtained despite the efforts of the juvenile's probation officer, the judge may direct the juvenile offender to perform work pursuant to section 232.52, subsection 2, paragraph "a", and arrange for compensation of the juvenile in the manner provided for under the program established pursuant to this Act.

Sec. 6. Section 80C.5, Code 1983, is repealed.

Approved May 6, 1983

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**CHAPTER 95**  
**SECURITIES EXEMPT FROM REGISTRATION**  
*H.F. 592*

**AN ACT** relating to securities exempt from registration under the Iowa uniform securities Act.

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

Section 1. Section 502.202, subsection 12, paragraph a, Code 1983, is amended to read as follows:

a. A co-operative association as defined in the Agricultural Marketing Act, or a federation of such co-operative associations that possesses no greater powers or purposes than co-operative associations so defined, if such stock or similar security including a certificate of interest, certificate of indebtedness, or building note:

Sec. 2. Section 502.202, Code 1983, is amended by adding the following new subsection:

NEW SUBSECTION. Any security issued in exchange for any issued and outstanding security of a co-operative association, as defined in the Agricultural Marketing Act, or a federation of such co-operatives which possess no greater powers or purposes than co-operative associations so defined, if such exchange is a part of a merger or consolidation of two or more such co-operative associations.

Approved May 6, 1983

**CHAPTER 96**  
**DEPARTMENT OF CORRECTIONS ESTABLISHED**  
*S.F. 464*

**AN ACT** reorganizing the department of social services by establishing a department of corrections, renaming the department of social services as the department of human services, and providing penalties.

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

Section 1. Sections 2 through 54 are enacted as a new chapter 217A of the Code.

Sec. 2. **NEW SECTION. 217A.1 DEFINITIONS.** For purposes of this chapter, unless the context otherwise requires:

1. "Department" means the Iowa department of corrections established in section 217A.2.
2. "Board" means the board of corrections established in section 217A.4.
3. "Director" means the director of the department.

Sec. 3. **NEW SECTION. 217A.2 DEPARTMENT ESTABLISHED.** The Iowa department of corrections is established to be responsible for the control, treatment, and rehabilitation of offenders committed under law to the following institutions:

1. Iowa correctional institution for women.
2. Iowa state men's reformatory.
3. Iowa state penitentiary.
4. Iowa security and medical facility.
5. North central correctional facility.
6. Mount Pleasant correctional facility.
7. Clarinda correctional treatment facility.
8. Correctional release center.
9. Rehabilitation camps.
10. Other institutions related to an institution in subsections 1 through 9 but not attached to the campus of the main institution as program developments require.

Sec. 4. **NEW SECTION. 217A.3 RESPONSIBILITIES OF DEPARTMENT.** The department shall administer the institutions listed in section 217A.2. The department shall be responsible to the extent provided for by law for all of the following:

1. Accreditation and funding of community-based corrections programs including but not limited to pretrial release, probation, residential facilities, presentence investigation, parole, and work release.
2. Iowa state industries.
3. Jail inspections.
4. Other duties provided for by law.

Sec. 5. **NEW SECTION. 217A.4 BOARD CREATED.** A board of corrections is created within the department. The board shall consist of seven members appointed by the governor subject to confirmation by the senate. Not more than four of the members shall be from the same political party. Members shall be electors of this state. Six of the seven members shall each be a resident of a different congressional district. Members of the board shall serve four-year staggered terms.

Sec. 6. NEW SECTION. 217A.5 BOARD—DUTIES. The board of corrections shall:

1. Organize annually and select a chairperson and vice chairperson.
2. Adopt and establish policies for the operation and conduct of the department and the implementation of all department programs.
3. Recommend to the governor the names of individuals qualified for the position of director when a vacancy exists in the office.
4. Report immediately to the governor any failure by the director of the department to carry out any of the policy decisions or directives of the board.
5. Approve the budget of the department prior to submission to the governor.
6. Adopt rules in accordance with chapter 17A as the board deems necessary to transact its business and for the administration and exercise of its powers and duties.
7. Make recommendations from time to time to the governor and the general assembly.
8. Perform other functions as provided by law.

Sec. 7. NEW SECTION. 217A.6 MEETINGS. The board shall meet at least twelve times a year. Special meetings may be called by the chairperson or upon written request of any three members of the board. The chairperson shall preside at all meetings or in the chairperson's absence, the vice chairperson shall preside. The members of the board shall be paid forty dollars per diem while in session, and their reasonable and necessary expenses while attending the meetings.

Sec. 8. NEW SECTION. 217A.7 DIRECTOR—APPOINTMENT AND QUALIFICATIONS. The chief administrative officer for the department is the director. The director shall be appointed by the governor subject to confirmation by the senate and shall serve at the pleasure of the governor. The director shall be qualified in reformatory and prison management, knowledgeable in community-based corrections, and shall possess administrative ability. The director shall also have experience in the field of criminology and discipline and in the supervision of inmates in corrective penal institutions. The director shall not be selected on the basis of political affiliation, and while employed as the director, shall not be a member of a political committee, participate in a political campaign, be a candidate for a partisan elective office, and shall not contribute to a political campaign fund, except that the director may designate on the checkoff portion of the state or federal income tax return, or both, a party or parties to which a contribution is made pursuant to the checkoff. The director shall not hold any other office under the laws of the United States or of this or any state or hold any position for profit and shall devote full time to the duties of office.

Sec. 9. NEW SECTION. 217A.8 DIRECTOR—GENERAL DUTIES AND RESPONSIBILITIES.

1. The director shall:
  - a. Supervise the operations of the institutions under the department's jurisdiction and may delegate the powers and authorities given the director by statute to officers or employees of the department.
  - b. Supervise state agents whose duties relate primarily to the department.
  - c. Establish and maintain a program to oversee women's institutional and community corrections programs and to provide community support to ensure continuity and consistency of programs. The person responsible for implementing this section shall report to the director.
  - 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 mentally retarded offenders. For the purposes of this paragraph, habilitative services and treatment means medical, mental health, social, educational, counseling, and other services which will assist a mentally retarded person 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 mentally retarded, as defined in section 222.2, subsection 5. Identification shall be made by a qualified mental retardation professional. In assigning a mentally retarded offender, 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 mentally ill and mentally retarded offenders.

e. Employ, assign, and reassign personnel as necessary for the performance of duties and responsibilities assigned to the department. Employees shall be selected on the basis of fitness for work to be performed with due regard to training and experience and are subject to chapter 19A.

f. Examine all state institutions which are penal, reformatory, or corrective to determine their efficiency for adequate care, custody, and training of their inmates and report the findings to the board.

g. Prepare a budget for the department, subject to the approval of the board, and other reports as required by law.

h. Develop long-range correctional planning and an ongoing five-year corrections master plan. The director shall annually report to the general assembly to inform its members as to the status and content of the planning and master plan.

i. Supervise rehabilitation camps within the state as may be established by the director. Persons committed to institutions under the department may be transferred to the facilities of the camp system and upon transfer shall be subject to the same laws as pertain to the transferring institution.

j. Adopt rules subject to the approval of the board, pertaining to the internal management of institutions and agencies under the director's charge and necessary to carry out the duties and powers outlined in this section.

k. Adopt rules, policies, and procedures, subject to the approval of the board, pertaining to the supervision of parole and work release.

2. The director, with the express approval of the board, may establish for any inmate sentenced pursuant to section 902.3 a furlough program under which inmates sentenced to and confined in any institution under the jurisdiction of the department may be temporarily released. A furlough for a period not to exceed fourteen days may be granted when an immediate member of an inmate's family is seriously ill or has died, when an inmate is to be interviewed by a prospective employer, or when an inmate is authorized to participate in a training program not available within the institution. Furloughs for a period not to exceed fourteen days may also be granted in order to allow inmates to participate in programs or activities that serve rehabilitative objectives.

3. The director may establish a sales bonus system for the sales representatives for prison industry products. If a sales bonus system is established, the system shall not affect the status of the sales representatives under chapter 19A.

4. The director may expend moneys from the support allocation of the department as reimbursement for replacement or repair of personal items of the department's employees damaged or destroyed by clients of the department during the employee's tour of duty. However, the reimbursement shall not exceed one hundred fifty dollars for each item. The director shall establish rules in accordance with chapter 17A to carry out the purpose of this subsection.

5. The director may obtain assistance for the department including construction, facility planning, data processing and project accomplishment, by contracting under chapter 28E with the department of human services or the department of general services.

Sec. 10. NEW SECTION. 217A.9 OFFICIAL SEAL. The department shall have an official seal with the words "Iowa Department of Corrections" and other engraved design as the board prescribes. Every commission, order, or other paper of an official nature executed by the department may be attested with the seal.

Sec. 11. NEW SECTION. 217A.10 TRAVEL EXPENSES. The director, staff members, assistants, and employees, in addition to salary, shall receive their necessary traveling expenses by the nearest practicable route, when engaged in the performance of official business. Permission shall not be granted to any person to travel to another state except by approval of the board and the executive council.

Sec. 12. NEW SECTION. 217A.11 REPORT BY DEPARTMENT. Annually at the time provided by law, the department shall make a report to the governor and the general assembly, which shall cover the annual period ending with June thirtieth preceding the date of the report and shall include:

1. An itemized statement of the department's expenditures for each program under the department's administration.
2. Adequate and complete statistical reports for the state as a whole concerning payments made under the department's administration.
3. Recommendations concerning changes in laws under the department's administration as the board deems necessary.
4. Observations and recommendations of the board and the director relative to the programs of the department.
5. Information concerning long-range planning and the master plan as provided by section 217A.8, subsection 1, paragraph h.
6. Other information the board or the director deems advisable, or which is requested by the governor or the general assembly.

Sec. 13. NEW SECTION. 217A.12 CONFIDENTIALITY OF RECORDS—REPORT.

1. The following information regarding individuals receiving services from the department is confidential:

- a. Names and addresses of individuals receiving services from the department, and the types of services or amounts of assistance provided, except as otherwise provided in subsection 4.
- b. Information concerning the social or economic conditions or circumstances of particular individuals who are receiving or have received services or assistance from the department.
- c. Agency evaluations of information about a particular individual.
- d. Medical or psychiatric data, including diagnosis and past history of disease or disability, concerning a particular individual.

2. Information described in subsection 1 shall not be disclosed to or used by any person or agency except for purposes of administration of the department's programs of services or assistance and shall not, except as otherwise provided in subsection 4, be disclosed to or used by persons or agencies outside the department unless they are subject to standards of confidentiality comparable to those imposed on the department by this section.

3. This section does not restrict the disclosure or use of information regarding the cost, purpose, number of persons served or assisted by, and results of any program administered by the department, and other general and statistical information, so long as the information does not identify particular individuals served or assisted.

4. The general assembly finds and determines that the use and disclosure of information as provided in this subsection is for purposes directly connected with the administration of the programs of services and assistance referred to in this section and is essential for their proper administration.

Confidential information described in subsection 1, paragraphs a, b and c shall be disclosed to public officials for use in connection with their official duties relating to law enforcement, audits, and other purposes directly connected with the administration of the programs, upon written application to and with the approval of the director or the director's designee.

5. If it is established that a provision of this section would cause any of the department's programs of services or assistance to be ineligible for federal funds, the provision shall be limited or restricted to the extent which is essential to make the program eligible for federal funds. The department shall adopt, pursuant to chapter 17A, rules necessary to implement this subsection.

6. Violation of this section is a serious misdemeanor.

7. This section takes precedence over section 17A.12, subsection 7.

Sec. 14. NEW SECTION. 217A.13 ACTION FOR DAMAGES. A person may institute a civil action for damages under chapter 25A or to restrain the dissemination of confidential records set out in subsection 1, paragraph b, c, or d of section 217A.12, in violation of that section, and a person, including but not limited to an agency or governmental body, proven to have disseminated or to have requested and received confidential records in violation of subsection 1, paragraph b, c, or d of section 217A.12, is liable for actual damages and exemplary damages for each violation and is liable for court costs, expenses, and reasonable attorneys' fees incurred by the party bringing the action. The award for damages shall not be less than one hundred dollars.

Any reasonable grounds to believe that a public employee has violated a provision of section 217A.12 is grounds for immediate removal from access of any kind to confidential records or suspension from duty without pay.

Sec. 15. NEW SECTION. 217A.14 POWERS OF GOVERNOR—REPORT OF ABUSES. Section 217A.8, subsection 1, paragraph a, does not limit the general supervisory or examining powers vested in the governor by the laws or constitution of the state, or legally vested by the governor in a committee appointed by the governor.

The superintendent of an institution shall make reports to the board and the director as requested by the board and the director and the director shall report, in writing, to the governor any abuses found to exist in any of the institutions.

Sec. 16. NEW SECTION. 217A.15 APPOINTMENT OF SUPERINTENDENTS. The director shall appoint, subject to the approval of the board, the superintendents of the institutions provided for in section 217A.2.

The superintendent has the immediate custody and control, subject to the orders and policies of the director, of all property used in connection with the institution except as otherwise provided by statute. The tenure of office of a superintendent shall be at the pleasure of the appointing authority but a superintendent may be removed for inability or refusal to properly perform the duties of the office. Removal shall occur only after an opportunity is given the person to be heard before the board and the director and upon preferred written charges. The removal when made is final.

Sec. 17. NEW SECTION. 217A.16 FARM OPERATIONS ADMINISTRATOR. The director may appoint a farm operations administrator for institutions under the control of the departments of corrections and human services. If appointed, the farm operations administrator, subject to the direction of the director shall do all of the following:

1. Manage and supervise all farming and nursery operations at institutions, farms and gardens of the departments of corrections and human services.

2. Determine priorities on the use of agricultural resources and labor for farming and nursery operations.

3. Develop an annual operations plan for crop and livestock production and utilization that will provide work experience and contribute to developing vocational skills of the institutions' inmates and residents. The department of human services must approve the parts of the plan that affect farm operations on property of institutions having programs of the department of human services.

4. Coordinate farm lease arrangements, farm input purchases, farm product distribution, machinery maintenance and replacement, and renovation of farm buildings, fences and livestock facilities.

5. Develop and maintain accounting records, budgeting and cash flow systems, and inventory records.

6. Advise and instruct institution staff and inmates in application of agricultural technology.

7. Implement actions to restore and maintain productivity of soil resources at the institutions through crop rotation, minimum tillage, contouring, terracing, waterways, pasture renovation, windbreaks, buffer zones, and wildlife habitat in accordance with soil conservation service plans and recommendations.

8. Administer the revolving farm fund created in section 217A.48.

9. Do any other farm management duties assigned by the director.

Sec. 18. NEW SECTION. 217A.17 SUBORDINATE OFFICERS AND EMPLOYEES. The director shall determine the number and compensation of subordinate officers and employees for each institution subject to chapter 19A. Subject to this chapter, the officers and employees shall be appointed and discharged by the superintendent who shall keep in the record of each subordinate officer and employee, the date of employment, the compensation, and the date of and the reasons for each discharge.

Sec. 19. NEW SECTION. 217A.18 BONDS. The director shall require officers and employees of institutions under the director's control who are charged with the custody or control of money or property belonging to the state, to give an official bond properly conditioned and signed by sufficient sureties in a sum to be fixed by the director. The bond is subject to approval by the director and shall be filed in the office of the secretary of state.

Sec. 20. NEW SECTION. 217A.19 DWELLING HOUSE. The director may furnish the superintendent of each of the institutions, in addition to salary, with a dwelling house or with appropriate quarters in lieu of a house, or the director may compensate the superintendent of each of the institutions in lieu of furnishing a house or quarters. If a superintendent of the institution is furnished with a dwelling house or quarters, either of which is owned by the state, the superintendent may also be furnished with water, heat, and electricity.

The director may furnish assistant superintendents or other employees, or both, with dwelling houses or with appropriate quarters, owned by the state. The assistant superintendent or employee, who is so furnished shall pay rent for the dwelling house or quarters in an amount to be determined by the superintendent of the institution, which shall be the fair market rental value of the house or quarters. If an assistant superintendent or employee is furnished with a dwelling house or quarters either of which is owned by the state, the assistant superintendent or employee may also be furnished with water, heat, and electricity. However, the furnishing of these utilities shall be considered in determining the fair market rental value of the house or quarters.

Sec. 21. NEW SECTION. 217A.20 TRANSFER OF INMATES. The director may transfer at the expense of the state an inmate of one institution to another similar institution under the director's control. The director may transfer an inmate under the director's

jurisdiction from any institution supervised by the director to another institution under the control of a director of a division of the department of human services with the consent and approval of the other director and may transfer an inmate to any other institution for mental or physical examination or treatment retaining jurisdiction over the inmate when so transferred.

Sec. 22. NEW SECTION. 217A.21 RECORD OF INMATES. The director shall keep the following record of every person committed to any of the department's institutions: Name, residence, sex, age, place of birth, occupation, civil condition, date of entrance or commitment, date of discharge, whether a discharge is final, condition of the person when discharged, the name of the institutions from which and to which the person has been transferred, and if the person is dead, the date and cause of death.

Sec. 23. NEW SECTION. 217A.22 RECORD PRIVILEGED. Except with the consent of the director, or on an order of the district court, the record provided in section 217A.21 shall be accessible only to the board and the director and to assistants and proper clerks authorized by the director. The director may permit the state libraries and the Iowa state historical department's division of historical museum and archives to copy or reproduce by any photographic, photostatic, microfilm, microcard, or other process which accurately reproduces in a durable medium and to destroy in the manner described by law the records of inmates required in section 217A.21.

Sec. 24. NEW SECTION. 217A.23 REPORTS TO DIRECTOR. The superintendent of each institution shall, within ten days after the commitment or entrance of a person to the institution, cause a true copy of the person's entrance record to be made and forwarded to the director. When an inmate leaves, is discharged, transferred, or dies in any institution, the superintendent or person in charge shall within ten days thereafter send the information to the office of the director on forms which the director prescribes.

Sec. 25. NEW SECTION. 217A.24 QUESTIONABLE COMMITMENT. The superintendent shall within three days of the commitment or entrance of a person at the institution notify the director if there is any question as to the propriety of the commitment or detention of any person received at the institution, and the director upon notification shall inquire into the matter presented, and take appropriate action.

Sec. 26. NEW SECTION. 217A.25 RELIGIOUS BELIEFS. The superintendent receiving a person committed to any of the institutions shall ask the person to state the person's religious preference, shall enter the stated preference in a book kept for that purpose, and shall request that the person sign the entry. If the person is a minor and has formed no choice, the preference may be expressed at any later time by the person.

Sec. 27. NEW SECTION. 217A.26 RELIGIOUS WORSHIP. Any inmate, during the time of detention, shall be allowed for at least one hour on each Sunday or other holy day or in times of extreme sickness, and at other suitable and reasonable times consistent with proper discipline in the institution, to receive spiritual advice, instruction, and ministrations from any recognized member of the clergy who represents the inmate's religious belief.

Sec. 28. NEW SECTION. 217A.27 INVESTIGATION. The director or director's designee shall visit and inspect the institutions under the director's control, and investigate the financial condition and management of the institutions at least once in six months.

During the investigation the director or designee shall see every inmate of each institution as far as practicable, especially those admitted since the preceding visit, and shall give the inmates suitable opportunity to converse with the director or designee apart from the officers and attendants.

Sec. 29. NEW SECTION. 217A.28 INVESTIGATION OF OTHER INSTITUTIONS. The director may investigate charges of abuse, neglect or mismanagement on the

part of any officer or employee of any public or private institution subject to the director's supervision or control.

Sec. 30. NEW SECTION. 217A.29 WITNESSES. The director may exercise the following powers in an investigation:

1. Summon and compel the attendance of witnesses.
2. Examine the witnesses under oath, which the director may administer.
3. Have access to all books, papers, and property material to the investigation.
4. Order the production of books or papers material to the investigation.

Witnesses other than those in the employ of the state are entitled to the same fees as in civil cases in the district court.

Sec. 31. NEW SECTION. 217A.30 CONTEMPT. If a person fails or refuses to obey the orders of the director issued under section 217A.29, or fails or refuses to give or produce evidence when required, the director shall petition the district court in the county where the offense occurs for an order of contempt and the court shall proceed as for contempt of court.

Sec. 32. NEW SECTION. 217A.31 TRANSCRIPT OF TESTIMONY. The director shall cause the testimony taken at the investigation to be transcribed and filed in the director's office at the seat of government within ten days after the testimony is taken, or as soon as practicable, and when filed the testimony shall be open for the inspection of any person.

Sec. 33. NEW SECTION. 217A.32 SERVICES REQUIRED—WAGES. Inmates of the institutions may be required to render any proper and reasonable service either in the institutions proper or in the industries established in connection with them. When an inmate of an institution is working outside the institution proper, the inmate shall be deemed at all times to be in the actual custody of the superintendent of the institution.

The director may when practicable pay the inmate a wage as the director deems proper in view of the circumstances, and in view of the cost attending the maintenance of the inmate. The wage shall not exceed the amount paid to free labor for a like or equivalent service.

Sec. 34. NEW SECTION. 217A.33 DEDUCTION TO PAY COURT COSTS OR DEPENDENTS—DEPOSITS. If wages are paid pursuant to section 217A.32, the director may deduct an amount established by the inmates' restitution plan of payment. The amount deducted shall be forwarded to the clerk of the district court or proper official. The director may pay all or any part of remaining wages paid pursuant to section 217A.32 directly to a dependent of the inmate, or may deposit the wage to the account of the inmate, or may deposit a portion and allow the inmate a portion for the inmate's personal use.

Sec. 35. NEW SECTION. 217A.34 CONFERENCES. Quarterly conferences of the superintendents of the institutions shall be held with the director for the consideration of all matters relative to the management of the institutions. Full minutes of the meetings shall be preserved in the records of the director. The director may cause papers to be prepared and read at the conferences on appropriate subjects.

Sec. 36. NEW SECTION. 217A.35 DIAGNOSTIC CLINIC—INMATE CLASSIFICATION. The director may provide facilities and personnel for a diagnostic clinic. The work of the clinic shall include a scientific study of each inmate, the inmate's career and life history, the causes of the inmate's criminal acts and recommendations for the inmate's custody, care, training, employment, and counseling with a view to rehabilitation and to the protection of society. To facilitate the work of the clinic and to aid in the rehabilitation of the inmates, the trial judge, prosecuting attorney, and presentence investigators shall furnish the director upon request with a full statement of facts and circumstances attending the commission of the offense so far as known or believed by them. If the department develops and utilizes an inmate classification system, it must, within a reasonable time, present evidence from independent experts as to the effectiveness and validity of the classification system.

Sec. 37. NEW SECTION. 217A.36 ANNUAL REPORTS. The superintendent of each institution shall make an annual report to the director. The report shall include a detailed and accurate inventory of the stock and supplies on hand, and their amount and value.

Sec. 38. NEW SECTION. 217A.37 CONTINGENT FUND. The director may permit the superintendent of each institution to retain a stated amount of funds in possession as a contingent fund for the payment of freight, postage, commodities purchased on authority of the director on a cash basis, salaries, and bills granting discount for cash. If necessary, the director shall make proper requisition upon the state comptroller for a warrant on the treasurer of state to secure the contingent fund for each institution. A monthly report of the status of the contingent fund shall be submitted by the superintendent of the institution to the director, according to rules prescribed by the director.

Sec. 39. NEW SECTION. 217A.38 PURCHASE OF SUPPLIES. The director shall adopt rules governing the purchase of all articles and supplies needed at the various institutions and the form and verification of vouchers for the purchases. When purchases are made by sample, the sample shall be properly marked and retained until after an award or delivery of the items is made. The director may purchase supplies from any institution under the director's control, for use in any other institution, and reasonable reimbursement shall be made for these purchases.

Sec. 40. NEW SECTION. 217A.39 EMERGENCY PURCHASES. The purchase of materials or equipment for penal or correctional institutions under the department is exempted from the requirements of centralized purchasing and bidding by the department of general services if the materials or equipment are needed to make an emergency repair at an institution or the security of the institution would be jeopardized because the materials or equipment could not be purchased soon enough through centralized purchasing and bidding and, in either case, if the director approves the emergency purchase.

Sec. 41. NEW SECTION. 217A.40 PLANS AND SPECIFICATIONS. The director shall cause plans and specifications to be prepared for all improvements authorized and costing over twenty-five thousand dollars. An appropriation for any improvement costing over twenty-five thousand dollars shall not be expended until the adoption of suitable plans and specifications, prepared by a competent architect and accompanied by a detailed statement of the amount, quality, and description of all material and labor required for the completion of the improvement.

A plan shall not be adopted, and an improvement shall not be constructed, which contemplates an expenditure of money in excess of the appropriation.

Sec. 42. NEW SECTION. 217A.41 LETTING OF CONTRACTS—REPAIRS OR ALTERATIONS. The director shall, in writing, let all contracts for authorized improvements costing in excess of twenty-five thousand dollars to the lowest responsible bidder, after advertisement for bids as the director deems proper in order to secure full competition. The director may reject all bids and readvertise. A preliminary deposit of money, bank check, or certified check, or a bid bond as provided in section 23.20, in an amount the director prescribes shall be required as an evidence of good faith, upon all proposals for the construction of improvements. The deposit, bank check, or certified check shall be held under the direction of the director. Upon prior authorization by the director, improvements costing five thousand dollars or less may be made by the superintendent of any institution.

Contracts are not required for improvements at any state institution where the labor of inmates is to be used.

Sec. 43. NEW SECTION. 217A.42 PAYMENT FOR IMPROVEMENTS. The director shall not authorize payment for construction purposes until satisfactory proof has been furnished to the director by the proper officer or supervising architect, that the contract has been complied with by the parties. Payments shall be made in a manner similar to that in which the current expenses of the institutions are paid.

Sec. 44. NEW SECTION. 217A.43 PROPERTY OF DECEASED INMATE. Upon the death of an inmate, the superintendent of the institution shall immediately take possession of the decedent's property left at the institution and shall deliver the property to the duly appointed representative of the deceased. However, if administration is not granted within one year from the date of the death of the decedent and the value of the estate of decedent is so small as to make the granting of administration inadvisable, then delivery of the money and other property left by the decedent may be made to the surviving spouse or an heir of the decedent. If administration is not granted within one year from the death of decedent and no surviving spouse or heir is known, the superintendent shall convert the property into money.

Sec. 45. NEW SECTION. 217A.44 MONEY DEPOSITED WITH TREASURER OF STATE. Money from property converted pursuant to section 217A.43 shall be transmitted to the treasurer of state as soon after one year after the death of the inmate as practicable. A complete permanent record of the property, showing by whom and with whom it was left, its amount when converted to money, the date of the death of the owner, the owner's reputed place of residence before becoming an inmate of the institution, the date on which the money was sent to the treasurer of state, and any other facts which may tend to identify the decedent and explain the case, shall be kept by the superintendent of the institution, and a transcript of the record shall be sent to and kept by the treasurer of state.

Money deposited with the treasurer of state pursuant to this section shall be paid at any time within ten years from the death of the inmate to any person who is shown to be entitled to it.

Sec. 46. NEW SECTION. 217A.45 TEMPORARY QUARTERS IN EMERGENCY. If the buildings at any institution under the management of the director are destroyed or rendered unfit for habitation by reason of fire, storms, or other like causes, to such an extent that the inmates cannot be confined and cared for at the institution, the director shall make temporary provision for the confinement and care of the inmates at some other place in the state. Like provision may be made in case of an epidemic among the inmates. The reasonable cost of the change including the cost of transfer of inmates, shall be paid from any money in the state treasury not otherwise appropriated.

Sec. 47. NEW SECTION. 217A.46 INDUSTRIES. The director may establish industries at or in connection with any of the institutions under the director's control and may make contractual agreements with the United States, other states, state departments and agencies, and subdivisions of the state, for purchase of industry products.

The director may with the assistance of the Iowa state conservation commission establish and operate forestry nurseries on state-owned land under the control of the department. Residents of the adult correctional institutions shall provide the labor for the operation. Nursery stock shall be sold in accordance with the rules of the state conservation commission. The department shall pay the costs of establishing and operating the forestry nurseries out of the revolving farm fund created in section 217A.47. The state conservation commission shall pay the costs of transporting, sorting, and distributing nursery stock to and from or on state-owned land under the control of the commission. Receipts from the sale of nursery stock produced under this section shall be divided between the department and the state conservation commission in direct proportion to their respective costs as a percentage of the total costs. The department shall deposit its receipts in the revolving farm fund created in section 217A.47.

Sec. 48. NEW SECTION. 217A.47 REVOLVING FARM FUND. A revolving farm fund is created in the state treasury in which the department shall deposit receipts from agricultural products, nursery stock, agricultural land rentals, and the sale of livestock. However, before any agricultural operation is phased out, the department which

proposes to discontinue this operation shall notify the governor, chairpersons and ranking members of the house and senate appropriations committees, and cochairpersons and ranking members of the subcommittee in the senate and house of representatives which has handled the appropriation for this department in the past session of the legislature. Before the department sells farmland under the control of the department, the director shall notify the governor, chairpersons and ranking members of the house and senate appropriations committees, and cochairpersons and ranking members of the joint appropriations subcommittee that handled the appropriation for the department during the past legislative session. The department may pay from the fund for the operation, maintenance, and improvement of farms and agricultural or nursery property under the control of the department. A purchase order for five thousand dollars or less payable from the fund is exempt from the general purchasing requirements of chapter 18. Notwithstanding section 8.33, unencumbered or unobligated receipts in the revolving farm fund at the end of a fiscal year shall not revert to the general fund of the state.

The department shall annually prepare a financial statement to provide for an accounting of the funds in the revolving farm fund. The financial statement shall be filed with the legislative fiscal bureau on or before February 1 each year.

As used in this section, "department" means the Iowa department of corrections and the Iowa department of human services.

The farm operations administrator appointed under section 217A.16 shall perform the functions described under section 217A.16 for agricultural operations on property of the Iowa department of human services.

The Iowa department of human services shall enter into an agreement under chapter 28D with the Iowa department of corrections to implement this paragraph.

Sec. 49. NEW SECTION. 217A.48 COOPERATION. The department and the director shall cooperate with any department or agency of the state government in any manner, including the exchange of employees, calculated to improve administration of the affairs of the institutions. Joint use of facilities by the department and another public agency as defined in section 28E.2 shall be only according to an agreement entered into under chapter 28E. All joint campuses shall have one superintendent and one business manager who shall be employed by the department with supervisory responsibility for the majority of the facility's population. Employment of the superintendent and business manager shall be done in consultation with the department which has responsibility for services for the other population at the facility.

Sec. 50. NEW SECTION. 217A.49 CONSULTANTS. The director may secure the services of consultants to furnish advice on administrative, professional, or technical problems to the director, or the employees of institutions under the director's jurisdiction or to provide in-service training and instruction for the employees. The director may pay the consultants from funds appropriated to the department or to any institution under the department's jurisdiction.

Sec. 51. NEW SECTION. 217A.50 DIRECTOR MAY BUY AND SELL REAL ESTATE - OPTIONS. The director, subject to the approval of the board and executive council, may secure options to purchase real estate and acquire and sell real estate for the proper uses of the institutions. Real estate shall be acquired and sold upon terms and conditions the director recommends subject to the approval of the board and the executive council. Upon sale of the real estate, the proceeds shall be deposited with the treasurer of state and credited to the general fund of the state. There is appropriated from the general fund of the state to the department a sum equal to the proceeds so deposited and credited to the general fund of the state which, with the prior approval of the executive council, may be used to purchase other real estate or for capital improvements upon property under the director's supervision.

The costs incident to the securing of options and acquisition and sale of real estate including, but not limited to, appraisals, invitations for offers, abstracts, and other necessary costs, may be paid from moneys appropriated for support and maintenance to the institution at which the real estate is located. The fund shall be reimbursed from the proceeds of the sale.

Sec. 52. NEW SECTION. 217A.51 FIRE PROTECTION CONTRACTS. The director may enter into contracts with the governing body of any city for the protection from fire of any property under the director's primary control, located in any city or in territory contiguous to a city.

The state fire marshal shall cause an annual inspection to be made of all the institutions listed in section 217A.2 and shall make a written report of the inspection to the director.

Sec. 53. NEW SECTION. 217A.52 GIFTS. The department may accept gifts of real or personal property from the federal government or any source. The director may exercise powers with reference to the property so accepted as necessary or appropriate to its preservation and the purposes for which it is given.

Sec. 54. NEW SECTION. 217A.53 CANTEEN MAINTAINED. The director may maintain a canteen at any institution under the director's jurisdiction for the sale to persons confined in the institution of items such as toilet articles, candy, tobacco products, notions, and other sundries, and may provide the necessary facilities, equipment, personnel, and merchandise for the canteen. The director shall specify the items to be sold in the canteen. The department may establish and maintain a permanent operating fund for each canteen. The fund shall consist of the receipts from the sale of commodities at the canteen.

Sec. 55. Section 19A.3, subsection 13, Code 1983, is amended to read as follows:

13. All physicians, psychiatrists, and heads of institutions under the jurisdiction of the Iowa department of social services human services and the Iowa department of corrections.

Sec. 56. Section 25A.2, subsection 3, Code 1983, is amended to read as follows:

3. "Employee of the state" includes any one or more officers, agents, or employees of the state or any state agency, including members of the general assembly, and persons acting on behalf of the state or any state agency in any official capacity, temporarily or permanently in the service of the state of Iowa, whether with or without compensation but does not include a contractor doing business with the state. Professional personnel, including medical doctors physicians, osteopathic physicians and surgeons, osteopathic physicians, optometrists and dentists, who render services to patients and inmates of state institutions under the jurisdiction of the department of social human services or the Iowa department of corrections are to be considered employees of the state, whether such the personnel are employed on a full-time basis or render such services on a part-time basis on a fee schedule or other arrangement, but shall not include any contractor doing business with the state.

Sec. 57. Section 85.60, unnumbered paragraph 1, Code 1983, is amended to read as follows:

The Iowa department of social services corrections may elect to include as an employee for purposes of this chapter any person confined as an inmate at the Riverview release center an institution provided for in section 217A.2 and who is participating in the inmate employment program. If an inmate in the performance of work sustains an injury arising out of and in the course of the work, the inmate shall be awarded and paid compensation at the rates provided in this chapter. If death results from such the injury, death benefits shall be awarded and paid to the dependents of the inmate. If any such person is awarded weekly compensation under the provisions of this section and is still committed to a penal institution, the person's compensation benefits under section 85.33 or section 85.34, subsection 1, shall be paid to the department and held in trust for the inmate for so long as the inmate ~~shall remain~~ remains so committed. However, the department shall deduct from the benefits awarded the cost of maintaining the inmate not to exceed the level the inmate was paying under the inmate employment

program. Weekly compensation benefits awarded pursuant to section 85.34, subsection 2, shall be held in trust and paid to ~~such~~ the person as provided in this chapter upon final discharge or parole, whichever occurs first. In the event ~~such~~ the person is recommitted to a penal institution prior to receiving in full weekly benefits pursuant to section 85.33 or section 85.34, subsection 1, such benefits shall again be paid to the department for so long as the person ~~shall remain~~ remains so recommitted. Also, weekly benefits under section 85.34, subsection 2, shall be suspended and again held in trust until ~~such~~ the person is again released by final discharge or parole, whichever first occurs. However, the industrial commissioner may, if the industrial commissioner finds that dependents of the person awarded weekly compensation pursuant to section 85.33 or section 85.34, subsections 1 and 2, would require welfare aid as a result of terminating the compensation, order ~~such~~ the weekly compensation to be paid to a responsible person for the use of dependents.

Sec. 58. Section 85.60, subsection 1, Code 1983, is amended to read as follows:

1. "Department" means the Iowa department of ~~social services~~ corrections.

Sec. 59. Section 110.24, unnumbered paragraph 7, Code 1983, is amended to read as follows:

No license shall be required of minor pupils of the state school for the blind, state school for the deaf, nor of minor residents of other state institutions under the control of a director of a division of the department of ~~social human services~~, ~~except that this provision shall not apply to the inmates of state institutions under the control of the director of the division of adult corrections~~, nor shall any person who is on active duty with the ~~Armed Forces~~ armed forces of the United States, on authorized leave, and a legal resident of the state of Iowa, be required to have a license to hunt or fish in this state. No license shall be required of residents of county care facilities or any person who is receiving old-age assistance under chapter 249.

Sec. 60. Section 159.5, subsection 14, Code 1983, is amended to read as follows:

14. Annually inspect for sanitation the areas where food is prepared and where food is served, including but not limited to the utensils, machinery, and other equipment, in the adult penal or correctional facilities operated by the Iowa department of ~~social services~~ corrections and in the ~~Eldora state training school, the Mitchellville training school, and the Iowa juvenile home~~. For purposes of this subsection, community-based correctional facilities shall be considered operated by the Iowa department of ~~social services~~ corrections.

If a municipal corporation wants its local board of health to make the inspections required by this section on facilities located within its jurisdiction, the municipal corporation may enter into an agreement with the secretary. The secretary may enter into such an agreement if the secretary finds that the local board of health has adequate resources to perform the required functions.

The secretary of agriculture shall prepare a report on the inspections and shall send a copy of the report concerning the adult penal or correctional facilities to the director of the ~~division Iowa department of corrections of the department of social services~~. A copy of the report concerning the ~~Eldora state training school, the Mitchellville training school, and the Iowa juvenile home~~ shall be sent to the director of the division of child and family services of the department of ~~social human services~~.

Sec. 61. Section 216.2, subsections 2 and 3, Code 1983, are amended to read as follows:

2. "Iowa state industries" means prison industries that are established and maintained by the ~~division Iowa department of adult corrections~~, in consultation with the industries board, at or adjacent to the state's adult correctional institutions, except that an inmate employment program established by the state director under section 216.5, subsection 7 is not restricted to industries at or adjacent to the institutions.

3. "State director" means the director of the ~~division Iowa department of adult corrections of the department of social services~~, or that the director's designee.

Sec. 62. Section 216.9, subsection 4, Code 1983, is amended to read as follows:

4. The fund established by this section shall not revert to the general fund of the state at the end of any annual or biennial period and the investment proceeds earned from the balance of the fund shall be credited to the fund and used for the purposes provided for in this section.

Sec. 63. Section 217.1, Code 1983, is amended to read as follows:

217.1 PROGRAMS OF DEPARTMENT. There is hereby established a department of ~~social~~ human services to administer programs designed to improve the well-being and productivity of the people of the state of Iowa. The department shall concern itself with the problems of human behavior, adjustment, and daily living through the administration of programs of family, child, and adult welfare, economic assistance (including costs of medical care), rehabilitation toward self-care and support, delinquency prevention and control, treatment and rehabilitation of ~~adult and~~ juvenile offenders, care and treatment of the mentally ill and mentally retarded, and other related programs as provided by law.

Sec. 64. Section 217.6, unnumbered paragraph 2, Code 1983, is amended to read as follows:

The department of ~~social~~ human services may be initially divided into the following divisions of responsibility: The division of child and family services, the division of mental health, mental retardation, and developmental disabilities, the division of administration, ~~the division of corrections~~ and the division of planning, research and statistics.

Sec. 65. Section 217.17, Code 1983, is amended to read as follows:

217.17 DIRECTOR OF DIVISION OF PLANNING. The director of the division of planning, research and statistics shall be qualified in the general field of governmental planning with special training and experience in the areas of preparation and development of plans for future efficient reorganization and administration of government social functions. The director of the division of planning, research and statistics shall co-operate with the directors of the other divisions of the department of ~~social~~ human services assisting them and the commissioner of the department in their planning, research and statistical problems. ~~He~~ The director of the division of planning, research and statistics shall assist the directors, commissioner and the council of ~~social~~ human services by proposing administrative and organizational changes at both the state and local level to provide more efficient and integrated social services to the citizens of this state. The planning, research and statistical operations now forming an integral part of the present state functions assigned to the directors of this department along with their future needs in this regard are hereby all assigned to and shall be administered by the director of this division.

Sec. 66. Section 218.1, subsections 10 through 16, Code 1983, are amended by striking the subsections.

Sec. 67. Section 218.3, subsection 3, Code 1983, is amended by striking the subsection.

Sec. 68. Section 218.9, unnumbered paragraph 2, Code 1983, is amended by striking the unnumbered paragraph.

Sec. 69. Section 218.92, Code 1983, is amended to read as follows:

218.92 DANGEROUS MENTAL PATIENTS. When a patient in any state hospital-school for the mentally retarded, any mental health institute, or any institution under the administration of the director of the division of mental health of the department of ~~social~~ human services, has become so mentally disturbed as to constitute a danger to self, to other patients in the institution or to the public, and the institution involved cannot provide adequate security, the director of mental health with the consent of the director of the Iowa department of corrections of the department of social services may order the patient to be transferred to the Iowa security and medical facility, provided that the executive head of the institution from which the patient is to be transferred, with the support of a majority of the medical staff recommends the transfer in the interest of the patient, other patients or the public. If the patient

transferred was hospitalized pursuant to sections 229.6 to 229.15, the transfer shall be promptly reported to the court which hospitalized the patient, as required by section 229.15, subsection 3. The Iowa security and medical facility has the same rights, duties and responsibilities with respect to the patient as the institution from which the patient was transferred had while the patient was hospitalized there. The cost of the transfer shall be paid from the funds of the institution from which the transfer is made.

Sec. 70. Section 218B.3, Code 1983, is amended to read as follows:

**218B.3 DUTY OF COMMISSIONER DIRECTOR.** ~~The commissioner director of social services is authorized and directed to the Iowa department of corrections shall do all things necessary or incidental to the carrying out of the compact in every particular and he may in his discretion delegate this authority to the director of the division of corrections.~~

Sec. 71. Section 222.7, unnumbered paragraph 1, Code 1983, is amended to read as follows:

The state director may transfer patients from one state hospital-school to the other and may at any time transfer ~~any patient~~ patients from the hospital-schools to the hospitals for the mentally ill, or transfer patients in the hospital-schools to a special unit or vice versa, ~~or make such transfers as are permitted in section 218.02.~~ The state director may also transfer patients from a hospital for the mentally ill to a hospital-school if:

Sec. 72. Section 223.1, Code 1983, is amended to read as follows:

**223.1 INSTITUTION ESTABLISHED.** There is established an institution for persons displaying evidence of mental illness or psychosocial disorders and requiring diagnostic services and treatment in a security setting. The institution may also be used for persons only requiring confinement in a security setting. The institution is under the jurisdiction of the Iowa department of social services corrections and shall be known as the Iowa security and medical facility.

Sec. 73. Section 223.2, Code 1983, is amended to read as follows:

**223.2 SUPERINTENDENT.** A superintendent of the Iowa security and medical facility shall be appointed ~~as designated in section 218.9~~ by the director of the Iowa department of corrections with the approval of the board of corrections. The superintendent shall be a reputable and qualified person experienced in the administration of programs for the care and treatment of persons afflicted with mental disorders and ~~with~~ have other qualifications the ~~department deems~~ director and board deem necessary.

Sec. 74. Section 223.3, subsections 1 and 4, Code 1983, are amended to read as follows:

1. Perform all duties required by law and by the state director of the Iowa department of social services corrections not inconsistent with this chapter.

4. Retain custody of all patients, ~~in such the manner as deemed necessary~~ and in the best interest of the patients subject to the regulations rules of the director of the Iowa department of social services corrections.

Sec. 75. Section 223.4, subsection 1, Code 1983, is amended to read as follows:

1. Residents of ~~any an~~ an institution under the jurisdiction of the department of ~~social human services or the Iowa department of corrections.~~

Sec. 76. Section 223.4, unnumbered paragraph 3, Code 1983, is amended to read as follows:

The director of the ~~division Iowa department of adult~~ Iowa department of corrections may house inmates from any penal institution at the Iowa security and medical facility in order to provide the inmates with either suitable security or medical treatment, or both. Unless an inmate is determined to be mentally ill, the inmate shall not be subjected involuntarily to psychiatric treatment.

Sec. 77. Section 223.5, Code 1983, is amended to read as follows:

**223.5 ADMISSIONS IN WRITING ONLY.** All admissions to the facility shall be by written application only. Application shall be made by the head of the state institution, agency, governmental body, or court requesting ~~same~~ admission to the superintendent of the

facility. An application may be denied by the superintendent, with the approval of the director of the ~~division~~ Iowa department of corrections, if the admission will result in an overcrowded condition or if adequate staff or facilities are not available.

Sec. 78. Section 223.6, Code 1983, is amended to read as follows:

223.6 FINAL DECISION. The decision regarding admission and discharge of patients shall be made by the superintendent of the facility, subject to approval of the director of the ~~division~~ Iowa department of corrections.

Sec. 79. Section 232.71, subsection 4, Code 1983, is amended to read as follows:

4. The county attorney and any law enforcement or social services agency in the state shall co-operate and assist in the investigation upon the request of the department of ~~social~~ human services. The county attorney and appropriate law enforcement agencies shall also take any other lawful action which may be necessary or advisable for the protection of the child.

Sec. 80. Section 245.1, Code 1983, is amended to read as follows:

245.1 OFFICIAL DESIGNATION—DEFINITIONS. The state correctional facility for women at Mitchellville shall be known as the "Iowa correctional institution for women". For the purpose of this chapter "director" or "state director" ~~shall mean~~ means the director of the ~~division of adult~~ Iowa department of corrections ~~of the department of social services~~.

Sec. 81. Section 245.2, Code 1983, is amended to read as follows:

245.2 SUPERINTENDENT—SALARY. The superintendent of the ~~women's reformatory~~ Iowa correctional institution for women shall receive a salary as determined by the state director.

Sec. 82. Section 245.3, Code 1983, is amended to read as follows:

245.3 SERVICE REQUIRED. The superintendent may, with the approval of the ~~state~~ director, require any inmate to perform any service suited to her strength and attainments and which may be needed for the benefit of the ~~reformatory~~ Iowa correctional institution for women or for the welfare of ~~such the~~ inmate.

Sec. 83. Section 245.4, Code 1983, is amended to read as follows:

245.4 EMPLOYEES TO RECEIVE A MIDSIFT MEAL. The employees of the ~~women's reformatory~~ Iowa correctional institution for women shall receive a midshift meal when on duty.

Sec. 84. Section 245.7, Code 1983, is amended to read as follows:

245.7 TERM OF COMMITMENTS. A female convicted of a felony shall not be detained in ~~said reformatory~~ the Iowa correctional institution for women under one commitment for a period longer than the maximum term of imprisonment provided by law for ~~said the~~ felony. A female convicted of a crime and sentenced to a term of less than one year shall not be detained ~~therein in that institution~~.

Sec. 85. Section 245.8, Code 1983, is amended to read as follows:

245.8 MANNER OF COMMITTING FEMALES. Females committed to ~~said reformatory~~ the Iowa correctional institution for women shall be taken ~~thereto to the institution~~ by ~~some a~~ woman, or by ~~some a~~ peace officer accompanied by ~~some a~~ woman, appointed by the court.

Sec. 86. Section 245.9, Code 1983, is amended to read as follows:

245.9 COSTS OF COMMITMENT. The costs and expenses allowed for taking females to the ~~reformatory~~ Iowa correctional institution for women shall be the same as those allowed by law for taking girls to the training school, and shall be audited and paid in like manner by the counties from which they are sent.

Sec. 87. Section 245.12, Code 1983, is amended to read as follows:

245.12 TRANSFER OF MENTALLY ILL. The ~~state~~ director may cause any woman committed to the ~~reformatory~~ Iowa correctional institution for women and suspected of being mentally ill to be examined by one of the superintendents or the superintendent's qualified

designee of a state hospital for the mentally ill or transferred to the Iowa security and medical facility for examination. If the woman is found to be mentally ill, the Iowa department of corrections may order the woman transferred to or retained at a state hospital or the Iowa security and medical facility where she shall thereafter be maintained and treated at the expense of the state until such time as she regains her good mental health when she shall be returned to the reformatory Iowa correctional institution for women. The cost of transfer and return shall be paid as provided for other transfers.

Sec. 88. Section 245.15, Code 1983, is amended to read as follows:

245.15 ESCAPE. Any inmate of ~~said reformatory~~ the Iowa correctional institution for women who shall escape therefrom ~~escapes from it~~ may be arrested and returned to ~~said reformatory~~ the institution, by an officer or employee ~~thereof~~ of the institution without any other authority than this chapter, and by any peace officer or other person on the request in writing of the superintendent or the state director.

Sec. 89. Section 245.20, Code 1983, is amended to read as follows:

245.20 FEDERAL PRISONERS. ~~Inmates~~ Female inmates sentenced for any term by any court of the United States may be received by the superintendent into the women's reformatory Iowa correctional institution for women and there kept in pursuance of to their sentences. Inmates at the women's reformatory institution may also be transferred to the federal bureau of prisons. ~~If an inmate objects to her transfer to the federal bureau of prisons, the inmate shall be afforded a hearing as provided in section 217-22.~~

Sec. 90. Section 246.1, Code 1983, is amended to read as follows:

246.1 DEFINITIONS. For the purpose of this chapter "director" or "state director" ~~shall mean~~ means the director of the division of adult corrections of the Iowa department of social services corrections, or that director's designee.

Sec. 91. Section 246.11, Code 1983, is amended to read as follows:

246.11 FEDERAL PRISONERS. ~~Inmates~~ Male inmates sentenced for any term by any court of the United States may be received by the warden into the penitentiary or the men's reformatory and there kept in pursuance of their sentences. Inmates at either the penitentiary or men's reformatory may also be transferred to the federal bureau of prisons. ~~If an inmate objects to his transfer to the federal bureau of prisons, the inmate shall be afforded a hearing as provided in section 217-22.~~

Sec. 92. Section 246.16, Code 1983, is amended to read as follows:

246.16 TRANSFER OF MENTALLY ILL. When the state director has cause to believe that a prisoner in the penitentiary or reformatory is mentally ill, the Iowa department of corrections may cause that prisoner to be transferred to the Iowa security and medical facility for examination, diagnosis, or treatment. The prisoner shall be confined at that institution or a state hospital for the mentally ill until the expiration of the prisoner's sentence or until the prisoner is pronounced in good mental health. If the prisoner is pronounced in good mental health before the expiration of the prisoner's sentence, the prisoner shall be returned to the penitentiary or reformatory until the expiration of the prisoner's sentence. The provisions of the Code applicable to an inmate at the correctional institution from which the prisoner is transferred remain applicable during the inmate's stay at the Iowa security and medical facility. However, section 246.32 applies to the total inmate population, including both convicts and patients.

Sec. 93. Section 246.38, Code 1983, is amended to read as follows:

246.38 TIME TO BE SERVED—CREDIT. No inmate shall be discharged from the penitentiary, ~~or the men's or women's reformatory, or the Iowa correctional institution for women,~~ until ~~he or she~~ the inmate has served the full term for which the inmate was sentenced, less good time earned and not forfeited, unless the inmate is pardoned or otherwise legally released. Any provision to the contrary notwithstanding, good time earned and not forfeited shall apply to reduce a mandatory minimum sentence being served pursuant to section 204.406, 204.413, 902.7, 902.8, or 906.5. The inmate shall be deemed to be serving ~~his or her~~ the inmate's sentence from the day on which the inmate is received into the institution, but not while in solitary confinement for violation of the rules of the institution; ~~provided, however,~~ However, if an inmate had been confined to a county jail or other correctional or mental institution 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 such days already served in jail upon the term of the sentence. The clerk of the district court of the county from which the inmate was sentenced, shall certify to the warden the number of days so served.

Sec. 94. Section 246.39, unnumbered paragraph 1, Code 1983, is amended to read as follows:

Each ~~prisoner inmate~~ who shall have ~~has~~ no infraction of the rules of discipline of the penitentiary, ~~or the men's or women's reformatory, or the Iowa correctional institution for women,~~ or laws of the state, recorded against ~~him~~ the inmate, and who performs in a faithful manner the duties assigned to ~~him~~ the inmate, shall be is entitled to a reduction of sentence as follows, and if the sentence be for less than a year, then the pro rata part thereof:

Sec. 95. Section 246.45, Code 1983, is amended to read as follows:

246.45 APPLICABILITY TO OTHER INSTITUTIONS. Sections 246.38, 246.39, 246.41, 246.42, and 246.43 also apply to the inmates at the ~~women's reformatory~~ Iowa correctional institution for women and the Iowa security and medical facility.

Sec. 96. Section 246.48, subsection 1, Code 1983, is amended to read as follows:

1. ~~Beginning April 1, 1978, the~~ The medium security correctional facility at Mount Pleasant shall be utilized as a secure facility for treatment of inmates of adult correctional institutions who exhibit treatable personality disorders, with or without accompanying history of drug or alcohol abuse. Such inmates may apply for and upon their application may be selected for treatment by the staff of the treatment facility at Mount Pleasant in accordance with section ~~218.90~~ 217A.20.

Sec. 97. Section 246A.1, Code 1983, is amended to read as follows:

246A.1 ESTABLISHED BY DEPARTMENT OF SOCIAL SERVICES CORRECTIONS. The Iowa department of ~~social services~~ is hereby authorized to ~~corrections may~~ establish a facility for the preparation of all inmates of the corrective institutions under the department's jurisdiction, for discharge or parole. The facility shall be known as the correctional release center and shall be operated in conjunction with and utilize the facilities of the ~~prison honor farm at Newton, Iowa.~~

Sec. 98. Section 246A.2, Code 1983, is amended to read as follows:

246A.2 SUPERINTENDENT. The director of ~~division~~ the Iowa department of corrections, subject to approval of the ~~department~~ board of corrections, shall appoint a superintendent who shall serve as the chief executive of the correctional release center. The superintendent shall be a reputable and qualified person experienced in the administration of programs for the rehabilitation and preparation of ~~prisoners~~ inmates for their return to society.

Sec. 99. Section 246A.3, Code 1983, is amended to read as follows:

246A.3 TRANSFER OF PRISONERS TO CENTER. The Iowa department of corrections may transfer any inmate of a corrective institution within ninety days of the inmate's approaching release from custody to the release center for intensive training to assist the inmate in the transition to civilian living.

Sec. 100. Section 247.29, unnumbered paragraph 1, Code 1983, is amended to read as follows:

The clerk of the district court shall, on or before July 15 each year, shall report to the board of parole and the director of the division Iowa department of corrections of the department of social services:

Sec. 101. Section 247.31, Code 1983, is amended to read as follows:

247.31 AUDITOR TO REPORT STATISTICS TO CLERK. The county auditor shall report to the clerk of the district court, on or before July 5 of each year, the expenses of the county in criminal prosecutions during the year ending June 30 preceding, including but distinguishing the compensation of the county attorney. ~~Such~~ The report shall include all the items of criminal expenses which appear in the records of ~~his~~ the clerk's office and which are required to be reported by the clerk of the district court to the board of parole and the director of the division Iowa department of corrections of the department of social services. The clerk of the district court shall furnish to the auditor the blanks to be used in making ~~such~~ the report.

Sec. 102. Section 247.32, Code 1983, is amended to read as follows:

247.32 BIENNIAL REPORTS. The board of parole and the ~~chief parole officer~~ judicial district departments of correctional services shall make ~~such~~ detailed reports to the director of the division Iowa department of corrections of the department of social services as are requested by ~~him~~ the director and ~~he~~ the director shall forward ~~such~~ the reports along with his personal recommendations to the ~~commissioner~~ board of corrections of the Iowa department of social services corrections. The ~~commissioner~~ board of corrections in turn shall, biannually, at the time provided by law, report to the governor a summary of paroles granted and releases recommended, the names of all ~~prisoners~~ inmates who have violated their paroles, and ~~such~~ other information concerning this departmental operation as may be deemed advisable, including an abstract for each year of the returns relative to criminal matters.

Sec. 103. Section 247A.2, Code 1983, is amended to read as follows:

247A.2 PROGRAM. The Iowa department of social services corrections shall establish a work release program under which inmates sentenced to an institution under the jurisdiction of the department may be granted the privilege of leaving actual confinement during necessary and reasonable hours for the purpose of working at gainful employment. Under appropriate conditions the program may also include release for the purpose of seeking employment and attendance at an educational institution. In the case of inmates who have children in their homes under the age of eighteen years, the program may include child care and housekeeping in their homes.

Sec. 104. Section 247A.3, Code 1983, is amended to read as follows:

247A.3 COMMITTEE. A committee shall be designated by the Iowa department of corrections consisting of one member of the parole board or its designee, one representative of the division Iowa department of corrections, and one representative of the institution in which the inmate is confined at the time of application.

Sec. 105. Section 247A.5, Code 1983, is amended to read as follows:

247A.5 HOUSING FACILITIES - HALFWAY HOUSES. The department shall designate and adopt facilities in the institutions and camps under its jurisdiction for the housing of inmates granted work release privileges. In areas where facilities are not within reasonable

proximity of the place of employment of an inmate so released Unless the inmate is transferred to the correctional release center, or returns after working hours to the institution under jurisdiction of the department of corrections, the department may of corrections shall contract with the proper authorities of political subdivisions of the state or suitable public or private agencies a judicial district department of correctional services for the quartering and supervision of the inmate in local housing facilities. The committee shall include as a specific term or condition in the work release plan of any inmate the place where the inmate is to be housed when not on the work assignment. The committee shall not place an inmate on work release for longer than six months in any twelve-month period; ~~provided, however, that.~~ However, an inmate may be placed on work release for a period in excess of six months in any twelve-month period if unanimous approval is given by the committee. Inmates may be temporarily released to the supervision of a responsible person to participate in family and selected community, religious, educational, social, civic, and recreational activities when it is determined that the participation will directly facilitate the release transition from institution to community. The department of corrections shall provide a copy of the work release plan and a copy of any restitution plan of payment to the judicial district department of correctional services quartering and supervising the inmate.

Sec. 106. Section 247A.7, subsection 1, Code 1983, is amended to read as follows:

1. An amount determined to be the cost to the ~~state~~ judicial district department of correctional services for providing food, lodging and clothing for the inmate while under the program. The judicial district department of correctional services shall be reimbursed this amount unless the contract with the department of corrections provides otherwise.

Sec. 107. Section 247A.8, Code 1983, is amended to read as follows:

247A.8 STATUS OF INMATES ON WORK RELEASE. ~~No~~ An inmate employed in the community under the provisions of this chapter shall be deemed to be ~~is not~~ an agent, employee, or involuntary servant of the department of ~~social services~~ corrections nor ~~the~~ judicial district department of correctional services while released from confinement under the terms of ~~any~~ a work release plan. ~~Should any~~ If an inmate ~~suffer~~ suffers an injury arising out of or in the course of the inmate's employment under this chapter, the inmate's recovery shall be from the insurance carrier of the employer of the project and no proceedings for compensation shall be maintained against the insurance carrier of the state institution, ~~or the state, the insurance carrier of the judicial district department of correctional services, or the judicial district department of correctional services,~~ and it is understood that there is no employer-employee relationship between the inmate and the state institution ~~or the judicial district department of correctional services.~~

Sec. 108. Section 247A.10, Code 1983, is amended to read as follows:

247A.10 ALLEGED WORK RELEASE VIOLATORS—REIMBURSEMENT TO COUNTIES FOR TEMPORARY CONFINEMENT. ~~The division Iowa department of adult corrections~~ shall negotiate a reimbursement rate with each county for the temporary confinement of alleged violators of work release conditions who are in the custody of the director of the ~~division Iowa department of adult corrections~~ or who are housed or supervised by the judicial district department of correctional services. The amount to be reimbursed shall be determined by multiplying the number of days ~~so~~ a person is confined by the average daily cost of confining a person in the county facility as negotiated with the department. Payment shall be made upon submission of a voucher executed by the sheriff and approved by the director of the ~~division Iowa department of adult corrections.~~ The money shall be deposited in the county general fund to be credited to the jail account.

Sec. 109. Section 255.28, Code 1983, is amended to read as follows:

255.28 TRANSFER OF PATIENTS FROM STATE INSTITUTIONS. The commissioner of the department of ~~social human services~~ and, in respect to institutions under the commissioner's control, the director of any of the divisions of ~~such the department~~, in respect to the institutions under the director's control, the director of the Iowa department of corrections, in respect to the institutions under the department's control, and the state board in ~~control~~ of regents in respect to the Iowa braille and sight-saving school, and the Iowa school for the deaf, may, ~~respectively~~, send any inmate, student, or patient of any of ~~said~~ institutions, or any person committed or applying for admission thereto, to the hospital of the medical college of the state university for treatment and care as provided in this chapter, without securing the order of court required in other cases. ~~Said state~~ The department of ~~social human services~~, the Iowa department of corrections and the state board in control of regents the Iowa braille and sight-saving school and the Iowa school for the deaf, shall respectively pay the traveling expenses of ~~any a~~ patient thus committed, and when necessary the traveling expenses of an attendant for ~~such the~~ patient, out of funds appropriated for the use of the institution from which ~~he the~~ patient is sent.

Sec. 110. Section 255.29, Code 1983, is amended to read as follows:

255.29 MEDICAL CARE FOR PAROLEES. The director of the ~~division Iowa department~~ of corrections ~~of the department of social services~~ may send former inmates of the Iowa state penitentiary and men's or women's reformatory institutions provided for in section 217A.2, while on parole, to the hospital of the college of medicine of the state University of Iowa for treatment and care as provided in this chapter, without securing the order of the court required in other cases. ~~Said~~ The director may pay the traveling expenses of any patient thus committed, and, when necessary, the traveling expenses of an attendant of ~~such the~~ patient out of funds appropriated for the use of ~~such the~~ division.

Sec. 111. Section 331.756, subsection 41, Code 1983, is amended by striking the subsection.

Sec. 112. Section 331.756, subsection 42, Code 1983, is amended to read as follows:

42. Provide the Iowa department of ~~social services~~ corrections with information relating to the background and criminal acts committed by each person sentenced to a state correctional institution from the county as provided in section ~~218.97~~ 217A.35.

Sec. 113. Section 356.14, Code 1983, is amended to read as follows:

356.14 REFRACTORY PRISONERS. If any person confined in a jail is refractory or disorderly or willfully destroys or injures any part ~~thereof of the jail~~ or of its contents, the sheriff may secure ~~such the~~ person or cause ~~him or her the~~ person to be kept in solitary confinement not more than ten days for any one offense, during which time the person may be fed minimum diet requirements as established by the Iowa department of ~~social services~~ corrections unless other food is necessary for the preservation of the person's health.

Sec. 114. Section 356.36, Code 1983, is amended to read as follows:

356.36 ESTABLISHMENT OF JAIL STANDARDS. The Iowa department of ~~social ser-~~ vices corrections, in consultation with the Iowa state sheriff's association and the Iowa board of supervisors association, shall draw up minimum standards for the regulation of jails and alternative jails. When completed by the department, the standards shall be ~~promulgated~~ adopted as rules pursuant to chapter 17A.

The sole remedy for violation of a rule adopted pursuant to this section, is by a proceeding for compliance initiated by request to the Iowa department of ~~social services~~ corrections. A violation of a rule does not permit any civil action to recover damages against the state of Iowa, its departments, agents, or employees or any county, its agents or employees.

Sec. 115. Section 356.43, Code 1983, is amended to read as follows:

356.43 INSPECTION BY DEPARTMENT—REPORT OF INSPECTION. The state Iowa department of ~~social services~~ corrections and its inspectors and agents shall have the power and duty to make periodic inspections of each such jail and all such facilities established pursuant to chapter 356A, and officially to notify the county board of supervisors in writing to comply fully with the provisions of section 356.36.

The Iowa department of ~~social services~~ corrections may order the governing body of a political subdivision to either correct any violations found in the inspection of a jail within a designated period, or may prohibit the confinement of prisoners in the jail. If the governing body fails to comply with the order within the period designated, the Iowa department of ~~social services~~ corrections may schedule a hearing on the alleged violation. The department may subpoena witnesses, documents, and other information deemed necessary to determine the validity of the alleged violation. The department shall upon written request from the governing body of the political subdivision grant representatives of the political subdivision the right to appear before the department at the hearing. ~~Such~~ The representatives shall have the right to counsel and may produce witnesses and present statements, documents, and other information with respect to the alleged violation for consideration at the hearing.

The department after the hearing shall affirm, revoke, or modify the original order. If the order is upheld, the department may include a schedule for correction of the violation or violations and designate the date before by which each violation shall be corrected.

If the political subdivision does not comply with the order within the designated period, the department may petition the attorney general to institute proceedings to enjoin the political subdivision from confining prisoners in the jail and require the transfer of prisoners to a jail declared by the director to be suitable for confinement. The county or municipality from which prisoners are transferred shall be is liable for the cost of transfer and expenditures incurred in the confinement of prisoners in the jail to which transferred. Following inspection of any county jail, a report of the same inspection shall be filed with the director of the ~~division~~ Iowa department of corrections of the department of social services, and a copy shall be filed with the sheriff, the county board of supervisors, and one copy with the county attorney, which shall be presented at the next session of the grand jury of that county.

Sec. 116. Section 690.4, unnumbered paragraph 2, Code 1983, is amended to read as follows:

It shall also be the duty of the said wardens and superintendents to procure the taking of five- by seven-inch photographic negative showing the full length view of each convict, prisoner or inmate of the penitentiary, men's reformatory, and ~~women's reformatory~~ Iowa correctional institution for women in his or her the inmate's release clothing immediately prior to his or her the inmate's discharge from the institution either upon expiration of sentence or commitment or on parole, and to forward such the photographic negative within two days after the same it is taken to the division of criminal investigation and bureau of identification, Iowa department of public safety.

Sec. 117. Section 692.1, subsection 7, Code 1983, is amended to read as follows:

7. "Correctional data" means information pertaining to the status, location, and activities of persons under the supervision of the county sheriff, the ~~division~~ Iowa department of corrections of the department of social services, the board of parole, or any other state or local agency performing the same or similar function, but does not include investigative, sociological, psychological, economic, or other subjective information maintained by the ~~division~~ Iowa department of corrections of the department of social services or board of parole.

Sec. 118. Section 707.2, subsection 4, Code 1983, is amended to read as follows:

4. The person intentionally kills a peace officer, correctional officer, public employee, or hostage while such the person is imprisoned in a correctional institution under the jurisdiction of the Iowa department of social services corrections, or in a city or county jail.

Sec. 119. Section 719.4, subsection 3, Code 1983, is amended to read as follows:

3. ~~Any~~ A person who has been committed to ~~any~~ an institution under the control of the ~~division Iowa department of adult~~ corrections, or to ~~any~~ a jail or correctional institution, who knowingly and voluntarily absents himself or herself from ~~any~~ a place where the person is required to be, commits a serious misdemeanor.

Sec. 120. Section 719.7, Code 1983, is amended to read as follows:

719.7 FURNISHING INTOXICANT TO INMATES. ~~Any~~ A person not authorized by law who furnishes or knowingly makes available ~~any~~ an intoxicating beverage to ~~any~~ an inmate at ~~any~~ a detention facility, correctional institution, or ~~any~~ an institution under the management of the Iowa department of social services corrections, or who introduces ~~any~~ an intoxicating beverage into the premises of ~~any~~ such an institution, commits a ~~simple misdemeanor class~~ class "D" felony.

Sec. 121. Section 719.8, Code 1983, is amended to read as follows:

719.8 FURNISHING CONTROLLED SUBSTANCE TO INMATES. ~~Any~~ A person not authorized by law who furnishes or knowingly makes available ~~any~~ a controlled substance to ~~any~~ an inmate at ~~any~~ a detention facility or correctional institution, or at ~~any~~ an institution under the management of the Iowa department of social services corrections, or who introduces ~~any~~ a controlled substance into the premises of ~~any~~ such an institution, commits a class "D" felony.

Sec. 122. Section 724.2, subsection 4, Code 1983, is amended to read as follows:

4. ~~Any~~ A correctional officer, serving in an institution under the authority of the ~~division Iowa department of adult~~ corrections.

Sec. 123. Section 724.4, subsection 4, Code 1983, is amended to read as follows:

4. ~~Any~~ A correctional officer, when ~~his or her~~ the officer's duties require, serving under the authority of the ~~division Iowa department of adult~~ corrections.

Sec. 124. Section 901.4, Code 1983, is amended to read as follows:

901.4 PRESENTENCE INVESTIGATION REPORT CONFIDENTIAL. The court may, ~~in its discretion,~~ make the presentence investigation report or parts of it available to the defendant, or the court may make the report or parts of it available while concealing the identity of the person who provided confidential information. The report of ~~any~~ a medical examination or psychiatric evaluation shall be made available to the attorney for the state and to the defendant upon request. ~~Such~~ The reports shall be part of the record but shall be sealed and opened only on order of the court. ~~In any case where~~ If the defendant is committed to the custody of the ~~division Iowa department of adult~~ corrections and is not a class "A" felon, a copy of the presentence investigation report shall be sent to the director at the time of commitment.

Sec. 125. Section 901.7, Code 1983, is amended to read as follows:

901.7 COMMITMENT TO CUSTODY. In imposing a sentence of confinement for more than one year, the court shall commit the defendant to the custody of the director of the ~~division Iowa department of adult~~ corrections. Upon entry of judgment and sentence, the clerk of the district court immediately shall notify the director of ~~such~~ the commitment. The court shall make ~~such~~ an order as is appropriate for the temporary custody of the defendant pending the defendant's transfer to the custody of the director. The court shall order the county where a person was convicted to pay the cost of temporarily confining the person and of transporting the person to the state institution where ~~he or she~~ the person is to be confined in execution of the judgment.

Sec. 126. Section 901.8, Code 1983, is amended to read as follows:

901.8 CONSECUTIVE SENTENCES. If a person is sentenced for two or more separate

offenses, the sentencing judge may order the second or further sentence to begin at the expiration of the first or succeeding sentence. If a person is sentenced for escape under section 719.4 or for a crime committed while confined in a detention facility or penal institution, the sentencing judge shall order the sentence to begin at the expiration of any existing sentence. If the person is presently in the custody of the director of the division Iowa department of adult corrections, the sentence shall be served at the facility or institution in which the person is already confined unless the person is transferred by the director. If consecutive sentences are specified in the order of commitment, the several terms shall be construed as one continuous term of imprisonment.

Sec. 127. Section 902.1, Code 1983, is amended to read as follows:

902.1 CLASS "A" FELONY. Upon a plea of guilty, a verdict of guilty, or a special verdict upon which a judgment of conviction of a class "A" felony may be rendered, the court shall enter a judgment of conviction and shall commit the defendant into the custody of the director of the division Iowa department of adult corrections for the rest of the defendant's life. Nothing in the Iowa corrections code pertaining to deferred judgment, deferred sentence, suspended sentence, or reconsideration of sentence shall apply ~~applies~~ to a class "A" felony, and ~~no~~ a person convicted of a class "A" felony shall not be released on parole unless the governor commutes the sentence to a term of years.

Sec. 128. Section 902.3, Code 1983, 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 ~~any~~ a person, the court, in imposing a sentence of confinement, shall commit the person into the custody of the director of the division Iowa department of adult 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 nor shall the term be less than the minimum term imposed by law, if a minimum sentence is provided.

Sec. 129. Section 902.4, Code 1983, is amended to read as follows:

902.4 RECONSIDERATION OF FELON'S SENTENCE. For a period of ninety days from the date when a person convicted of a felony, other than a class "A" felony or a felony for which a minimum sentence of confinement is imposed, begins to serve a sentence of confinement, the court, on its own motion or on the recommendation of the ~~commissioner~~ director of social services the Iowa department of corrections, may order the person to be returned to the court, at which time the court may review its previous action and reaffirm it or substitute for it any sentence permitted by law. The court's final order in ~~any such~~ the proceeding shall be delivered to the defendant personally or by certified mail. ~~Such action is discretionary with the court, and its~~ The court's decision to take ~~such~~ the action or not to take ~~such~~ the action is not subject to appeal. ~~The provisions of this section notwithstanding~~ However, for the purposes of appeal, a judgment of conviction of a felony is a final judgment when pronounced.

Sec. 130. Section 902.5, Code 1983, is amended to read as follows:

902.5 PLACE OF CONFINEMENT. The director of the division Iowa department of adult corrections shall determine the appropriate place of confinement of any person committed to the director's custody, in any institution administered by the director, and may transfer the person from one institution to another during the person's period of confinement.

Sec. 131. Section 902.6, Code 1983, is amended to read as follows:

902.6 RELEASE. A person who has been committed to the custody of the director of the division Iowa department of adult corrections shall remain in ~~such~~ custody until released by the order of the board of parole, in accordance with the law governing paroles, or by order of the judge after reconsideration of a felon's sentence pursuant to section 902.4 or until the maximum term of the person's confinement, as fixed by law, has been completed.

Sec. 132. Section 902.10, Code 1983, is amended to read as follows:

902.10 APPLICATION FOR INVOLUNTARY HOSPITALIZATION. For the purposes of chapter 229, the director of the ~~division~~ Iowa department of corrections shall be considered is an interested person and all applicable provisions of chapter 229, relating to involuntary hospitalization, shall apply to ~~any~~ persons who have been committed to the custody of the ~~division~~ Iowa department of corrections as a result of a conviction of a public offense.

Sec. 133. Section 903.4, Code 1983, is amended to read as follows:

903.4 PROVIDING PLACE OF CONFINEMENT. All persons sentenced to confinement for a period of one year or less shall be confined in a place to be furnished by the county where the conviction was had unless the person is presently committed to the custody of the director of the ~~division~~ Iowa department of ~~adult~~ corrections, in which case the provisions of section 901.8 apply. All persons sentenced to confinement for a period of more than one year shall be committed to the custody of the director of the ~~division~~ Iowa department of ~~adult~~ corrections to be confined in a place to be designated by the director and the cost of ~~such~~ the confinement shall be borne by the state. The director may contract with local governmental units for the use of detention or correctional facilities maintained by ~~such~~ the units for the confinement of such persons.

Sec. 134. Section 905.1, subsection 2, Code 1983, is amended to read as follows:

2. "Community-based correctional program" means correctional programs and services designed to supervise and assist individuals who are charged with or have been convicted of a felony, an aggravated misdemeanor or a serious misdemeanor, or who are on probation or parole in lieu of or as a result of a sentence of incarceration imposed upon conviction of any of these offenses, or who are contracted to the district department for supervision and housing while on work release.

Sec. 135. Section 905.4, subsections 2, 4, and 9, Code 1983, are amended to read as follows:

2. Employ a director having the qualifications required by section 905.6 to head the district department's community-based correctional program and, within a range established by the state Iowa department of ~~social services~~ corrections, fix the compensation of and have control over the director and the district department's staff. For purposes of collective bargaining under chapter 20, employees of the district board who are not exempt from chapter 20 shall be are employees of the state, and the employees of all of the district boards shall be included within one collective bargaining unit.

4. File with the board of supervisors of each county in the district and with the state Iowa department of ~~social services~~ corrections, within thirty days after the close of each fiscal year, a report covering the district board's proceedings and a statement of receipts and expenditures during the preceding fiscal year.

9. Arrange, by contract or on such an alternative basis as may be mutually acceptable, and with approval of the director of the ~~division~~ Iowa department of ~~adult~~ corrections of the ~~department of social services~~ or that director's designee for utilization of existing local treatment and service resources, including but not limited to employment, job training, general, special, or remedial education; psychiatric and marriage counseling; and alcohol and drug abuse treatment and counseling. It is the intent of this chapter that a district board shall approve the development and maintenance of such resources by its own staff only if the resources ~~to be so developed and maintained~~ are otherwise unavailable to the district department within reasonable proximity to the community where these services are needed in connection with the community-based correctional program.

Sec. 136. Section 905.5, subsection 1, Code 1983, is amended to read as follows:

1. The county designated under section 905.4, subsection 3, as administrative agent for each district department, or the district department itself, if designated as administrative agent by the district board, shall submit that district department's budget and supporting information to the state Iowa department of social services corrections in accordance with the provisions of chapter 8. The state department shall incorporate the budgets of each of the district departments into its own budget request, to be processed as prescribed by the uniform budget, accounting and administrative procedures established by the state comptroller. Funds appropriated pursuant to the budget requests of the respective district departments shall be allocated on a quarterly basis, and the state comptroller shall authorize advancement of the funds so allocated to each district department's administrative agent, or to the district department itself if the district department acts as administrative agent, at the beginning of each fiscal quarter.

Sec. 137. Section 905.6, subsections 1, 2, and 6, Code 1983, are amended to read as follows:

1. Perform the duties and have the responsibilities delegated by the district board or specified by the state Iowa department of social services corrections pursuant to this chapter.

2. Manage the district department's community-based correctional program, in accordance with the policies of the district board and the state Iowa department of social services corrections.

6. Develop and submit to the district board a plan for the establishment, implementation, and operation of a community-based correctional program in that judicial district, which program conforms to the guidelines drawn up by the state Iowa department of social services corrections under this chapter and which conform to rules, policies, and procedures pertaining to the supervision of parole and work release adopted by the director of the Iowa department of corrections concerning the community-based correctional program.

Sec. 138. Section 905.7, unnumbered paragraph 1, Code 1983, is amended to read as follows:

The state Iowa department of social services corrections shall provide assistance and support to the respective judicial districts to aid them in complying with this chapter, and shall promulgate rules pursuant to chapter 17A establishing guidelines in accordance with and in furtherance of the purposes of this chapter. The guidelines ~~so~~ adopted shall include, but need not be limited to, requirements that each district department:

Sec. 139. Section 905.7, subsection 1, Code 1983, is amended to read as follows:

1. Provide pretrial release, presentence investigations, probation services, parole services, work release services, and residential treatment centers throughout the district, as necessary.

Sec. 140. Section 905.8, Code 1983, is amended to read as follows:

905.8 STATE FUNDS ALLOCATED. The state Iowa department of social services corrections shall provide for the allocation among judicial districts in the state of ~~any~~ state funds appropriated for the establishment, operation, support, and evaluation of community-based correctional programs and services. However, ~~no~~ state funds shall not be allocated under this section to ~~any~~ a judicial district unless the state Iowa department of corrections has reviewed and approved that district department's community-based correctional program for compliance with the requirements of this chapter and the guidelines adopted under section 905.7.

Sec. 141. Section 905.9, Code 1983, is amended to read as follows:

905.9 REPORT OF REVIEW—SANCTION. Upon completion of a review of a district community-based correctional program, made under section 905.8, the state Iowa department of social services corrections shall submit its findings to the district board in writing. If the state Iowa department of corrections concludes that the district department's community-based correctional program fails to meet any of the requirements of this chapter and of the

guidelines adopted under section 905.7, it shall also request in writing a response to this finding from the district board. If ~~no~~ a response is not received within sixty days after the date of that request, or if the response is unsatisfactory, the ~~state~~ Iowa department of corrections may call a public hearing on the matter. If after the hearing, the ~~state~~ Iowa department of corrections is not satisfied that the district's community-based correctional program will expeditiously be brought into compliance with the requirements of this chapter and of the guidelines adopted under section 905.7, it may assume responsibility for administration of the district's community-based correctional program on an interim basis.

Sec. 142. Section 905.10, Code 1983, is amended to read as follows:

905.10 POST-INSTITUTIONAL PROGRAMS AND SERVICES. Persons participating in post-institutional services shall, except those persons paroled and those persons contracted to the district department, remain under the jurisdiction of the state Iowa department of social services' division of corrections. The ~~state~~ district department of correctional services shall maintain adequate personnel to provide post-institutional residential services, parole services, and supervision of persons transferred into the state under the interstate compact for supervision of parolees and probationers.

Sec. 143. Section 906.1, Code 1983, is amended to read as follows:

906.1 DEFINITION OF PAROLE. Parole is the release of a person who has been committed to the custody of the ~~commissioner~~ director of ~~social services~~ the Iowa department of corrections by reason of the person's commission of a public offense, which release occurs prior to the expiration of the person's term, is subject to supervision by the district department of social services correctional services, and on conditions imposed by the district department.

Sec. 144. Section 906.3, Code 1983, is amended to read as follows:

906.3 AUTHORITY OF PAROLE BOARD. The board of parole shall ~~promulgate regulations~~ adopt rules regarding a system of paroles from correctional institutions, and shall direct, control, and supervise the administration of ~~such~~ the system of paroles. The board shall determine which of those persons who have been committed to the custody of the director of the ~~division~~ Iowa department of adult corrections, by reason of their conviction of a public offense, shall be released on parole. The grant or denial of parole shall ~~is not be deemed~~ a contested case as defined in section 17A.2.

Sec. 145. Section 906.5, Code 1983, is amended to read as follows:

906.5 RECORD REVIEWED—ELIGIBILITY OF PRIOR FORCIBLE FELON FOR PAROLE—RULES. Within one year after the commitment of ~~any~~ a person other than a class "A" felon to the custody of the director of the ~~division~~ Iowa department of adult corrections, a member of the board shall interview the person. Thereafter, at regular intervals, not to exceed one year, the board shall interview the person and consider ~~his or her~~ the person's prospects for parole. At such time, the board shall consider all pertinent information regarding this person, including the circumstances of the person's offense, any presentence report which may be available, the previous social history and criminal record of ~~such~~ the person, the person's conduct, employment, and attitude in prison, and the reports of ~~such~~ physical and mental examinations as that have been made.

If the person who is under consideration for parole is serving a sentence for conviction of a felony and has a criminal record of one or more prior convictions for a forcible felony or a crime of a similar gravity in this or any other state, parole shall be denied unless the ~~defendant~~ person has served at least one-half of the maximum term of ~~his or her~~ the sentence.

Every A person while on parole shall be is under the supervision of the district department of social services, which correctional services of the district designated by the board of parole. The department of corrections shall prescribe regulations for governing persons on parole. The board may adopt other rules not inconsistent with the above rules of the department of corrections as it may deem deems proper or necessary for the performance of its functions.

Sec. 146. Section 906.10, Code 1983, is amended to read as follows:

906.10 PAROLE RELIEF FUND. There is hereby established, from any unappropriated funds in the state treasury, a fund of twelve hundred fifty dollars which shall be known as the parole relief fund. The treasurer of the state shall ~~continue to maintain said~~ the fund in ~~said~~ that amount. ~~Said~~ The fund may be used for the relief of paroled prisoners who are in distress because of illness, loss of employment, or conditions creating personal need. ~~In no instance shall the~~ The total amount advanced to a prisoner shall not exceed one hundred dollars. The prisoner, at the time of receiving an advancement, shall execute and deliver to ~~his or her~~ the parole officer ~~his or her~~ a written obligation to repay the ~~same~~ advance during the period of the prisoner's parole. When so paid, the amount shall be deposited with the treasurer of the state and credited to the fund from which drawn. ~~Such fund~~ The advance shall be drawn on vouchers executed by the director of the ~~bureau~~ Iowa department of adult corrections in favor of ~~said~~ the needy person. Each voucher shall show that the advancement was ordered by the ~~chief parole officer~~ director of the judicial district department of correctional services, after approval by the director of the department of corrections.

Sec. 147. Section 906.11, Code 1983, is amended to read as follows:

906.11 ASSIGNMENT TO PAROLE OFFICER. A person released on parole shall be assigned to a parole officer by the ~~chief parole officer~~ director of the judicial district department of correctional services. Both the person and ~~his or her~~ the person's parole officer shall be furnished in writing with the conditions of ~~his or her~~ parole including a copy of the plan of restitution and the restitution plan of payment, if any, and the regulations which the person will be required to observe. The parole officer shall explain these conditions and regulations to the person, and supervise, assist, and counsel the person during the term of ~~his or her~~ the person's parole.

Sec. 148. Section 906.17, Code 1983, is amended to read as follows:

906.17 ALLEGED PAROLE VIOLATORS—REIMBURSEMENT TO COUNTIES FOR TEMPORARY CONFINEMENT. The ~~division~~ Iowa department of adult corrections shall reimburse a county for the temporary confinement of alleged parole violators. The amount to be reimbursed shall be determined by multiplying the number of days so confined by the average daily cost of confining a person in the county facility as negotiated by the department. Payment shall be made upon submission of a voucher executed by the sheriff and approved by the director of the ~~division~~ Iowa department of adult corrections. The money shall be deposited in the county general fund to be credited to the jail account.

Sec. 149. Section 908.5, Code 1983, is amended to read as follows:

908.5 WAIVER OF PROBABLE CAUSE HEARING. The alleged parole violator may waive the probable cause hearing, in which event the liaison officer shall proceed as upon a finding of probable cause. Before accepting a waiver of hearing, the liaison officer shall inform the alleged violator of the charge, of the alleged violator's right to a hearing to determine whether there is probable cause to believe that parole has been violated, and that if the hearing is waived, the alleged violator will be committed to the custody of the Iowa department of social services corrections without further proceedings, to await the determination of the parole board. The liaison officer shall make a verbatim record of the proceedings in which the hearing is waived.

Sec. 150. Section 908.6, Code 1983, is amended to read as follows:

908.6 DISPOSITION BY LIAISON OFFICER. If it appears from the evidence that there is no probable cause to believe that the arrested person has violated the conditions of parole, the liaison officer shall order the arrested person to be released from custody and continued on parole. If it appears that there is probable cause to believe that the arrested person has violated the conditions of parole, the liaison officer shall commit the arrested person to the custody of the Iowa department of social services corrections, and the procedure prescribed in

section 901.7 shall apply to ~~such the~~ commitment; or the liaison officer may recommend that the arrested person be admitted to bail as provided in section 908.2. The liaison officer shall make a summary of the testimony and other evidence considered and a statement of the facts relied on as a basis for the finding of probable cause or no probable cause, and shall without delay forward them together with all documents relating to the matter to the executive secretary of the parole board. If the alleged parole violator has waived the probable cause hearing, the verbatim record of that proceeding shall be forwarded in lieu of the summary of evidence and statement of facts.

Sec. 151. Section 908.7, Code 1983, is amended to read as follows:

908.7 ACTION BY PAROLE BOARD. Upon a finding of probable cause to believe that a parole violation has occurred, the board of parole shall proceed without unreasonable delay to hear the charge of parole violation. Upon receipt of the record prepared and forwarded by the liaison officer, the board shall fix a time and place for ~~such the~~ hearing and shall notify in writing the alleged violator, the alleged violator's attorney of record, if any, and the Iowa department of social services corrections of ~~such the~~ hearing and the claimed violation of parole. The alleged violator shall be given an opportunity to be heard by the board under ~~such~~ rules as the board shall adopt. The inquiry shall be limited to the following two matters: 1. Did the alleged parole violation actually occur? 2. If the violation did occur, should the violator's parole be revoked?

PARAGRAPH DIVIDED. If the board determines that the parole should be revoked, it shall make an order revoking the parole. The board shall furnish the violator with a written statement of the facts relied upon to establish a violation and the reasons for revoking parole.

Sec. 152. Section 908.8, Code 1983, is amended to read as follows:

908.8 PROCEEDING WITHOUT ARREST OR PROBABLE CAUSE. The board of parole may receive from a parole officer a charge or complaint of parole violation against any parolee and may proceed to a hearing on ~~such the~~ charge in any case where the alleged violator has not been arrested or has been arrested and discharged by the liaison officer on a finding of no probable cause. The presence of the alleged violator at ~~such the~~ hearing shall be secured by summons. A statement of the charge against the alleged violator shall accompany the summons, and the parole officer shall give the alleged violator ~~such~~ assistance as is needed to get to the place of the hearing. Travel expenses, if any, shall be paid by the board. If the alleged violator fails without good cause to appear as commanded by the summons, ~~such the~~ failure shall be considered a violation of the parole, and the board may proceed to revoke parole. If the parole is revoked, the board shall issue a warrant for the person's arrest and return to the custody of the Iowa department of social services corrections. Upon ~~his or her the~~ person's return to custody, the board ~~shall~~, upon request, shall give the person an opportunity to present any matters in defense or mitigation of the conduct.

Sec. 153. Section 908.9, Code 1983, is amended to read as follows:

908.9 DISPOSITION OF VIOLATOR. If the parole of ~~any a~~ parole violator is revoked, the violator shall remain in the custody of the Iowa department of social services corrections under the terms of the parolee's original commitment. If the parole of ~~any a~~ parole violator is not revoked, the board shall order ~~his or her the~~ person's release subject to the terms of ~~his or her the~~ person's parole with any modifications that the board ~~shall determine~~ determines proper.

Sec. 154. Section 910.5, subsections 3 and 4, Code 1983, are amended to read as follows:

3. If an offender is to be placed on work release from a facility under control of a county sheriff or the judicial district department of correctional services, restitution shall be a condition of work release. The judicial district department of correctional services shall prepare a restitution plan of payment or may modify any previously existing restitution plan of payment. The new or modified plan of payment shall reflect the offender's present circumstances concerning the offender's income, physical and mental health, education, employment and family circumstances. Failure of the offender to comply with the restitution plan of payment including the community service requirement, if any, shall constitute a violation of a condition of work release. The judicial district department of correctional services may modify the plan of restitution at any time to reflect the offender's present circumstances.

4. If an offender is to be placed on parole, restitution shall be a condition of parole. The ~~parole office~~ district department of correctional services to which the offender will be assigned shall prepare a restitution plan of payment or may modify any previously existing restitution plan of payment. The new or modified plan of payment shall reflect the offender's present circumstances concerning the offender's income, physical and mental health, education, employment, and family circumstances. Failure of the offender to comply with the restitution plan of payment including a community service requirement, if any, shall constitute a violation of a condition of parole. The parole officer may modify the plan of payment any time to reflect the offender's present circumstances. A restitution plan of payment or modified plan of payment, prepared by a parole officer, must meet the approval of the ~~chief of the bureau~~ director of community the district department of correctional services of the division of adult corrections.

Sec. 155. 1981 Iowa Acts, chapter 9, section 7, subsection 6, is amended to read as follows:

6. The following are range four positions: superintendent of banking, director of the Iowa beer and liquor control department, chairperson and members of the Iowa state commerce commission, director of the state conservation commission, director of the Iowa development commission, director of the educational radio and television facility board, director of the Iowa department of job service, director of the department of general services, commissioner of health, director of the office for planning and programming, director of the department of corrections, and commissioner of public safety.

Sec. 156. Sections 217.13, 217.14, 217.22, 218.7, 218.90, 218.91, 218.97, 247.22, 247.23, and 356.45, Code 1983, are repealed.

Sec. 157. Sections 8.6, subsection 19; 12.10; 13.6; 17.3, subsection 5; 17.30, unnumbered paragraph 1; 19A.3, subsections 13 and 18 and unnumbered paragraph 5; 23.1, unnumbered paragraph 2; 64.6, subsection 3; 68B.2, subsection 4; 80C.2, unnumbered paragraph 2; 92.17, subsection 4; 97B.49, subsection 10; 122.5; 125.10, subsection 4; 125.43; 125.47; 135C.14, unnumbered paragraph 1; 135C.16, subsection 3; 135C.17; 135C.19, subsection 3 and unnumbered paragraph 1; 135C.22; 158.3, subsection 1, paragraph e; 159.5, unnumbered paragraph 4; 175.30; 217.2, unnumbered paragraph 1; 217.3, unnumbered paragraph 1 and subsections 2, 3, 4, and 8; 217.5, unnumbered paragraph 1; 217.16; 217.18; 217.21, subsections 4 and 5; 217.32; 217.33; 217.37; 218.1, unnumbered paragraph 1; 218.2, unnumbered paragraph 2; 218.3; 218.4, unnumbered paragraphs 1 and 3; 218.5; 218.7; 218.9, unnumbered paragraphs 1 and 3; 218.10; 218.11; 218.13; 218.14, unnumbered paragraph 1; 218.16; 218.18; 218.21; 218.22; 218.28; 218.29; 218.30; 218.46, subsection 1; 218.50; 218.55; 218.57; 218.58; 218.61; 218.64; 218.72; 218.73; 218.74; 218.75; 218.78; 218.83; 218.84; 218.85; 218.88; 218.90; 218.91; 218.93; 218.94, unnumbered paragraph 1; 218.96; 218.97; 218.98; 218.99; 218.100; 218A.2; 218A.4; 219.7; 219.24; 220.3, subsection 12; 220A.2, subsection 4; 220A.3; 220A.4; 221.1; 221.2; 221.3; 222.2, subsection 3; 222.10; 222.13, unnumbered paragraph 2; 222.31, subsection 2; 222.59, subsections 1, 4, and 5; 222.60,

unnumbered paragraph 1; 222.88, unnumbered paragraph 1; 222.93; 225C.2, subsections 2, 3, 4, and 5; 225C.4, subsection 2, paragraphs b and c; 225C.6; subsection 1, paragraph k and subsection 2; 226.47; 227.19; 229.1, subsection 13; 229.15, subsection 4; 229.19, unnumbered paragraph 1; 229.23, subsection 3; 229.24, subsection 1; 230.15; 230.20, subsection 1, paragraph b; 230.31; 230.34; 232.2, subsections 6 and 12; 232.21, subsection 2, paragraph c; 232.52, subsection 2, paragraph d, subparagraph (3) and paragraph e; 232.68, subsection 3; 232.69, subsection 1, paragraph b; 232.70, subsections 2, 3, 4, unnumbered paragraph 1, and subsection 6; 232.71, subsections 1, 5, 6, 7, 9, 10, and 11; 232.72, unnumbered paragraphs 1 and 2; 232.77; 232.79, subsection 4; 232.81, subsection 2; 232.82, subsection 2; 232.87, subsection 2; 232.89, subsection 3; 232.96, subsections 4 and 6; 232.97, subsection 1; 232.100; 232.101, subsection 1; 232.102, subsection 1, paragraph c, and subsections 2 and 5; 232.111, subsection 1; 232.117, subsection 3, paragraph a; 235.2, subsection 8; 235A.1, subsection 1, unnumbered paragraph 1, subsection 2, and subsection 4, paragraph a; 235A.14, subsections 1, 3, 4, and 5; 235A.15, subsection 2, paragraphs b and k; 235A.18, subsection 3; 235A.24, subsections 1 and 2; 236.9, unnumbered paragraph 1; 237.1, subsections 4 and 5; 237.3, subsection 1; 237A.1, subsections 1 and 2; 237A.13, subsections 1 and 2; 238.1; 238.12, unnumbered paragraph 1; 238.35; 238.36; 239.1, subsection 1; 239.2, subsection 4, paragraph e; 239.3, unnumbered paragraph 2; 239.5, unnumbered paragraphs 2 and 3; 239.7; 239.18; 239.19; 239A.2, unnumbered paragraph 1; 241.1, subsections 2 and 3; 241.4, subsection 2; 242.1; 242.15, unnumbered paragraph 1; 244.1, subsection 1; 244.5; 245.1; 245.10; 246.48, subsection 2; 247.23; 247A.7, subsection 3; 249.1, subsections 4 and 5; 249.4; 249.12; 249A.2, subsections 1 and 2; 249A.4, subsection 10; 249A.11; 249A.13; 249B.17; 249C.1, subsections 1 and 2; 251.1; 252.6; 252.26; 252.43; 252A.12; 252A.13; 252B.1, subsections 4 and 5; 252B.2; 252B.3, unnumbered paragraph 2; 252B.5, subsection 4; 257.17, subsection 1; 263.10; 281.2, subsection 2, unnumbered paragraph 2; 321.149; 321.165; 321.253; 331.382, subsection 6; 331.402, subsection 2, paragraph b; 331.702, subsections 44, 46, 48, and 137; 331.756, subsection 64; 347.16, subsection 2; 356.37; 356.45; 421.17, subsection 21, unnumbered paragraph 1 and paragraphs c and g; 422.45, subsection 5, unnumbered paragraph 1, and subsection 7; 425.2, unnumbered paragraph 3; 427.9; 447.9; 470.5; 509.1, subsection 7; 514.1; 598.12, subsections 2 and 3; 598.34, unnumbered paragraph 1; 600.8, subsection 2, paragraph b; 600.17, unnumbered paragraph 1; 600.18; 600.22; 600A.2, subsection 13; 601C.2, subsection 1; 601F.3, subsection 2; 675.38; 692.2, subsection 1, paragraph c; 692.3, subsection 2; 708.7, subsection 5; 812.4; 812.5; and 912.3, subsection 4, Code 1983, and 1981 Iowa Acts, chapter 9, section 7, subsection 7, are amended by striking the words "social services" and inserting in lieu thereof the words "human services".

Sec. 158. INITIAL TERMS. Notwithstanding section 217A.4, the terms of the initial members of the board of corrections appointed pursuant to section 217A.4 shall be as follows:

Two members shall serve until April 30, 1985.

Two members shall serve until April 30, 1986.

Three members shall serve until April 30, 1987.

Members of the board shall commence serving their terms July 1, 1983.

Sec. 159. TRANSITION. This bill takes effect October 1, 1983 except that this section and sections 157 and 158 of this Act take effect July 1, 1983 and parole and work release programs and responsibilities assigned to community-based corrections under section 217A.3, subsection 1, shall be performed by the Iowa department of corrections until July 1, 1984. On July 1, 1983 the initial appointees to the board of corrections shall commence serving their terms as provided in section 158 of this Act and shall organize, promulgate rules, and shall perform all duties as provided for in section 217A.5 as necessary to insure the commencement of the operation of the department of corrections on October 1, 1983. As soon as practicable after the

effective date of this section the board shall recommend and the governor shall appoint a person to act as director of the department. The acting director shall perform those duties of section 217A.8 and any other duties assigned by the board, necessary to insure commencement of the operation of the department on October 1, 1983. The department of human services shall provide staffing and support for the board of corrections until October 1, 1983. In addition to the staffing and support provided by the department of human services, the acting director shall employ a transition team to help organize the department to identify with the department of human services the administrative support staff, equipment, and other resources to be transferred to the department of corrections, consistent with the purposes of this Act, and to insure the commencement of the department on October 1, 1983.

The department of human services shall retain the responsibilities and duties of adult corrections as provided for in the Code until October 1, 1983 at which time all positions and incumbent staff on the table of organization of the division of adult corrections of the Iowa department of human services and the farm operations administrator for the Iowa department of human services are transferred to the Iowa department of corrections. The Iowa merit employment department in cooperation with the director of the Iowa department of corrections and the director of the Iowa department of human services shall establish a special procedure for the period beginning July 1, 1983 and ending September 1, 1983 for consideration of applications from persons currently employed by the Iowa department of human services for positions available with the Iowa department of corrections. After September 1, 1983 employment of persons by the Iowa department of corrections is subject to rules of the Iowa merit employment department. Duties may be reassigned at the discretion of the director of the Iowa department of corrections to align with the organizational and functional needs of the new agency. Employees of the department of human services whose duty assignments are transferred or terminated because of this Act may be reassigned to other duties or terminated. Employees so transferred or reassigned shall not lose any rights, privileges, or benefits accrued that were associated with their status prior to the effective date of this Act. All policies, procedures, and rules established for or by the division of adult corrections of the department of social services or human services shall apply respectively to the Iowa department of corrections, its employees, residents, and inmates, until otherwise changed as provided by law or rule promulgated by the board of corrections. All applicable contracts and leasing arrangements shall be transferred to the jurisdiction of the Iowa department of corrections on October 1, 1983. All equipment, supplies, and property in the custody of the division of adult corrections of the department of social services or human services, shall be transferred to the Iowa department of corrections on that date. Funds appropriated for the division of adult corrections shall be transferred and be available for the use of the Iowa department of corrections on and after that date.

The department of corrections shall contract with the department of human services until July 1, 1986 for the supplying of food for the institutions and the use of the department of human services' central warehouse. The board of corrections shall study the issue of the purchasing and storing of food for the institutions and shall adopt a policy as to the future purchasing and warehousing of food. The study shall include the feasibility of growing crops and raising livestock at the institutions for consumption at the institutions.

All other contracts, rules, regulations, orders, and directives promulgated and in effect for the Iowa department of social services remain in force and effect for the department of human services even though the department's name has changed. The department of human services shall use the stationery and other goods containing the symbol of the department of social services remaining with the department of human services until such time as the goods are replaced. The department of social services may change its official seal upon the effective

date of the name change of the department. The Iowa department of corrections in consultation with the Iowa merit employment department and subject to approval by the executive council, shall determine which positions of the Iowa department of corrections shall be transferred to the judicial district departments when the transfer of parole and work release programs and responsibilities is made pursuant to this Act.

Employees of the Iowa department of corrections who become employees of judicial district departments of correctional services because of the transfer of parole and work release programs and responsibilities to the judicial district departments, shall be credited with all the seniority, vacation, and sick leave that had accrued to the employee at the time of the employee's transfer to the district department.

If a person transferred to a judicial district department pursuant to this Act, is reemployed by the Iowa department of corrections within two years of the transfer, that person shall be credited with all the seniority that accrued to the person prior to the transfer to the judicial district department.

Sec. 160. The Code editor may change any reference to the "division of corrections" and any reference to the "women's reformatory" inadvertently\* remaining in the Code to the "Iowa department of corrections" and the "Iowa correctional facility for women" and make other corrective changes consistent with the intent of this Act. The Code editor shall change the term "inmate" in chapter 218 to the term "resident", unless the context requires otherwise.

Approved May 6, 1983

\*According to enrolled Act

## CHAPTER 97

### DEPOSIT OF FUNDS BY CERTAIN UTILITIES AND LIBRARIES

*S.F. 434*

**AN ACT** relating to funds deposited by city utilities and combined utility systems and regional libraries, and providing an effective date upon publication.

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

Section 1. Section 453.1, Code 1983, is amended to read as follows:

453.1 DEPOSITS IN GENERAL. All funds held in the hands of the following officers or institutions shall be deposited in banks first approved by the appropriate governing body as indicated: For the treasurer of state, by the executive council; for the county treasurer, recorder, auditor, sheriff, clerk of the district court, and judicial magistrate, by the board of supervisors; for the city treasurer, by the city council; for the county public hospital or merged area hospital, by the board of hospital trustees; for a memorial hospital, by the memorial hospital commission; for a school corporation, by the board of school directors; for a city utility or combined utility system established under chapter 388, by the utility board; for a regional library established under chapter 303B, by the regional board of library trustees; and for an electric power agency as defined in section 28F.2, by the governing body of the electric power

agency. However, the treasurer of state and the treasurer of each political subdivision shall invest all funds not needed for current operating expenses in time certificates of deposit in banks listed as approved depositories pursuant to this chapter or in investments permitted by section 452.10. The list of public depositories and the amounts severally deposited in the depositories shall be a matter of public record. The term "bank" means a bank or a private bank, as defined in section 524.103.

Sec. 2. Section 454.2, Code 1983, is amended to read as follows:

454.2 PURPOSE OF FUND. The purpose of the fund is to secure the payment of ~~their~~ the deposits ~~to~~ of state, county, township, municipal, and school corporations, city utilities and combined utility systems established under chapter 388, regional libraries established under chapter 303B, and electric power agencies as defined in section 28F.2, having public funds deposited in demand or time deposits in any bank in this state, when those deposits have been made by authority of and in conformity with the direction of the local governing council or board which is by law charged with the duty of selecting depository banks for the funds.

Sec. 3. This Act, being deemed of immediate importance, takes effect from and after its publication in The Cascade Pioneer-Advertiser, a newspaper published in Cascade, Iowa, and in The Council Bluffs Nonpareil, a newspaper published in Council Bluffs, Iowa.

Approved April 25, 1983

Pursuant to the authority vested in the undersigned, Secretary of State of the State of Iowa, under the provisions of Section 3.9, Code of Iowa, 1983, there being no newspaper by the name of The Council Bluffs Nonpareil, published in Council Bluffs, Iowa, I hereby designate The Daily Nonpareil, published in Council Bluffs, Iowa, to publish the foregoing Act, Senate File 434.

I hereby certify that the foregoing Act, Senate File 434, was published in The Cascade Pioneer-Advertiser, Cascade, Iowa on May 5, 1983 and in The Daily Nonpareil, Council Bluffs, Iowa on May 2, 1983.

MARY JANE ODELL, *Secretary of State*

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## CHAPTER 98

### CREDIT UNION SHARE DRAFTS AND ACCOUNTS

*S.F. 90*

**AN ACT** regulating credit union share drafts and share draft accounts.

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

Section 1. Section 533.42, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

#### 533.42 SHARE DRAFTS.

1. A credit union may provide its members with share draft accounts. Share draft means a negotiable draft which is payable upon demand and is used to withdraw funds from a share draft account. A share draft is an item for purposes of chapter 554, article 4. The term does

not include a draft issued by a credit union for the transfer of funds between the issuing credit union and another credit union, a bank, a savings and loan association, or another depository financial institution.

2. A share draft account is an account that is a demand account from which a credit union has agreed that funds may be withdrawn by means of a share draft. A share draft account may bear interest or dividends as determined by the board of directors, provided that a credit union shall not pay interest or dividends on a share draft account at a rate which exceeds the maximum interest rate which a regulated financial institution is able to pay on comparable instruments as allowed by the depository institutions deregulatory committee.

3. A credit union may guarantee payment for a share draft if both the following conditions are met:

a. A specific guarantee authorization is obtained for the share draft from the credit union.  
b. The guarantee authorization is immediately noted on the share draft account to prevent the withdrawal of funds needed to pay the guaranteed share draft.

4. A credit union may charge fees and penalties on share drafts and apply fees and penalties to the credit union's income in relation to share draft services.

5. The administrator may adopt rules relating to share draft programs as necessary to administer this chapter.

Sec. 2. Sections 533.44 and 533.45, Code 1983, are repealed.

Sec. 3. This Act, being deemed of immediate importance, takes effect from and after its publication in the Ames Daily Tribune, a newspaper published in Ames, Iowa, and in the Muscatine Journal, a newspaper published in Muscatine, Iowa.

Approved May 2, 1983

I hereby certify that the foregoing Act, Senate File 90 was published in the Ames Daily Tribune, Ames, Iowa on May 4, 1983 and in the Muscatine Journal, Muscatine, Iowa on May 10, 1983.

MARY JANE ODELL, *Secretary of State*

**CHAPTER 99**  
**PENALTIES FOR CRIMINAL MISCHIEF**  
*S.F. 76*

**AN ACT** relating to the penalties for criminal mischief.

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

Section 1. Section 716.5, unnumbered paragraph 1, Code 1983, is amended to read as follows:

Criminal mischief is criminal mischief in the third 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, or if the property is a deed, will, commercial paper or any civil or criminal process or other instrument having legal effect, or if the act consists of rendering substantially less effective than before any light, signal, obstruction, barricade, or guard which has been placed or erected for the purpose of enclosing any unsafe or dangerous place or of alerting persons to an unsafe or dangerous condition. Criminal mischief in the third degree is an aggravated misdemeanor.

Sec. 2. Section 716.6, Code 1983, is amended to read as follows:

716.6 CRIMINAL MISCHIEF IN THE FOURTH DEGREE 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 hundred dollars, but does not exceed two 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, or third degree, or fourth degree is criminal mischief in the ~~fourth~~ fifth degree. Criminal mischief in the ~~fourth~~ fifth degree is a simple misdemeanor.

Approved May 2, 1983

**CHAPTER 100****COMMISSION ON PROFESSIONAL AND OCCUPATIONAL REGULATION***S.F. 391*

**AN ACT** relating to the commission on professional and occupational regulation.

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

Section 1. Section 2B.2, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

**2B.2 COMMISSION ESTABLISHED.**

1. A commission on professional and occupational regulation is created. The commission shall be bipartisan and be composed of the following members appointed by the legislative council:

- a. Two senators, not more than one from any one political party.
- b. Two representatives, not more than one from any one political party.
- c. Five persons, not more than three from any one political party.

2. A commission member shall be appointed to a term of four years beginning July 1 in the year of appointment. A member shall serve until a successor is appointed. A vacancy exists when a commission member ceases to be a member of the general assembly. A member of the commission shall not be a member of a licensed profession or occupation.

3. The commission shall organize annually and elect a chairperson. The legislative service bureau shall provide administrative and staff assistance to the commission. The members of the commission, including the legislative members when the general assembly is not in session, shall be paid forty dollars per diem and actual and necessary expenses from funds appropriated by section 2.12.

Sec. 2. Section 2B.3, subsection 1, Code 1983, is amended to read as follows:

1. The commission on professional and occupational regulation shall evaluate those professions and occupations seeking to become regulated and may evaluate those professions and occupations which are regulated according to the criteria listed in section 2B.1. The general assembly may, by concurrent resolution, direct that the commission undertake or not undertake an evaluation of a profession or occupation. Upon completion of an evaluation, the commission shall make a recommendation to the general assembly whether the profession or occupation should become or continue to be regulated by the state and the degree of regulation that should be imposed. Proposed changes in licensing laws, including changes in the scope of the practice or the authority of the licensing board, shall be submitted to the commission for its recommendations to the chairpersons and ranking members of the standing committees on state government of the general assembly. If the commission recommends a continuation or imposition of regulation, the commission shall recommend whether continuing education should be required. The commission may conduct an evaluation of continuing education requirements of a regulated profession or occupation without evaluating whether regulation of the profession or occupation should be continued. The commission shall file an

annual report of its evaluations and recommendations with the chief clerk of the house of representatives and the secretary of the senate upon the convening of each session of the general assembly.

Sec. 3. Section 2B.3, subsection 3, Code 1983, is amended by adding the following new lettered paragraph:

NEW LETTERED PARAGRAPH. m. Whether the skill or information necessary to practice the profession or occupation adequately changes at such a pace or to such an extent as to justify continuing education requirements.

Sec. 4. 1979 Iowa Acts, chapter 41, section 4, is repealed.

Sec. 5. Chapter 2B, Code 1983, is repealed effective July 1, 1986.

Sec. 6. The terms of members of the commission on professional and occupational regulation appointed under chapter 2B, Code 1983, expire on the effective date of this Act. The legislative council shall make appointments to the commission as provided in this Act. In making the initial appointments, the legislative council shall appoint one senator, one representative, and three citizens to initial terms of two years.

Approved May 2, 1983

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## CHAPTER 101

### CODE CORRECTIONS

S.F. 136

**AN ACT** to make nonsubstantive corrections to the Code.

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

Section 1. Section 7A.4, Code 1983, is amended to read as follows:

7A.4 STATE AGENCIES AND OFFICERS TO CO-OPERATE. All state agencies and officers shall provide the office of for planning and programming with any information it requests pertaining to its duties under this chapter, shall assist the office in carrying out its duties, and shall provide the office with a copy of all official grant-in-aid applications, together with a copy of any program plan developed to meet federal requirements, prior to submission of such an application to the federal government.

Sec. 2. Section 18.2, Code 1983, is amended to read as follows:

18.2 DEPARTMENT ESTABLISHED. There is created a department of general services which shall be is attached to the office of the governor and shall be is under the governor's general direction, supervision, and control. The office shall be in charge of a director, who shall be appointed by the governor shall appoint the director, subject to confirmation by the senate. The director shall be employed on a permanent basis. The director shall not hold any other office, engage in any political activity, accept or solicit, directly or indirectly, any political contributions, and shall not use the office to support the candidacy of anyone for elective or appointive office. The director shall hold office at the governor's pleasure and shall receive a salary at a rate fixed by the governor not to exceed twenty five thousand dollars per annum as fixed by the general assembly. Before entering upon the discharge of his or her the director's duties, the director may be required to give a surety bond in an amount as fixed by the governor. The premium on the bond shall be paid out of funds appropriated to the department.

The director ~~shall~~ must be a qualified administrator.

Sec. 3. Section 80D.11, Code 1983, is amended to read as follows:

80D.11 EMPLOYEE—PAY. While performing official duties, each reserve peace officer shall be considered an employee of the governing body which ~~he or she~~ the officer represents and shall be paid a minimum of one dollar per year. The governing body of a city, county, or the state may provide additional monetary assistance for the purchase and maintenance of uniforms and equipment used by reserve peace officers ~~but not to exceed the allowance provided in section 337A.2.~~

Sec. 4. Section 85.59, unnumbered paragraphs 7 and 8, Code 1983, are amended to read as follows:

The time limit for commencing an original proceeding to determine entitlement to benefits under this section ~~shall be~~ is the same as set forth in section 85.26. If an injury occurs to an inmate so as to qualify the inmate for benefits under this section, notwithstanding the fact that payments of weekly benefits are not commenced, ~~a memorandum of agreement an acknowledgment of compensability~~ shall be filed with the industrial commissioner within thirty days of the time the responsible authority receives notice or knowledge of the injury as required by section 85.23.

If a dispute arises as to the extent of disability when ~~a memorandum of agreement an acknowledgment of compensability~~ is on file or when an award determining liability has been made, an action to determine the extent of disability must be commenced within one year of the time of the release of the inmate from the institution. This ~~shall~~ does not bar the right to reopen the claim as provided by section ~~86-34~~ 85.26, subsection 2.

Sec. 5. Section 87.13, Code 1983, is amended to read as follows:

87.13 INTERPRETATIVE CLAUSE. The law ~~as the same appears in section 85.4 and other sections of chapters 85, 86, and this chapter, including the words "except as provided in this chapter" as the same appear in section 85.3~~ all insofar as it relates to the right to reject the terms, provisions and conditions of the compensation law, shall not apply to any employer or employee engaged in the operation of coal mines, or production of coal, under any system of removing coal for sale, ~~but all~~ All provisions of the law in chapters 85, 85A, 85B, 86, and this chapter relating to compensation for injuries sustained arising out of and in the course of such employment ~~shall be in the operation of coal mines or production of coal under any system of removing coal for sale~~ are exclusive, compulsory and obligatory upon the employer and employee in such employment.

Sec. 6. Section 93A.4, subsection 4, Code 1983, is amended to read as follows:

4. The state department of agriculture, office for planning and programming, department of soil conservation, state conservation commission, ~~Iowa natural resources council,~~ department of environmental quality water, air and waste management, geological survey, state agricultural extension service, and the Iowa development commission shall, upon request, provide to each county commission any pertinent land use information available to assist in the compiling of the county land use inventories.

Sec. 7. Section 93A.11, subsection 2, Code 1983, is amended to read as follows:

2. WATER PRIORITY. In the application for a permit to divert, store, or withdraw water and in the allocation of available water resources under a water permit system, the ~~Iowa natural resources council department of water, air and waste management~~ shall give priority to the use of water resources by a farm or farm operations, exclusive of irrigation, located in an agricultural area over all other uses except the competing uses of water for ordinary household purposes.

Sec. 8. Section 96.10, unnumbered paragraph 3, Code 1983, is amended to read as follows:

The director of the department may establish, consolidate, and abolish divisions of the

department when necessary for the efficient performance of the various functions and duties of the department of employment security.

Sec. 9. Section 96.19, subsection 9, paragraph c, Code 1983, is amended to read as follows:

c. An individual shall be deemed temporarily unemployed if for a period, verified by the commission department, not to exceed four consecutive weeks, ~~he or she~~ the individual is unemployed due to a plant shutdown, vacation, inventory, lack of work or emergency from ~~his or her~~ the individual's regular job or trade in which ~~he or she~~ the individual worked full-time and in which ~~he or she~~ will again work full-time, if ~~his or her~~ the individual's employment, although temporarily suspended, has not been terminated.

Sec. 10. Section 97B.41, subsection 3, paragraph b, subparagraph (1), Code 1983, is amended to read as follows:

(1) Elective officials in positions for which the compensation is on a fee basis, elective officials of school districts, elective officials of townships, and elective officials of other political subdivisions who are in part-time positions, graduate medical students while serving as interns or resident doctors in training at any hospital, or county medical examiners and deputy county medical examiners under chapter ~~330~~ 331, division V, part 7.

Sec. 11. Section 97C.20, unnumbered paragraph 2, Code 1983, is amended to read as follows:

Upon receiving evidence satisfactory to ~~him~~ the governor that with respect to any such referendum the conditions specified in section 218 "d" (3) of the Social Security Act have been met, the governor shall so certify to the secretary of health, education, and welfare human services.

Sec. 12. Section 111.25, Code 1983, is amended to read as follows:

111.25 LEASES. The commission may recommend that the executive council lease property under the commission's jurisdiction. All leases shall reserve to the public of the state the right to enter upon the property leased for any lawful purpose. The council may, if it approves the recommendation and the lease to be entered into is for five years or less, execute the lease in behalf of the state and commission. If the recommendation is for a lease in excess of five years, with the exception of agricultural lands specifically dealt with in Article I, section 24 of the Constitution of the State of Iowa, the council shall advertise for bids ~~therefor as provided in section 10.20~~. If a bid is accepted, the lease shall be let or executed by the council ~~as provided in section 10.21~~, except that the lease shall be let or executed in accordance with the most desirable bid. The lease shall not be executed for a term longer than fifty years. Any such leasehold interest, including any improvements placed ~~thereon on it~~, shall be listed on the tax rolls as provided in chapters 428 and 443; assessed and valued as provided in chapter 441; taxes shall be levied thereon on it as provided in chapter 444; and collected as provided in chapter 445; and the leasehold interest is subject to tax sale, redemption, and apportionment of taxes as provided in chapters 446, 447 and 448. ~~It shall be the duty of the~~ The lessee to shall discharge and pay all ~~such~~ taxes.

Sec. 13. Section 111.62, Code 1983, is amended to read as follows:

111.62 COPY TO DEPARTMENT. A copy of the petition and the applications, plans, and specifications required under chapter ~~455A~~ 455B shall be filed with the department of water, air and waste management and any approval or permit required under chapter ~~455A~~ 455B shall be obtained prior to the establishment of the water recreational area or the granting of a permit for the area by the state conservation commission.

Sec. 14. Section 117.29, subsection 5, Code 1983, is amended to read as follows:

5. Conviction of a felony related to the profession or occupation of the licensee ~~on the or conviction of any a~~ felony that would affect ~~his or her~~ the licensee's ability to practice the profession of real estate broker and ~~salesman~~ salesperson. A copy of the record of conviction or plea of guilty ~~shall be is~~ conclusive evidence.

Sec. 15. Section 125.76, Code 1983, is amended to read as follows:

125.76 APPOINTMENT OF COUNSEL FOR APPLICANT. The applicant, if not the county attorney, may apply for the appointment of counsel if financially unable to employ an attorney to assist the applicant in presenting evidence in support of the application for commitment. If the applicant applies for the appointment of counsel, the application shall include a financial statement as defined in section ~~336B.1~~ 331.775, subsection 3.

Sec. 16. Section 135B.7, Code 1983, is amended to read as follows:

135B.7 RULES AND ENFORCEMENT. The state department of health with the advice of the hospital licensing board, shall adopt, ~~amend, promulgate~~ and enforce such rules and standards ~~with respect to~~ for the different types of hospitals to be licensed hereunder as may be ~~designed under this chapter~~, to further the accomplishment of the purposes of the chapter. ~~Rules and standards may be adopted imposing requirements in excess of those provided in chapter 413, but no rule or standard shall be adopted imposing requirements less than those provided by said chapter. No rules~~ Rules or standards shall not be adopted or enforced which would have the effect of denying a license to a hospital or other institution required to be licensed hereunder, solely by reason of the school or system of practice employed or permitted to be employed by physicians therein; ~~provided that such in the hospital if the school or system of practice is recognized by the laws of this state.~~

Sec. 17. Section 135B.17, unnumbered paragraph 1, Code 1983, is amended to read as follows:

This chapter shall not be construed as affecting, modifying or repealing any provision of chapter 413, except as provided in section 135B.7, and provided further that this chapter shall be construed as being ~~is~~ in addition to and not in conflict with chapter 235.

Sec. 18. Section 135C.14, subsection 1, Code 1983, is amended to read as follows:

1. Location and construction of the facility, including plumbing, heating, lighting, ventilation, and other housing conditions, which shall ensure the health, safety and comfort of residents and protection from fire hazards. ~~Such rules and standards regarding location and construction of the home may impose requirements in excess of those provided in chapter 413 but shall not impose requirements less than those provided by such chapter.~~ The rules of the department relating to protection from fire hazards and fire safety shall be promulgated by the state fire marshal, and shall be in keeping with the latest generally recognized safety criteria for the facilities covered of which the applicable criteria recommended and published from time to time by the national fire protection association shall be ~~are~~ prima-facie evidence.

Sec. 19. Section 135D.15, Code 1983, is amended to read as follows:

135D.15 SEASONAL OPERATION. If ~~any an~~ applicant for a mobile home park license desires to operate ~~such the~~ mobile home park only during the months from May 1 to October 1, ~~they should the applicant shall~~ pay only one-half of the above-mentioned annual license fee, but should pay the full monthly fees hereinbefore required for each month of operation. If in the opinion of the state department of health the sanitary and facility requirements ~~herein contained in this chapter~~ are too rigid for the mobile home park, it may in writing or by regulation modify ~~such the~~ requirements as circumstances may permit and require.

Sec. 20. Section 137.6, subsection 4, Code 1983, is amended to read as follows:

4. Employ ~~such employees~~ persons as are necessary for the efficient discharge of its duties. Employment practices shall meet the requirements of the Iowa merit system council ~~employment commission~~ or any civil service provision adopted under chapter 400.

Sec. 21. Section 144.1, subsection 8, Code 1983, is amended to read as follows:

8. "Filing" means the presentation of a certificate, report, or other record, provided for in this chapter, of a birth, death, fetal death, adoption, marriage, ~~divorce~~ dissolution, or annulment for registration by the division.

Sec. 22. Section 144.2, Code 1983, is amended to read as follows:

144.2 DIVISION OF RECORDS AND STATISTICS. There is hereby established in the department a division for records and statistics which shall install, maintain, and operate the system of vital statistics throughout the state. No system for the registration of births, deaths, fetal deaths, adoptions, marriages, ~~divorces~~ dissolutions, and annulments, shall be maintained in the state or any of its political subdivisions other than the one provided for in this chapter. Suitable quarters shall be provided for the division by the executive council at the seat of government. The quarters shall be properly equipped for the permanent and safe preservation of all official records made and returned under this chapter.

Sec. 23. Section 144.37, unnumbered paragraphs 2 and 3, Code 1983, are amended to read as follows:

The clerk of the district court in each county shall keep a record book for ~~divorces~~ dissolutions. The form of ~~divorce~~ dissolution record books shall be uniform throughout the state and shall be prescribed by the state department. Divorce Dissolution record books shall be provided at county expense. A properly indexed record of ~~divorces~~ dissolutions upon microfilm, electronic computer, or data processing equipment may be kept instead of ~~divorce~~ record books.

On or before the tenth day of each calendar month, the clerk of court shall forward to the state registrar the record of each ~~divorce~~ dissolution and annulment granted during the preceding calendar month and such related reports as may be required by regulations issued under this chapter.

Sec. 24. Section 144.51, Code 1983, is amended to read as follows:

144.51 INFORMATION BY OTHERS FURNISHED ON DEMAND. Any person having knowledge of the facts shall furnish information ~~he may possess~~ the person possesses regarding any birth, death, fetal death, adoption, marriage, ~~divorce~~ dissolution, or annulment, upon demand of the state registrar or ~~his~~ the state registrar's representative.

Sec. 25. Section 145A.20, Code 1983, is amended to read as follows:

145A.20 REVENUE BONDS. In addition to any other provisions of this chapter and for the purpose of acquiring, constructing, equipping, enlarging or improving a hospital building or any part thereof, merged areas may issue revenue bonds as provided in ~~section 347A.2~~ chapter 331, division IV, part 4.

Sec. 26. Section 147.21, unnumbered paragraph 3, Code 1983, is amended to read as follows:

A member of the board who willfully communicates or seeks to communicate such information, and any person who willfully requests, obtains, or seeks to obtain such information, is guilty of a public offense which is punishable by a fine not exceeding one hundred dollars or by imprisonment in the county jail for not more than thirty days simple misdemeanor.

Sec. 27. Section 148A.4, subsections 1 and 2, Code 1983, are amended to read as follows:

1. Be a graduate of an accredited high school and have completed a course of study in, and hold a diploma or certificate issued by a school of physical therapy approved by the board of physical and occupational therapy examiners.

2. Have passed an examination administered by the board of physical and occupational therapy examiners.

Sec. 28. Section 153A.3, Code 1983, is amended to read as follows:

153A.3 APPRENTICE OPHTHALMIC DISPENSERS. A person employed by a physician and surgeon, osteopathic physician, osteopathic physician and surgeon, optometrist, or certified ophthalmic dispenser for the purpose of obtaining practical experience and skill as an ophthalmic dispenser shall be registered with the state department as an apprentice. Persons desiring to be registered as an apprentice shall file an application with the state department of health on a form provided by the state department. The application shall be signed by the applicant and the applicant's employer and accompanied by the registration fee prescribed under section ~~147.80~~ 153A.11.

Sec. 29. Section 155.37, subsection 1, paragraph b, Code 1983, is amended to read as follows:

b. If the cost of the prescription or any part thereof shall of it will be paid by expenditure of public funds authorized under ~~chapters~~ chapter 239, 249, 249A, 252, 253, ~~254~~, or 255, the pharmacist shall exercise his or her professional judgment by selecting a drug product of the same generic name and demonstrated bioavailability but of a lesser cost than the one prescribed for dispensing and sale to the person unless the physician, dentist, or podiatrist specifically states that only that designated brand or trade name drug product is to be dispensed. ~~Under no circumstances shall~~ However, a pharmacy to which the prescription is presented or communicated ~~be is~~ not required to substitute a drug product of the same generic name and demonstrated bioavailability but of lesser cost unless the pharmacy has in stock one or more other such drug products.

Sec. 30. Section 170B.3, unnumbered paragraph 2, Code 1983, is amended to read as follows:

If a municipal corporation wants its local board of health to license, inspect, and otherwise enforce the Iowa hotel sanitation code within its jurisdiction, the municipal corporation may enter into an agreement to do so with the secretary. The secretary may enter into such an agreement if the secretary finds that the local board of health has adequate resources to perform the required functions. A municipal corporation may only enter into an agreement to enforce the Iowa hotel sanitation code if it also agrees to enforce the Iowa food service sanitation code pursuant to section ~~170B.4~~ 170A.4 and to enforce the food and beverage vending machine laws pursuant to section 191A.14.

Sec. 31. Section 172C.8, subsection 3, Code 1983, is amended to read as follows:

3. Any nonresident alien identified as a beneficiary in a report filed with the secretary of state pursuant to section 172C.7, subsection 3, shall file with the secretary of state on or before March 31 of each year on forms supplied by the secretary of state, a report containing the information set forth in section ~~567.9~~ 567.8, with respect to land owned by a fiduciary or trustee on behalf of the nonresident alien.

Sec. 32. Section 175.3, subsection 1, Code 1983, is amended to read as follows:

1. The Iowa family farm development authority is established, and constituted a public instrumentality and agency of the state exercising public and essential governmental functions. The authority is established to undertake programs which assist beginning farmers in purchasing agricultural land and agricultural improvements and depreciable agricultural property for the purpose of farming and programs which provide financing to farmers for permanent soil and water conservation practices on agricultural land within the state or for the acquisition of conservation farm equipment. The powers of the authority shall be are vested in and exercised by a board of eleven members with nine members appointed by the governor with the approval of two thirds of the members of subject to confirmation by the senate. The treasurer of state and the secretary of agriculture are ex officio nonvoting members. No more than five members shall belong to the same political party. As far as possible the governor

shall include within the membership persons who represent financial institutions experienced in agricultural lending, the real estate sales industry, farmers, beginning farmers, average taxpayers, local government, and any other person specially interested in family farm development.

Sec. 33. Section 189.2, subsection 4, Code 1983, is amended to read as follows:

4. Issue from time to time, bulletins showing the results of inspections, analyses, and prosecutions under this title. These bulletins shall be printed in such numbers as may be approved by the state superintendent of printing board and shall be distributed to the newspapers of the state and to all interested persons.

Sec. 34. Section 206.2, subsection 26, Code 1983, is amended to read as follows:

26. The term "state State restricted use pesticide" means ~~any~~ a pesticide which is restricted for sale, use, or distribution under the authority of section ~~455B.131~~ 455B.471.

Sec. 35. Section 206.6, subsection 1, unnumbered paragraph 2, Code 1983, is amended to read as follows:

A person who applies pesticides by use of ~~any~~ an aircraft and who is licensed as an aerial commercial applicator in another state shall apply pesticides in Iowa only under the direct supervision of a person holding a valid Iowa aerial commercial applicator's license. The supervising aerial commercial applicator ~~shall be~~ is jointly liable with the person who is licensed as an aerial commercial applicator in another state for damages. The supervising applicator shall immediately notify the secretary of the commencement and of the termination of service provided by the supervised applicator. ~~A~~ However, a person licensed in another state as an aerial commercial applicator may operate independently if ~~he~~ the person acquires an aerial commercial applicator license from the secretary ~~and~~, posts bond in an amount to be determined by the secretary, and registers with the ~~Iowa aeronautics commission~~ department of transportation. ~~Such~~ The person shall be is liable for damages.

Sec. 36. Section 206.6, subsection 5, Code 1983, is amended to read as follows:

5. ISSUE COMMERCIAL APPLICATOR LICENSE. If the secretary finds the applicant qualified to apply pesticides in the classifications for which ~~he~~ the applicant has applied and if the applicant files the bonds or insurance required under section 206.13, and if the applicant applying for a license to engage in aerial application of pesticides has met all of the requirements of the federal aviation administration, the ~~Iowa aeronautics commission~~ department of transportation, and any other applicable federal or state laws or regulations to operate the equipment described in the application, the secretary shall issue a commercial applicator license limited to the classifications for which ~~he~~ the applicant is qualified, which shall expire at the end of the calendar year of issue unless it has been revoked or suspended prior thereto by the secretary for cause. The secretary may limit the license of the applicant to the use of certain pesticides, or to certain areas, or to certain types of equipment if the applicant is only so qualified. If a license is not issued as applied for, the secretary shall inform the applicant in writing of the reasons ~~therefor~~.

Sec. 37. Section 218.1, subsections 1 and 8, Code 1983, are amended to read as follows:

1. Soldiers Home Iowa veterans home.

8. Eldora State training school.

Sec. 38. Section 218.3, subsection 3, Code 1983, is amended to read as follows:

3. The director of the division of corrections of the department of social services ~~shall have~~ has primary authority and responsibility relative to the ~~following institutions:~~ Women's reformatory Iowa correctional institution for women, men's reformatory and state penitentiary.

Sec. 39. Section 218.9, unnumbered paragraph 2, Code 1983, is amended to read as follows:

The director of the division of corrections of the department of social services, subject to the

approval of the commissioner of the department, shall appoint the wardens of the state penitentiary and the men's reformatory and the superintendents of the Iowa security and medical facility and of the ~~women's reformatory~~ Iowa correctional institution for women.

Sec. 40. Section 218.97, Code 1983, is amended to read as follows:

218.97 DIAGNOSTIC CLINIC—INFORMATION FURNISHED. The commissioner of the department of social services and the directors of divisions directly involved ~~are authorized to~~ may provide facilities and personnel for a diagnostic clinic. The work of the clinic shall include a scientific study of each prisoner, his the prisoner's career and life history, the causes of his the prisoner's criminal acts and recommendations for his custody, care, training, employment and counseling with a view to his the prisoner's rehabilitation and to the protection of society. To facilitate the work of the clinic and to aid in the rehabilitation of such prisoners, the trial judge and the prosecuting attorney shall, when requested by the commissioner or the directors of divisions directly involved, furnish the commissioner or such director the directors with such information as is provided the state board of parole under section 247.15 a full statement of the facts relating to a prisoner's commission of an offense as known or believed by them.

Sec. 41. Section 230A.10, subsection 14, Code 1983, is amended to read as follows:

14. Enter into ~~contracts~~ a contract with affiliates an affiliate, which may be an individual or a public or private group, agency, or corporation, organized and operating on either a profit or a nonprofit basis, for any of the services described in section 230A.2, ~~subsections 1 to 3~~, to be provided by the affiliate to residents of the county or counties served by the community mental health center who are patients or clients of the center and are referred by the center to the affiliate for service.

Sec. 42. Section 230A.12, subsection 3, Code 1983, is amended to read as follows:

3. Enter into ~~contracts~~ a contract with affiliates an affiliate, which may be an individual or a public or private group, agency or corporation, organized and operating on either a profit or a nonprofit basis, for any of the services described in section 230A.2, ~~subsections 1 to 3~~, to be provided by the affiliate to residents of the county or counties served by the community mental health center who are patients or clients of the center and are referred by the center to the affiliate for service.

Sec. 43. Section 230A.13, unnumbered paragraph 2, Code 1983, is amended to read as follows:

Release of information which would identify an individual who is receiving or has received treatment at a community mental health center shall not be made a condition of support of that center by any county under this section. ~~The provisions of section 331.21~~ Section 331.504, subsection 8 notwithstanding, a community mental health center shall not be required to file a claim which would in any manner identify such an individual, if the center's budget has been approved by the county board under this section and the center is in compliance with section 230A.16, subsection 3.

Sec. 44. Section 235.1, unnumbered paragraph 1, Code 1983, is amended to read as follows:

The terms "state division", "state director", "county department", "county board" and "child" are used in this chapter and ~~chapters 237 and chapter 238 as said~~ the terms are defined in section 234.1.

Sec. 45. Section 245.2, Code 1983, is amended to read as follows:

245.2 SUPERINTENDENT—SALARY. The superintendent of the ~~women's reformatory~~ Iowa correctional institution for women shall receive a salary as determined by the state director.

Sec. 46. Section 245.3, Code 1983, is amended to read as follows:

245.3 SERVICE REQUIRED. The superintendent may, with the approval of the state director, require ~~any an~~ inmate to perform any service suited to her strength and attainments and which may be needed for the benefit of the ~~reformatory~~ institution or for the welfare of ~~such the~~ inmate.

Sec. 47. Section 245.4, Code 1983, is amended to read as follows:

245.4 EMPLOYEES TO RECEIVE A MIDSHIFT MEAL. The employees of the ~~women's reformatory~~ Iowa correctional institution for women shall receive a midshift meal when on duty.

Sec. 48. Section 245.7, Code 1983, is amended to read as follows:

245.7 TERM OF COMMITMENTS. A female convicted of a felony shall not be detained in ~~said reformatory~~ the Iowa correctional institution for women under one commitment for a period longer than the maximum term of imprisonment provided by law for ~~said the~~ felony. A female convicted of a crime and sentenced to a term of less than one year shall not be detained ~~therein in that~~ institution.

Sec. 49. Section 245.8, Code 1983, is amended to read as follows:

245.8 MANNER OF COMMITTING FEMALES. Females committed to ~~said reformatory~~ the Iowa correctional institution for women shall be taken ~~thereto there~~ by some a woman, or by ~~some a~~ peace officer accompanied by ~~some a~~ woman, appointed by the court.

Sec. 50. Section 245.9, Code 1983, is amended to read as follows:

245.9 COSTS OF COMMITMENT. The costs and expenses allowed for taking females to the ~~reformatory~~ Iowa correctional institution for women shall be the same as those allowed by law for taking girls to the training school, and shall be audited and paid in like manner by the counties from which they are sent.

Sec. 51. Section 245.12, Code 1983, is amended to read as follows:

245.12 TRANSFER OF MENTALLY ILL. The state director may cause any woman committed to the ~~reformatory~~ Iowa correctional institution for women and suspected of being mentally ill to be examined by one of the superintendents or the superintendent's qualified designee of a state hospital for the mentally ill or transferred to the Iowa security and medical facility for examination. If the woman is found to be mentally ill, the department may order the woman transferred to or retained at a state hospital or the Iowa security and medical facility where she shall thereafter be maintained and treated at the expense of the state until ~~such time as~~ she regains her good mental health when she shall be returned to the ~~reformatory~~ Iowa correctional institution for women. The cost of transfer and return shall be paid as provided for other transfers.

Sec. 52. Section 245.15, Code 1983, is amended to read as follows:

245.15 ESCAPE. Any inmate of ~~said reformatory~~ the Iowa correctional institution for women who shall ~~escape therefrom~~ escapes may be arrested and returned to ~~said reformatory, the institution~~ by an officer or employee thereof of the institution without any other authority than this chapter, and by any peace officer or other person on the request in writing of the superintendent or the state director.

Sec. 53. Section 245.20, Code 1983, is amended to read as follows:

245.20 FEDERAL PRISONERS. Inmates sentenced for any term by any court of the United States may be received by the superintendent into the ~~women's reformatory~~ Iowa correctional institution for women and there kept in ~~pursuant~~ pursuance of their sentences. Inmates at the ~~women's reformatory~~ Iowa correctional institution for women may also be transferred to the federal bureau of prisons. If an inmate objects to her transfer to the federal bureau of prisons, the inmate shall be afforded a hearing as provided in section 217.22.

Sec. 54. Section 246.45, Code 1983, is amended to read as follows:

246.45 APPLICABILITY TO OTHER INSTITUTIONS. Sections 246.38, 246.39, 246.41, 246.42, and 246.43 also apply to the inmates at the ~~women's reformatory~~ Iowa correctional institution for women and the Iowa security and medical facility.

Sec. 55. Section 247A.9, Code 1983, is amended to read as follows:

247A.9 PAROLE NOT AFFECTED. ~~Nothing in this~~ This chapter shall be construed to does not affect eligibility for parole under chapter 247 906 or diminution of confinement of any inmate released under a work release plan.

Sec. 56. Section 249.2, Code 1983, is amended to read as follows:

249.2 AGREEMENT WITH FEDERAL AUTHORITY. The commissioner may enter into an agreement with the United States secretary of health, ~~education and welfare~~ human services for federal administration of a program of state supplementary assistance to prescribed categories of persons who are, or would be except for the amount of income they receive from other sources, receiving federal supplemental security income. The agreement may authorize the secretary to make such rules, in addition to and not in conflict with state laws and regulations, respecting eligibility for or the amount of state supplementary assistance paid under this section as ~~he~~ the secretary finds necessary to achieve efficient and effective administration of both the basic federal supplemental security income program and the state supplementary assistance program administered by the secretary under the agreement. The agreement shall provide for the state of Iowa to reimburse the federal government, from funds appropriated for that purpose, for state supplementary assistance paid by the federal government pursuant to the agreement.

Sec. 57. Section 249C.3, Code 1983, is amended to read as follows:

249C.3 WORK AND TRAINING PROGRAM. The commissioner shall establish a work and training program for persons and members of families receiving public assistance. ~~The employment security commission, the Iowa state employment department of job service, all county boards and departments of social welfare, and all state, county, and public educational agencies and institutions providing vocational rehabilitation, adult education, or vocational or technical training shall assist and co-operate in the program. They shall make agreements and arrangements for maximum co-operation and use of all available resources in the program. By mutual agreement the commissioner may delegate any of his~~ the commissioner's powers and duties under this chapter to the employment security commission or the Iowa state employment department of job service.

Sec. 58. Section 257.18, subsection 7, Code 1983, is amended to read as follows:

7. Provide the same educational supervision for the schools maintained by the ~~state board of control~~ commissioner of social services as is provided for the public schools of the state and make recommendations to the ~~board of control~~ commissioner of social services for the improvement of the educational program in ~~such those~~ institutions.

Sec. 59. Section 259.4, subsection 16, Code 1983, is amended to read as follows:

16. Enter into an agreement with the secretary of the United States department of health, ~~education and welfare~~ human services relating to the matter of making determinations of disability under Title II and Title XVI of the federal Social Security Act as amended (42 U.S.C. ch 7).

Sec. 60. Section 261.2, subsection 1, Code 1983, is amended to read as follows:

1. Prepare and administer a state plan for higher education facilities which shall be the state plan submitted to the ~~commissioner of education, federal department of health, education, and welfare, or any agency successor thereto~~ secretary of education, in connection with the participation of this state in programs authorized by the federal "Higher Education Facilities Act of 1963" (P.L. 88-204), (77 Stat. L. 363; 20 U.S.C. 701) together with any amendments thereto.

Sec. 61. Section 261.36, subsections 3 and 7, Code 1983, are amended to read as follows:

3. Make and execute agreements, contracts and other instruments with any public or private person or agency including the United States ~~commissioner~~ secretary of education.

7. Accept appropriations, gifts, grants, loans or other aid from public or private persons or agencies including the United States ~~commissioner~~ secretary of education.

Sec. 62. Section 261.37, subsection 4, Code 1983, is amended to read as follows:

4. To enter into all necessary agreements with the United States ~~commissioner~~ secretary of education as may be required for the purpose of receiving full benefit of the state program incentives offered pursuant to the Higher Education Act of 1965.

Sec. 63. Section 277.1, Code 1983, is amended to read as follows:

277.1 REGULAR ELECTION. The regular election shall be held annually on the second Tuesday in September in each school district for the election of officers of the district, and merged area, and county school system and for the purpose of submitting to the voters thereof any matter authorized by law.

Sec. 64. Section 281.3, subsection 9, Code 1983, is amended to read as follows:

9. To co-operate with existing agencies such as the state department of social welfare services, the state department of public health, the state school for the deaf, the Iowa braille and sight-saving school, the state tuberculosis sanatorium, the children's hospitals, or other agencies concerned with the welfare and health of children requiring special education in the coordination of their educational activities for such children.

Sec. 65. Section 303A.4, subsection 9, Code 1983, is amended to read as follows:

9. Encourage the implementation of the county library law, and of countywide library service through contracts with the boards of supervisors pursuant to chapter 378.

Sec. 66. Section 306.27, Code 1983, 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 any a road, or to cut off dangerous corners, turns or intersections on the highway, or to widen any a road above statutory width, or for the purpose of preventing the encroachment of a stream, watercourse or dry run upon such the highway. The department shall conduct its proceedings to accomplish the above in the manner and form prescribed in chapter 472, and the board of supervisors shall use the form prescribed in sections 306.28 to 306.37. All such changes shall be Changes are subject to the provisions of chapter 455A 455B.

Sec. 67. Section 307.3, unnumbered paragraph 2, Code 1983, is amended to read as follows:

The commission shall meet in July May of each year for the purpose of electing one of its members as chairperson.

Sec. 68. Section 321.194, Code 1983, is amended to read as follows:

321.194 MINORS' SCHOOL LICENSES. Upon certification of a special need by the school board or the superintendent of the applicant's school, the department may issue a restricted license to any a person between the ages of fourteen and eighteen years which. The license shall entitle the holder, while having the license in his or her immediate possession, to operate a motor vehicle during the hours of 6 a.m. to 9 p.m. over the most direct and accessible route between the licensee's residence and school of enrollment for the purpose of attending duly scheduled courses of instruction and extracurricular activities at such the school or at any time when accompanied by a parent or guardian, driver education instructor, or prospective driver education instructor who is a holder of a valid operator's or chauffeur's license, and who is actually occupying a seat beside the driver. The license shall expire on the licensee's

eighteenth birthday or upon issuance of a probationary operator's license or operator's license.

PARAGRAPH DIVIDED. Each application shall be accompanied by a statement from the school board or superintendent of the applicant's school. The statement shall be upon a form provided by the department. The school board or superintendent shall certify that a need exists for the license and that ~~they~~ the board and superintendent are not responsible for ~~any~~ actions of the applicant as it ~~pertains~~ which pertain to the use of the restricted license. The department of public instruction shall adopt rules pursuant to chapter 17A establishing criteria for issuing a statement of necessity. Upon receipt of a statement of necessity, the department shall issue a restricted license. The fact that the applicant resides at a distance less than one mile from ~~his or her~~ the applicant's school is prima-facie evidence of the nonexistence of necessity for the issuance of ~~such~~ a license.

PARAGRAPH DIVIDED. A license issued under this section is subject to suspension or revocation in like manner as any other license or permit issued under ~~any~~ a law of this state ~~and the~~. The department may also suspend ~~such~~ a license upon receiving satisfactory evidence that the licensee has violated the restrictions of the license or has been involved in one or more accidents chargeable to the licensee. The department may suspend ~~any~~ a license issued under this section upon receiving a record of the licensee's conviction for one violation and shall revoke the license upon receiving a record of conviction for two or more violations of ~~any~~ a law of this state or a city ordinance, other than parking regulations, regulating the operation of motor vehicles on highways ~~and after~~. After revoking a license under this section the department shall not grant application for ~~any~~ a new license or permit until the expiration of one year or until the licensee ~~attains his or her~~ licensee's sixteenth birthday whichever is the longer period.

Sec. 69. Section 321.309, unnumbered paragraph 3, Code 1983, is amended to read as follows:

The drawbar or towing arm between a motor vehicle pulling or towing another motor vehicle shall be of a type approved by the ~~commissioner~~ director, except in case of the temporary movement of a disabled vehicle in an emergency situation.

Sec. 70. Section 321.382, Code 1983, is amended to read as follows:

321.382 UPGRADE PULLS—MINIMUM SPEED. ~~No~~ A motor vehicle or combination of vehicles, which cannot proceed up a three percent grade, on dry concrete pavement, at a minimum speed of twenty miles per hour, shall ~~not~~ be operated; ~~after January 1, 1988~~, upon the highways of this state.

Sec. 71. Section 321.465, unnumbered paragraph 3, Code 1983, is amended to read as follows:

~~Any~~ A driver of a vehicle who fails or refuses to stop and submit the vehicle and load to a weighing, or who fails or refuses when directed by an officer upon a weighing of the vehicle to stop the vehicle and otherwise comply with the provisions of this section, shall be ~~is~~ guilty of a simple misdemeanor and punished as provided in section 321.482.

Sec. 72. Section 321.486, subsection 2, Code 1983, is amended to read as follows:

2. A valid credit card, as defined in section 537.1301, subsection 16, may be used and shall be is sufficient surety when the defendant is charged with ~~any~~ a scheduled offense under section ~~753.15~~ 805.8. The defendant may use a credit card for bail purposes only in accordance with rules of the department of public safety adopted pursuant to chapter 17A.

Sec. 73. Section 321.500, Code 1983, is amended to read as follows:

321.500 ORIGINAL NOTICE—FORM. The original notice of suit filed with the director of transportation against a nonresident shall be in form and substance the same as ~~now~~ provided in suits ~~against residents of this state~~, except that ~~that~~ part of said notice pertaining to the

return day shall be in substantially the following form, to wit:

"and unless you appear thereto and defend in the district court of Iowa in and for ~~any~~ county at the courthouse in ~~any~~, Iowa before noon of the sixtieth day following the filing of this notice with the director of transportation of this state, default will be entered and judgment rendered against you by the court." R.C.P. 381, form 2, Ia. Ct. Rules, 2nd ed.

Sec. 74. Section 321A.1, subsection 2, Code 1983, is amended to read as follows:

2. JUDGMENT. ~~Any~~ A judgment which shall have ~~has~~ become final by expiration without appeal during the time within which an appeal might have been perfected, or ~~any~~ a judgment if an appeal from ~~such~~ the judgment has been perfected, which has not been stayed by the execution, filing and approval of a bond as provided in rule ~~337~~ 7 (a) of the rules of civil appellate procedure, or ~~any~~ a judgment which shall have ~~has~~ become final by affirmation on appeal, rendered by a court of competent jurisdiction of ~~any~~ a state or of the United States, upon a cause of action arising out of the ownership, maintenance, or use of ~~any~~ a motor vehicle, for damages, including damages for care and loss of services, because of bodily injury to or death of ~~any~~ a person, or for damages because of injury to or destruction of property, including the loss of use ~~thereof~~ of property, or upon a cause of action on an agreement of settlement for such damages.

Sec. 75. Section 330.9, unnumbered paragraphs 1 and 2, Code 1983, are amended to read as follows:

Before an airport is acquired by ~~any~~ a city, or county, ~~or~~ township the plans and specifications ~~therefor~~ for it shall be submitted to the state department of transportation which shall require that they show:

~~The~~ the legal description and plat of the site, distance from the nearest post office and railroad station, location and type of highways, location and type of obstructions on and near the site, kind of soil and subsoil, costs and details of grading and draining, and location of proposed runways, hangars, buildings, and other structures.

Sec. 76. Section 331.382, subsection 1, paragraph e, Code 1983, is amended to read as follows:

e. Provision of preliminary diagnostic evaluation before admissions to state mental health institutes as provided in sections ~~225B.4 to 225B.7~~ 225C.14 through 225C.17.

Sec. 77. Section 331.502, subsections 19 and 22, Code 1983, are amended to read as follows:

19. Carry out duties relating to the hospitalization and support of mentally ill persons as provided in sections 229.42, 230.3, 230.11, 230.15, ~~and~~ 230.21, to 230.22, 230.25, and 230.26.

22. If the legal settlement of a poor person receiving financial assistance is in another county, notify the auditor of that county of the financial assistance as provided in section 252.22.

Sec. 78. Section 331.602, subsection 33, Code 1983, is amended to read as follows:

33. Record, ~~and~~ index, and send to the secretary of state instruments relating to limited partnerships as provided in section ~~545.2~~ sections 545.206 and 545.1106.

Sec. 79. Section 331.653, subsection 39, Code 1983, is amended to read as follows:

39. Notify the department of environmental quality water, air and waste management of hazardous conditions of which the sheriff is notified as provided in section 455B.386.

Sec. 80. Section 331.702, subsections 40, 85, and 138, Code 1983, are amended to read as follows:

40. If the board has adopted a resolution implementing a policy of preliminary diagnostic evaluations as provided in section ~~225B.5~~ sections 225C.14 and 225C.15, refer persons applying for voluntary admission to a community mental health center for a preliminary diagnostic evaluation as provided in section ~~225B.6~~ 225C.16.

85. Accept applications for and issue marriage licenses as provided in chapter 595 ~~or~~ 596.

138. Carry out duties relating to deferred judgments, probations, and restitution as provided in sections 907.4, and 907.8 and 907.12.

Sec. 81. Section 364.17, subsection 1, unnumbered paragraph 2, Code 1983, is amended by striking the unnumbered paragraph.

Sec. 82. Section 384.12, subsection 17, Code 1983, is amended by striking the subsection.

Sec. 83. Section 400.31, Code 1983, is amended to read as follows:

400.31 WATERWORKS EMPLOYEES. In cities where the board of waterworks trustees has adopted a resolution placing its employees under the provisions of this chapter as to civil service, the civil service commissioner appointed and commission acting under said this chapter shall have has charge and control of the civil service procedure as to such those employees and the provisions and procedure of this chapter shall apply in such cases applies.

Sec. 84. Section 411.5, subsection 1, paragraph c, Code 1983, is amended to read as follows:

c. ~~The two~~ three citizens appointed by the mayor shall serve on both of ~~said the~~ boards.

Sec. 85. Section 420.246, Code 1983, is amended to read as follows:

420.246 TAX AND DEED STATUTES APPLICABLE. Sections ~~445.2, 445.47 to 445.51, 446.3 to 446.6, 446.16, 446.32, 446.33, and 448.10 to 448.13~~ are hereby made applicable to cities acting under special charters, except that, where the word "treasurer" is used, there shall be used substituted the words "city collector or treasurer or deputy treasurer or deputy or officer authorized to collect city taxes"; and where the word "auditor" is used, there shall be substituted the words "city clerk or recorder".

Sec. 86. Section 422.5, unnumbered paragraph 7, Code 1983, is amended to read as follows:

Upon determination of the latest cumulative inflation factor, the director of revenue shall multiply each dollar amount set forth in subsections 1 to 13 of this section, and each dollar amount specified in this ~~paragraph section~~ as the maximum amount of annuities received which may be excluded in determining final taxable income, by this cumulative inflation factor, shall round off the resulting product to the nearest one dollar, and shall incorporate the result into the income tax forms and instructions for each tax year.

Sec. 87. Section 427.3, subsection 4, Code 1983, is amended to read as follows:

4. The property, not to exceed one thousand eight hundred fifty-two dollars in taxable value of any 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 ~~suppressions~~ 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, and as defined in section 35C.2. 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.

Sec. 88. Section 428.24, Code 1983, is amended to read as follows:

428.24 PUBLIC UTILITY PLANTS. The lands, buildings, machinery, and mains belonging to individuals or corporations operating waterworks or gasworks or pipelines; the lands, buildings, machinery, tracks, poles, and wires belonging to individuals, corporations or electric power agencies furnishing electric light or power; and the lands, buildings, machinery, poles, wires, overhead construction, tracks, cables, conduits, and fixtures belonging to individuals or corporations operating railways by cable or electricity, or operating elevated street railways; and the lands, buildings, tracks, and fixtures of street railways operated by animal power, shall be listed and assessed by the department of revenue. In the making of any such assessment assessments of waterworks plants, the value of any interest in the property ~~so~~ assessed, of the municipal corporation ~~wherein the same~~ where it is situated, shall be deducted, whether ~~such the~~ interest ~~be is~~ evidenced by stock, bonds, contracts, or otherwise.

Sec. 89. Section 442.31, unnumbered paragraph 4, Code 1983, is amended to read as follows:

The department of public instruction shall ~~promulgate~~ adopt rules under chapter 17A relating to the administration of sections 442.31 to 442.35, ~~and 442.40 to 442.42 and 442.41.~~ The rules shall prescribe the format of program plans submitted under section 442.32 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.

Sec. 90. Section 444.2, Code 1983, is amended to read as follows:

444.2 AMOUNTS CERTIFIED IN DOLLARS. When ~~any an~~ authorized tax rate within ~~any a~~ taxing district, including townships, school districts, cities and counties, ~~shall have has~~ been thus determined as provided by law, the officer or officers charged with the duty of certifying ~~said the~~ authorized rate to the county auditor or board of supervisors shall, before certifying the ~~same rate,~~ compute upon the adjusted taxable valuation of ~~such the~~ taxing district for the preceding fiscal year ~~(not including moneys and credits, and other moneyed capital taxed at a flat rate as provided in section 429.2),~~ the amount of tax ~~said the~~ rate will raise, stated in dollars, and shall certify ~~said the~~ computed amount in dollars and not by rate, to the county auditor and board of supervisors.

Sec. 91. Section 446.7, unnumbered paragraph 2, Code 1983, is amended to read as follows:

Property of municipal and political subdivisions of the state of Iowa and property held by a city or county agency or the Iowa housing finance authority for use in an Iowa homesteading project, shall not be offered or sold at tax sale and a tax sale of that property ~~shall be is~~ void from its inception. When delinquent taxes are owing against property owned or claimed by ~~any a~~ municipal or political subdivision of the state of Iowa, or property held by a city or county agency or the Iowa housing finance authority for use in an Iowa homesteading project, the treasurer shall give notice to the governing body of the agency, subdivision or authority which shall then pay the amount of the due and delinquent taxes from its general fund. If the governing body fails to pay the taxes, the board of supervisors shall abate the taxes as provided in chapters 332, 427 and 445 and section 569.8.

Sec. 92. Section 448.2, unnumbered paragraph 2, Code 1983, is amended to read as follows:

KNOW ALL MEN BY THESE PRESENTS, that the following described real estate, viz. property: (Here follows the description), situated in the county of . . . . and state of Iowa, was subject to taxation for the year (or years) A.D. . . . ., and the taxes assessed thereon for the year (or years) aforsaid stated remained due and unpaid at the date of the sale hereinafter named; and the treasurer of said the county, having on the . . . . day of . . . ., A.D. . . . ., by virtue of the authority in him vested by law in the treasurer, at (an adjournment of) the sale begun and publicly held on the first third Monday of June, A.D. . . . ., exposed to public sale at the office of the county treasurer in the county aforsaid named, in substantial conformity with all the requirements of the statute, the real property above described, for the payment of the taxes, interest and costs then due and remaining unpaid on said the property, and at

the that time and place aforesaid A . . . . B . . . . ., of the county of . . . . and state of . . . . ., having offered to pay the sum of . . . . dollars and . . . . cents, being the whole amount of taxes, interest and costs then due and remaining unpaid on said the property, for (here follows the description of the property sold) which was the least quantity bid for, and payment of said that sum having been was made by him that person to said the treasurer, the property was stricken off to him that person at that price; and the said A . . . . B . . . . did, on the . . . . day of . . . . ., A.D. . . . ., duly assign the certificate of the sale of the property as aforesaid and all his right, title and interest to said the property to E . . . . F . . . . of the county of . . . . . and state of . . . . .; and by the affidavit of . . . . ., filed in said the treasurer's office on the . . . . day of . . . . ., A.D. . . . ., it appears that notice has been given more than ninety days before the execution of these presents this deed to . . . . and . . . . of the expiration of the time of redemption allowed by law; and three years having have elapsed since the date of said the sale, and said the property having has not been redeemed therefrom:

Sec. 93. Section 455.57, Code 1983, is amended to read as follows:

455.57 LEVY-INTEREST. When the board has finally determined the matter of assessments of benefits and apportionment, it shall levy such the assessments as fixed by it upon the lands within such the district, but any an assessment on any a tract, parcel or lot within the district which is computed at less than two dollars shall be fixed at the sum of two dollars. All assessments shall be levied at that time as a tax and shall bear interest at not to exceed seven percent per annum the rate permitted by chapter 74A from that date, payable annually, except as hereinafter provided as to cash payments thereof within a specified time.

Sec. 94. Section 455B.387, subsection 2, Code 1983, is amended to read as follows:

2. The executive director may use any resources available under the hazardous condition contingency plan to provide for the removal of hazardous substances. If the executive director finds that public agencies cannot provide the necessary labor or equipment or if the executive director determines that emergency conditions exist, the executive director may contract with any a private person or agency for removal of the hazardous substance. In those cases where equipment or services are obtained from any a public or private person or agency under emergency conditions, section 455B.7 455B.105, subsection 5 shall 7 does not apply.

Sec. 95. Section 455B.441, Code 1983, is amended to read as follows:

455B.441 PURPOSE AND GUIDELINES. The purpose of this part is to protect the public health and the environment by providing a procedure for establishing appropriate sites and properly designed facilities for the treatment, storage and disposal of hazardous waste. It is the intent of the general assembly that in the implementation of this part the department of environmental quality water, air and waste management shall emphasize alternatives to land burial of hazardous waste whenever possible with emphasis on the following management methods in the following order: Source reduction, reuse, resource recovery, incineration, and detoxification.

Sec. 96. Section 455B.442, subsection 2, Code 1983, is amended to read as follows:

2. "Hazardous waste" means a hazardous waste as defined in section 455B.411, subsection 2 and listed by the environmental quality commission under section 455B.412, subsection 2.

Sec. 97. Section 455B.442, subsections 3 and 4, Code 1983, are amended by striking the subsections.

Sec. 98. Section 460.11, Code 1983, is amended to read as follows:

460.11 LAWS APPLICABLE. All proceedings for the construction and maintenance of highway drainage districts except as provided for in this chapter shall be as provided for in chapters 455 to, 457, 458, and 459.

Sec. 99. Section 462.20, Code 1983, is amended to read as follows:

462.20 LEVEE AND PUMPING STATION DISTRICTS. The presently acting de facto members of the boards of trustees of drainage or levee districts having pumping stations are hereby declared to be the legally constituted members of such boards; the terms of such present trustees shall expire on the fourth Saturday of January, 1958, 1959 and 1960 respectively and the length of the term of each present trustee shall be determined by lot at a meeting to be held on the third Saturday of August, 1957. Thereafter, in In levee and drainage districts having pumping stations trustees shall hold office until the fourth Saturday in January three years after election. At an election to be held on the third Saturday in January, 1958 and on On the third Saturday in January of each year thereafter a trustee shall be elected for a term of three years to succeed the member of the board whose term will expire on the following Saturday. At such the election there shall also be elected, if necessary, a trustee or trustees to fill any vacancy or vacancies which may have occurred before such the election.

Sec. 100. Section 462.21, Code 1983, is amended to read as follows:

462.21 DIVISION OF DISTRICTS UNDER TRUSTEES. In all districts already under trustee management, the board of trustees shall, prior to the election of trustees in the year 1925, divide the district for which they are trustees, into election districts, and at the election for that and each succeeding year, when When a trustee is to be elected, it shall be for a specified election district within such the district.

Sec. 101. Section 466.8, Code 1983, is amended to read as follows:

466.8 LAWS APPLICABLE. In the establishment and maintenance of levee and drainage districts in co-operation with the United States as in this chapter provided, all the proceedings for said purpose in the filing and the form and substance of the petition, assessment of damages, appointment of an engineer, his the engineer's surveys, plats, profiles, and report, notice of hearings, filing of claims and objections, hearings thereon, appointment of commissioners to classify lands, assess benefits, and apportion costs and expenses, report, notice and hearing thereon on the report, the appointment of a supervising engineer, his the engineer's duties, the letting of work and making contracts, payment for work, levy and collection of drainage or levee assessments and taxes, the issue of improvement certificates and drainage or levee bonds, the taking of appeals and the manner of trial thereof of appeals, and all other proceedings relating to such the district shall be as provided in chapters 455 to and 456 through 465 except as otherwise in this chapter provided.

Sec. 102. Section 467A.4, subsection 4, paragraph n, subparagraph (3), Code 1983, is amended to read as follows:

(3) A representative of the department of environmental quality water, air and waste management, designated by the executive director of that department.

Sec. 103. Section 467D.6, subsection 1, Code 1983, is amended to read as follows:

1. Exercise supervision over the water resources of the conservancy district, including water in any basin, watercourse, or other body of water in the conservancy district, and have authority to may adopt and repeal, with approval of the department, and enforce rules, except those rules relating to water resources under the authority of the department of environmental quality water, air and waste management, as necessary to achieve the objectives of this chapter as set forth in section 467D.1.

Sec. 104. Section 467D.16, unnumbered paragraph 1, Code 1983, is amended to read as follows:

The board shall prepare a plan for accomplishment of the objectives of this chapter within the conservancy district. For this purpose the board may request and shall obtain from any state agency or political subdivision information which the agency or subdivision has already collected which is pertinent to preparation of the plan, shall consult with soil conservation district commissioners, and may conduct hearings it deems necessary. The plan shall

establish an order of priorities for carrying out projects necessary to accomplish the objectives of this chapter, shall conform as nearly as practicable to the comprehensive ~~state-wide water resources~~ allocation plan established by the department of water, air and waste management pursuant to section 455B.263 and shall reflect the following general policies:

Sec. 105. Section 467D.17, Code 1983, is amended to read as follows:

467D.17 PLAN PRESENTED TO COMMITTEE, ~~COUNCIL~~ DEPARTMENT, AND SOIL CONSERVATION DISTRICTS. The board shall tentatively adopt the plan by resolution and shall present the plan to the committee and the ~~council~~ department for review. The ~~council~~ department shall within ninety days review the plan as presented and make recommendations ~~as, in its discretion,~~ it deems necessary to bring the conservancy district's plan into conformity with the comprehensive ~~statewide~~ water resources allocation plan established by the ~~council~~ department pursuant to section ~~455A.17~~ 455B.263. The recommendations of the ~~council~~ department shall be submitted to the board for incorporation into the plan. The plan shall then be submitted to the soil conservation districts located entirely or partially within the conservancy district. The soil conservation districts shall review, comment and record a vote within ninety days indicating their support of or opposition to the plan in the same manner provided in section 467D.5, subsection 1. The committee shall inform the soil conservation districts of the votes of the districts within the conservancy district. The committee shall review the plan as presented, give consideration to the comments and vote of the soil conservation districts, give final approval or disapproval of the plan within ninety days, and provide a written statement detailing the basis of ~~their~~ its decision.

A subsequent major change in the plan, as determined by the conservancy board, is not effective until approved by the process provided in this section for approval of the original plan.

Sec. 106. Section 491.1, Code 1983, is amended to read as follows:

491.1 WHO MAY INCORPORATE. Any number of persons may become incorporated under this chapter prior to July 1, 1971 for the transaction of any lawful business, but ~~such~~ the incorporation confers no power or privilege not possessed by natural persons, except as ~~hereinafter~~ provided in this chapter. All domestic corporations shall be organized under chapter 496A only, except for corporations which are to become subject to the provisions of one or more of the following chapters: 174, 176, ~~482~~, 499, 499A, 504A, 506, 508, 510, 512, 514, 515, 515A, 518, 518A, 519, 524, 533, and 534.

Sec. 107. Section 511.26, Code 1983, is amended to read as follows:

511.26 FEE STATUTE—APPLICABILITY. The provisions of the chapter on insurance other than life ~~shall~~ apply as to fees under this chapter and chapters 508 and 510, except as modified by ~~sections~~ section 511.24 and 511.25.

Sec. 108. Section 516A.1, unnumbered paragraph 2, Code 1983, is amended to read as follows:

However, the named insured ~~shall have the right to~~ may reject all of such coverage, or ~~to~~ reject the uninsured motor vehicle or hit-and-run motor vehicle coverage, or ~~to~~ reject the underinsured motor vehicle coverage, (~~such coverage~~) by written rejections signed by the named insured. If ~~such~~ rejection is made on a form or document furnished by an insurance company or insurance agent, it shall be on a separate sheet of paper which contains only ~~such~~ the rejection and information directly related ~~thereto~~ to it. Such coverage need not be provided in or supplemental to a renewal policy ~~where~~ if the named insured has rejected ~~such~~ the coverage in connection with a policy previously issued to ~~him~~ the named insured by the same insurer.

Sec. 109. Section 524.706, subsection 1, paragraph c, Code 1983, is amended to read as follows:

c. For the purposes of this subsection the term "executive officer" means every an officer of a state bank who participates or has authority to participate, otherwise than in the capacity of a director, in major policymaking functions of the bank, regardless of whether he the officer has an official title or whether his the officer's title contains a designation of assistant and regardless of whether he the officer is serving without salary or other compensation. The chairman chairperson of the board, the president, every vice president, the cashier, secretary, and treasurer of a state bank are assumed to be executive officers, unless, by resolution of the board of directors or by the bank's bylaws, but subject to contrary notice by the superintendent as provided for in section ~~524.704~~ 524.701, any such officer is excluded from participation in major policymaking functions, otherwise than in the capacity of a director of the bank, and he the officer does not actually participate therein.

Sec. 110. Section 534.75, subsection 5, Code 1983, is amended to read as follows:

5. For purposes of this section a "commercial loan" is a loan to a person borrowing money for a business or agricultural purpose. As used in this subsection, "agricultural purpose" means as defined in section 535.13; and "business purpose" includes but is not limited to a commercial, service or industrial enterprise carried on for profit, and any an investment activity. However "commercial loan" does not include a loan secured by an interest in real estate for the purpose of financing the acquisition of real estate or the construction of improvements on real estate. In determining which loans are "commercial loans" the rules of construction stated in section ~~535.10~~ 535.2, subsection 1 2, paragraph "f b", subparagraphs (1), (2), (3) and (4) shall apply.

Sec. 111. Section 534.83, subsection 7, Code 1983, is amended to read as follows:

7. COMPETITION PRESERVED. The subsequent liquidation of a bank or state association whose shares are required acquired under this section shall not prevent the subsequent incorporation of another bank in the same community, and the superintendent of banking shall not find the liquidation to be grounds for disapproving the incorporation of another bank in the same community under section 524.305, and shall not prevent the subsequent incorporation of another association in the same community, and the supervisor shall not find the liquidation to be grounds for disapproving the incorporation of another association in the same community under this chapter.

Sec. 112. Section 536B.8, subsection 3, Code 1983, is amended to read as follows:

3. If upon liquidation of a member the amount available in the guaranty guarantee fund is insufficient to pay up to ten thousand dollars for each thrift certificate obligation specified in section 536B.7, the auditor may make demand upon the guaranty corporation for advance payment of annual assessments to become due in such amounts as required to meet the deficiency, but not exceeding two times the maximum assessment that could have been levied on each member on the prior May 1 as the annual assessment if the net amount in the fund the preceding December 31 had been less than the greater of two million dollars or two percent of the total thrift certificates of all members. Any An amount prepaid by a member shall be credited against subsequent annual assessments, and the member shall pay the balance of the annual assessments thus due, if any, or shall be refunded any amount overpaid as a result of the advance assessment. At no time shall a A member shall not be required to be prepaid in excess of two years.

Sec. 113. Section 536B.14, subsection 3, Code 1983, is amended to read as follows:

3. Expenses of administration that exceed income from investments at the end of the fiscal year of the guarantee guaranty corporation shall be charged to members' accounts. Each member's account shall be charged ratably based on member account balances for the amount of the excess of expenses over income.

Sec. 114. Section 537.1301, unnumbered paragraph 1, Code 1983, is amended to read as follows:

As used in this Act chapter, unless otherwise required by the context:

Sec. 115. Section 537.7103, subsection 3, paragraph a, subparagraph (6), Code 1983, is amended to read as follows:

(6) Communicating with the debtor's employer once during any one-month period, if the purpose of the communication is to verify with an employer the fact of the debtor's employment and if the debt collector does not disclose, except as permitted in subparagraph (5), ~~any~~ information other than the fact that a debt exists. This subparagraph ~~shall~~ does not authorize a ~~debtor debt~~ collector to disclose to an employer the fact that a debt is in default.

Sec. 116. Section 566A.4, Code 1983, is amended to read as follows:

566A.4 APPLICATION TO PRIOR CEMETERIES. ~~Any such~~ An organization subject to the provisions of this chapter which was organized and engaged in business prior to the effective date of this chapter ~~shall be July 4, 1953 is~~ a perpetual care cemetery if it ~~shall~~ at all times subsequent to the effective that date of this chapter ~~comply~~ complies with the requirements of a perpetual care cemetery as set forth in section 566A.3.

Sec. 117. Section 566A.6, Code 1983, is amended to read as follows:

566A.6 PERPETUAL CARE CEMETERIES. ~~Any~~ A nonperpetual care cemetery after the effective date of this chapter July 4, 1953, may become a perpetual care cemetery by placing in the perpetual care trust fund twenty-five thousand dollars or five thousand dollars per acre of all property sold, whichever is the greater, and ~~shall comply by complying~~ with the ~~requirement~~ requirements for a perpetual care cemetery as provided in section 566A.3.

Sec. 118. Section 598.21, subsection 1, paragraph h, Code 1983, is amended to read as follows:

h. The amount and duration of an order granting support payments to either party pursuant to subsection 2 3 and whether the property division should be in lieu of such payments.

Sec. 119. Section 598A.3, subsection 1, unnumbered paragraph 1, Code 1983, is amended to read as follows:

A court of this state which is competent to decide child custody matters has jurisdiction to make a ~~child-custody~~ custody determination by initial or modification decree if:

Sec. 120. Section 598A.3, subsection 2, Code 1983, is amended to read as follows:

2. Except under paragraphs "c" and "d" of subsection 1, physical presence in this state of the child, or of the child and one of the contestants, is not alone sufficient to confer jurisdiction on a court of this state to make a ~~child-custody~~ custody determination.

Sec. 121. Section 609.33, Code 1983, is amended to read as follows:

609.33 CONTEMPT. If ~~any~~ a person ~~fail~~ fails to appear at ~~any~~ a regularly scheduled meeting date or when summoned, without sending a sufficient excuse, the court may issue an order requiring ~~him~~ the person to appear and show cause why ~~he~~ the person should not be punished for contempt, and unless ~~he~~ the person ~~renders~~ renders a sufficient excuse for ~~such~~ the failure ~~he~~ the person may be punished for contempt.

Sec. 122. Section 610.27, Code 1983, is amended to read as follows:

610.27 ORDER FOR APPEARANCE - NOTICE - SERVICE. If the court ~~deem~~ deems the accusation sufficient to justify further action, it shall cause an order to be entered requiring the accused to appear and answer in the court where the accusation ~~or charge~~ shall have ~~has~~ been filed on the day ~~therein~~ fixed in the order, and shall cause a copy of the accusation and order to be served upon ~~him~~ the accused personally.

Sec. 123. Section 617.3, unnumbered paragraphs 5 and 6, Code 1983, are amended to read as follows:

The original notice of suit filed with the secretary of state shall be in form and substance the same as provided in suits against residents of this state, except that that part of said notice pertaining to the return day shall be in substantially the following form, to wit:

"and unless you appear thereto and defend in the district court of Iowa in and for . . . . . county at the courthouse in . . . . ., Iowa within sixty days following the filing of this notice with the secretary of state of the state of Iowa, default will be entered and judgment rendered against you by the court." R.C.P. 381, form 3, Ia. Ct. Rules, 2nd ed.

Sec. 124. Section 631.2, subsection 2, Code 1983, is amended to read as follows:

2. The clerk of court shall maintain a separate docket for small claims which shall be known as the small claims docket, and which shall contain all matters relating to those small claims which are required by section 606.7 331.704 to be contained in a combination docket.

Sec. 125. Section 631.6, unnumbered paragraph 2, Code 1983, is amended to read as follows:

All fees and costs collected in small claims actions shall be remitted to the county treasurer as provided in section 606.16 331.705, subsection 4. The However, the fee specified in subsection 4 of this section shall be remitted to the secretary of state.

Sec. 126. Section 631.15, Code 1983, is amended to read as follows:

631.15 STANDARD FORMS. The supreme court shall prescribe standard forms of pleadings to be used in small claims actions. Standard forms promulgated by the supreme court shall be the exclusive forms used after December 31, 1975, but forms prepared in accordance with the law prior to July 1, 1974, may be used until December 31, 1975.

Sec. 127. Section 633.376, Code 1983, is amended to read as follows:

633.376 ALLOWANCE TO MINOR CHILDREN WHO DO NOT RESIDE WITH SURVIVING SPOUSE. The court may also make an allowance to a child of the decedent who is less than eighteen years of age or who is between the ages of eighteen and twenty-two years who is regularly attending an approved school in pursuance of a course of study leading to a high school diploma or its equivalent, or regularly attending a course of vocational technical training either as a part of a regular school program or under special arrangements adapted to the individual person's needs; or is, in good faith, a full-time student in a college, university, or area school; or has been accepted for admission to a college, university, or area school and the next regular term has not yet begun; or a child of any age who is dependent on the parties to the dissolution proceedings because of physical or mental disability; who does not reside with the surviving spouse, of such an amount as it deems reasonable in the light of the assets and condition of the estate, to provide for their the child's proper support during such the period of twelve months.

Sec. 128. Section 675.29, Code 1983, is amended to read as follows:

675.29 DESERTION STATUTE APPLICABLE. The provisions of chapter 731, sections 726.3 through 726.5 relating to desertion and abandonment of children, shall have the same force and effect in cases of illegitimacy where paternity has been judicially established, or has been acknowledged by the father in writing or by the furnishing of support, as in cases of children born in wedlock.

Sec. 129. Sections 135.81, 404.8, and 444.5, Code 1983, are repealed.

Approved May 9, 1983

**CHAPTER 102****COSTS FOR ABANDONED MOBILE HOMES***S.F. 371*

**AN ACT** relating to costs incurred for a mobile home space when the tenant abandons the mobile home.

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

Section 1. Section 562B.27, subsection 1, Code 1983, is amended to read as follows:

1. If a tenant abandons a mobile home on a mobile home space, the landlord shall notify the legal owner or lienholder of the mobile home ~~within ninety days~~ and communicate to that person ~~his or her liability that the person is liable~~ for any costs incurred for the mobile home space for such mobile home, including rent and utilities due and owing. ~~Any and all costs~~ 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 legal owner or lienholder of the mobile home. The mobile home may not be removed from the mobile home space without a signed written agreement from the landlord showing clearance for removal, showing that all moneys due and owing debts are paid in full, or an agreement reached with the legal owner and the landlord.

Approved May 9, 1983

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**CHAPTER 103****EXAMINATION OF AN ECONOMIC DEVELOPMENT CORPORATION***S.F. 387*

**AN ACT** relating to an examination by the superintendent of banking of the condition of an economic development corporation.

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

Section 1. Section 496B.16, Code 1983, is amended to read as follows:

496B.16 **REPORTS TO DEVELOPMENT COMMISSION.** Each development corporation shall be is subject to the examination of the commission and shall make reports of its condition not less than annually to the commission, ~~which in turn.~~ The commission shall make copies of such the reports available to the commissioner of insurance and the superintendent of banking, and each. Each development corporation shall also furnish ~~such other information as the commission may from time to time be required by the commission require.~~ The development commission may request the superintendent of banking to examine the condition of a development corporation and to submit a report on the examination to the commission and the commissioner of insurance.

Approved May 9, 1983

**CHAPTER 104****GRAIN DEALERS' AND WAREHOUSEMEN'S FINANCIAL STATEMENTS***S.F. 401*

**AN ACT** relating to the confidentiality of financial statements of grain dealers and warehousemen.

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

Section 1. Section 542.16, Code 1983, is amended by adding the following new subsection:  
**NEW SUBSECTION.** Where released at the request of the Iowa board of accountancy for licensee review and discipline in accordance with chapters 116 and 258A and subject to the confidentiality requirements of section 258A.6.

Sec. 2. Section 543.24, Code 1983, is amended by adding the following new subsection:  
**NEW SUBSECTION.** Where released at the request of the Iowa board of accountancy for licensee review and discipline in accordance with chapters 116 and 258A and subject to the confidentiality requirements of section 258A.6.

Approved May 9, 1983

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**CHAPTER 105****WORKERS' COMPENSATION***S.F. 423*

**AN ACT** relating to workers' compensation by modifying the intoxication defense, raising the interest rate on subrogation recoveries, providing that the statute of limitations does not run on certain medical benefits, transferring the authority to act as conservator of the second injury fund to the treasurer of state, and eliminating the industrial commissioner as a respondent in appeals from final agency action.

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

Section 1. Section 85.16, subsection 2, Code 1983, is amended to read as follows:

2. When By the employee's intoxication of the employee was the proximate cause of, which did not arise out of and in the course of employment but which was due to the effects of alcohol or another narcotic, depressant, stimulant, hallucinogenic, or hypnotic drug not prescribed by an authorized medical practitioner, if the intoxication was a substantial factor in causing the injury.

Sec. 2. Section 85.22, subsection 2, paragraph b, Code 1983, is amended to read as follows:

b. A sum sufficient to pay the employer the present worth, computed on a six percent basis at the interest rate provided in section 535.3 for court judgments and decrees, of the future payments of compensation for which he the employer is liable, but such the sum thus found shall is not be considered as a final adjudication of the future payments which the employee shall is entitled to receive and if the amount sum received by the employer, if any, is in excess of that the amount required to pay the compensation, the excess shall be paid to the employee.

Sec. 3. Section 85.26, subsection 2, Code 1983, is amended to read as follows:

2. Any An award for payments or an agreement for settlement provided by section 86.13 for benefits under the workers' compensation or occupational disease law or the Iowa occupational hearing loss Act (chapter 85, 85A, or 85B) may, where the amount has not been commuted, may be reviewed upon commencement of reopening proceedings by the employer or the employee within three years from the date of the last payment of weekly benefits made under such the award or agreement. Once If an award for payments or agreement for settlement as provided by section 86.13 for benefits under the workers' compensation or occupational disease law or the Iowa occupational hearing loss Act (chapter 85, 85A, or 85B) has been made where and the amount has not been commuted, or if a denial of liability is not filed with the industrial commissioner and notice of the denial is not mailed to the employee, on forms prescribed by the commissioner, within six months of the commencement of weekly compensation benefits, the commissioner may at any time upon proper application make a determination and appropriate order concerning the entitlement of an employee to benefits provided for in section 85.27. The failure to file a denial of liability does not constitute an admission of liability under this chapter or chapter 85A, 85B, or 86.

Sec. 4. Section 85.35, subsection 5, Code 1983, is amended to read as follows:

5. Intoxication of the employee, which did not arise out of and in the course of employment but which was due to the effects of alcohol or another narcotic, depressant, stimulant, hallucinogenic, or hypnotic drug not prescribed by an authorized medical practitioner, was the proximate cause of a substantial factor in causing the employee's injury.

Sec. 5. Section 85.66, Code 1983, is amended to read as follows:

85.66 SECOND INJURY FUND—PAYMENTS—CUSTODIAN. When the total amount of the payments provided for in the preceding section, together with accumulated interest and earnings, equals or exceeds five hundred thousand dollars no further contributions to the fund shall be required; but when, thereafter, the amount of the sum is reduced below three hundred thousand dollars by reason of payments made to employees pursuant to this division, contributions shall be resumed and shall continue until the sum, together with accumulated interest and earnings, again amounts to five hundred thousand dollars. The industrial commissioner shall adopt rules for the maintenance of the second injury fund and the making of contributions to the fund, and treasurer of state shall determine when contributions shall be made to the fund and when they shall be suspended; and the commissioner may enforce the rules and the collection of contributions.

Moneys so collected shall constitute a "Second Injury Fund", in the custody of the treasurer of state, to be disbursed only for the purposes stated in this division, and shall not at any time be appropriated or diverted to any other use or purpose. The treasurer of state shall invest any surplus moneys thereof of the fund in securities which constitute legal investments for state funds under the laws of this state, and may sell any of the securities in which said the fund is invested, if necessary, for the proper administration or in the best interests of said the fund. Disbursements from such the fund shall be paid by the treasurer of state only upon the written order of the industrial commissioner. The treasurer of state as custodian of such fund shall quarterly furnish to the industrial commissioner prepare a statement of the fund, setting forth the balance of moneys in said the fund, the income of the fund, specifying the source of all income, the payments out of the fund, specifying the various items of such payments, and setting forth the balance of the fund remaining to its credit. Such The

statement shall be open to public inspection in the office of the industrial commissioner treasurer of state.

Sec. 6. Section 85.67, Code 1983, is amended to read as follows:

85.67 ADMINISTRATION OF FUND—SPECIAL COUNSEL. The industrial commissioner treasurer of state shall be charged with the conservation of the assets of the second injury fund, and the collection of contributions thereto to the fund. In furtherance of this purpose, the The attorney general shall appoint a staff member of his staff to represent the industrial commissioner treasurer of state and the fund in all proceedings and matters arising under this division. In his making an award under this division, the industrial commissioner shall specifically find the amount the injured employee shall be paid weekly, the number of weeks of compensation which shall be paid by the employer, the date upon which payments out of the fund shall begin, and, if possible, the length of time such the payments shall continue. The industrial commissioner shall administer the provisions of this division in connection with and under the same procedure as other cases arising under this chapter.

Sec. 7. Section 85.68, Code 1983, is amended to read as follows:

85.68 ACTIONS. The industrial commissioner treasurer of state, on behalf of the second injury fund created under the provisions of this division, shall have a cause of action under the provisions of section 85.22 to the same extent as an employer against any person not in the same employment by reason of whose negligence or wrong the subsequent injury of such the previously disabled person was caused. Any such The action shall be brought by the industrial commissioner treasurer of state on behalf of said the fund, and any recovery, less the necessary and reasonable expenses incurred by the industrial commissioner treasurer of state, shall be paid to the treasurer of state and credited to said the fund.

Sec. 8. Section 86.29, Code 1983, is amended to read as follows:

86.29 THE JUDICIAL REVIEW PETITION. Notwithstanding the terms of the Iowa administrative procedure Act chapter 17A, in a petition for judicial review of a final agency decision in a contested case under any provision of the "Workers' Compensation Act" chapter 85, 85A, 85B, 86, or 87, the name of the opposing party shall precede the name of be named the respondent, and the agency shall not be named as a respondent.

Approved May 9, 1983

## CHAPTER 106

### ATTORNEY FEES IN MECHANIC'S LIEN ACTION

S.F. 459

AN ACT providing for reasonable attorney fees for a mechanic's lien action.

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

Section 1. NEW SECTION. 572.32 ATTORNEY FEES. In a court action to enforce a mechanic's lien, if the plaintiff furnished labor or materials directly to the defendant, the plaintiff, if successful, shall be awarded reasonable attorney fees.

Approved May 9, 1983

**CHAPTER 107**  
**COSTS IN CIVIL AND ADMINISTRATIVE ACTIONS**  
*S.F. 470*

**AN ACT** relating to the payment of costs in certain civil and administrative actions to which the state is a party.

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

Section 1. NEW SECTION. DEFINITIONS. As used in section 2 of this Act, unless the context otherwise requires:

1. "Fees and other expenses" include the reasonable attorney fees and reasonable expenses of expert witnesses plus court costs, but they do not include any portion of an attorney's fees or salary paid by a unit of local, state, or federal government for the attorney's services in the case.

2. "State" includes the state of Iowa, an agency of the state, or any official of the state acting in an official capacity.

Sec. 2. NEW SECTION. FINES—EXPENSES.

1. Unless otherwise provided by law, and if the prevailing party meets the eligibility requirements of subsection 2, the court in a civil action brought by the state or an action for judicial review brought against the state pursuant to chapter 17A other than for a rule-making decision, shall award fees and other expenses to the prevailing party unless the prevailing party is the state. However, the court shall not make an award under this section if it finds one of the following:

- a. The position of the state was supported by substantial evidence.
- b. The state's role in the case was primarily adjudicative.
- c. Special circumstances exist which would make the award unjust.
- d. The action arose from a proceeding in which the role of the state was to determine the eligibility or entitlement of an individual to a monetary benefit or its equivalent or to adjudicate a dispute or issue between private parties or to establish or fix a rate.
- e. The proceeding was brought by the state pursuant to titles 35 through 37.
- f. The proceeding involved eminent domain, foreclosure, collection of judgment debts, or was a proceeding in which the state was a nominal party.
- g. The proceeding involved the Iowa merit employment commission under chapter 19A.
- h. The proceeding is a tort claim.

2. To be eligible for an award of fees and other expenses under this section, the prevailing party shall be one of the following:

- a. A natural person.
- b. A sole proprietorship, partnership, corporation, association, or public or private organization, any of which meets the following criteria:

(1) Its average daily employment was twenty persons or less for the twelve months preceding the filing of the action.

(2) Its gross receipts for the twelve-month period preceding the filing of the action were one million dollars or less, or its average gross receipts for the three twelve-month periods preceding the filing of the action were two million dollars or less.

3. A party seeking an award for fees and other expenses under this section must file a claim for relief as a part of the civil action or as a part of the action for judicial review brought against the state pursuant to chapter 17A. If the amount sought includes an attorney's fees or fees for an expert, the application shall include an itemized statement for these fees indicating the actual time expended in representing the party and the rate at which the fees were computed. The party seeking relief must establish that the state's case was not supported by substantial evidence.

4. The court, in its discretion, may reduce the amount to be awarded pursuant to this section, or deny an award, to the extent that the prevailing party, during the course of the proceedings engaged in conduct which unduly and unreasonably protracted the final resolution of the matter in controversy.

5. An award pursuant to this section shall not personally obligate any officer or employee of this state for payment.

6. Fees and other expenses awarded under this section may be ordered in addition to any compensation awarded in a judgment. When awarding fees and other expenses against the state under this section, the court shall order the auditor of state to issue a warrant drawn on the state general fund for the amount of the award. The treasurer of state shall pay the warrant. However, if the court finds that an agency of state government, against which fees and other expenses are awarded for an action for judicial review of an agency proceeding under chapter 17A, has acted in bad faith in initiating an action deemed frivolous or without merit, then the agency shall make the payment ordered from the moneys appropriated to that agency.

7. Each agency that pays fees or other expenses for an action for judicial review of an agency proceeding under chapter 17A shall report annually to the chairs and ranking members of the appropriate appropriations subcommittees of the general assembly the amount of fees or other expenses paid during the preceding fiscal year by that agency. In its report the agency shall describe the number, nature, and amount of the awards, the claims involved in the action, and other relevant information which might aid the general assembly in evaluating the scope and impact of these awards.

Sec. 3. This Act applies only to legal and administrative agency proceedings initiated after the effective date of this Act.

Approved May 9, 1983

**CHAPTER 108**  
**SPECIAL LAND USE DISTRICTS**  
*S.F. 85*

**AN ACT** to authorize the creation of land use districts which encompass at least twenty thousand acres of predominately rural and agricultural land including at least seven unincorporated villages having the power to adopt and enforce zoning ordinances and levy a tax.

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

Section 1. **NEW SECTION. ELIGIBILITY AND PURPOSE.** A land use district shall not be created under this Act unless it is an area of contiguous territory encompassing twenty thousand acres or more of predominately rural and agricultural land owned by a single entity which has within its general boundaries at least seven platted villages which are not incorporated as municipalities at the time the district is organized. The eligible electors may create a land use district to conserve the distinctive historical and cultural character and peculiar suitability of the area for particular uses with a view to conserving the value of all existing and proposed structures and land and to preserve the quality of life of those citizens residing within the boundaries of the contiguous area by preserving its historical and cultural quality.

Sec. 2. **NEW SECTION. PETITION.** Ten percent or more of the qualified voters residing within the limits of a proposed land use district may file a petition in the office of the county auditor of the county in which the proposed land use district, or its major portion, is located, requesting that there be submitted to the qualified voters of the proposed district the question of whether the territory within the boundaries of the proposed district shall be organized as a land use district under this chapter. The petition shall be addressed to the board of supervisors of the county where it is filed and shall set forth the following:

1. An intelligible description of the boundaries of the territory to be embraced in the district.
2. The name of the proposed district.
3. That the territory to be embraced in the district has a distinctive historical and cultural character which might be preserved by the establishment of the district.
4. That the public welfare will be promoted by the establishment of the district.
5. The signatures of the petitioners.

Sec. 3. **NEW SECTION. JURISDICTION—DECISIONS—RECORDS.** The board of supervisors of the county in which the proposed land use district, or its major portion, is located has jurisdiction of the proceedings on the petition as provided in this Act and the decision of a majority of the members of that board is necessary for adoption. All orders of the board made under this Act shall be spread at length upon the records of the proceedings of the board of supervisors, but need not be published.

Sec. 4. **NEW SECTION. DATE AND NOTICE OF HEARING.** The board of supervisors to whom the petition is addressed, at its next regular, special, or adjourned meeting, shall set the time and place when it will meet for a hearing upon the petition, and direct the county auditor in whose office the petition is filed to cause notice to be given to all persons whom it

may concern, without naming them, of the pendency and prayer of the petition, by publication of a notice once each week for two consecutive weeks in some newspaper of general circulation published in the proposed district. The last publication shall not be less than twenty days prior to the date set for the hearing of the petition. If no such newspaper is published in the proposed district, then notice shall be by posting at least five copies of the notice in the proposed district at least twenty days before the hearing. Proof of giving notice shall be made by affidavit of the publisher or affidavit of the person who posted the notices, and the proof shall be on file with the county auditor at the time the hearing begins. The notice of hearing shall be directed to all persons it may concern, and shall state the following:

1. That a petition has been filed with the county auditor of that county for establishment of a proposed land use district and the name of the proposed district.
2. An intelligible description of the boundaries of the territory to be embraced in the district.
3. The date, hour, and place where the petition will come on for hearing before the board of supervisors of the named county.
4. That the board of supervisors will fix and determine the boundaries of the proposed district as described in the petition, and at the hearing all interested persons shall have an opportunity to be heard regarding the location and boundaries of the proposed district and to make suggestions regarding it.

Sec. 5. NEW SECTION. HEARING OF PETITION AND ORDER. The board of supervisors to whom the petition is addressed shall preside at the hearing provided for in section 4 of this Act and shall continue the hearing in session, with adjournments from day to day, if necessary, until completed, without being required to give any further notice of it. Proof of the residence and qualification of the petitioners as qualified voters shall be made by affidavit or otherwise as the board may direct. The board shall consider the boundaries of the proposed land use district, whether they shall be as described in the petition or otherwise, and for that purpose may alter and amend the petition and limit or change the boundaries of the proposed district as stated in the petition. The boundaries of a proposed district shall not be changed to include property not included in the original petition and published notice until the owner of that property is given notice as on the original hearing. All persons in the proposed district shall have an opportunity to be heard regarding the location and boundaries of the proposed district and to make suggestions regarding them. The board of supervisors, after hearing the statements, evidence, and suggestions made and offered at the hearing, shall enter an order fixing the boundaries of the proposed district and directing that an election be held for the purpose of submitting to the qualified voters residing within the boundaries of the proposed district the question of organization and establishment of the proposed land use district as determined by the board of supervisors. The order shall fix a date for the election not more than sixty days after the date of the order, establish voting precincts within the proposed district and define their boundaries, and specify the polling places which in the board's judgment will best serve the convenience of the voters, and shall appoint from residents of the proposed district three judges and two clerks of election for each voting precinct established.

Sec. 6. NEW SECTION. NOTICE OF ELECTION. In its order for the election the board of supervisors shall direct the county auditor to cause notice of the election to be given by posting at least five copies of the notice in public places in the proposed district at least twenty days before the date of election and by publication of the notice once each week for three consecutive weeks in some newspaper of general circulation published in the proposed district, or, if no such newspaper is published within the proposed district, then in such a newspaper published in the county in which the major part of the proposed district is located. The last publication is to be at least twenty days prior to the date of election. The notice shall state the

time and place of holding the election and the hours when the polls will be open and closed, the purpose of the election, with the name of the proposed district and a description of its boundaries, and shall set forth briefly the limits of each voting precinct and the location of the polling places. Proof of posting and publication shall be made in the manner provided in section 4 of this Act and filed with the county auditor.

Sec. 7. NEW SECTION. ELECTION. Each qualified voter residing within the proposed district may cast a ballot at the election and a person shall not vote in any precinct but that of the person's residence. Ballots at the election shall be in substantially the following form:

For Land Use District \_\_\_\_\_

Against Land Use District \_\_\_\_\_

The election shall be conducted in the manner provided by law for general elections and the ballots so cast shall be issued, received, returned, and canvassed in the same manner and by the same officers, in the county whose board of supervisors is vested with jurisdiction of the proceedings, as provided by law in the case of ballots cast for county officers, except as modified by this Act. The board of supervisors shall cause a statement of the result of the election to be spread upon the records of the county auditor. If a majority of the votes cast upon the question of incorporation of the proposed district is in favor of the proposed district, the proposed district becomes an organized district under this Act.

Sec. 8. NEW SECTION. EXPENSES AND COSTS OF ELECTION. All expenses incurred in carrying out sections 1 through 7 of this Act, including the costs of the election, as determined by the board of supervisors, shall be paid by the county whose board is vested with jurisdiction of the proceedings.

Sec. 9. NEW SECTION. ELECTION OF TRUSTEES—TERM OF OFFICE.

1. If the proposition to establish a land use district carries, a special election shall be called by the board of supervisors of the county which conducted the election to form the district. This special election shall be held within the newly created district at a single polling place designated by the county auditor not more than ninety days after the organization of the land use district. The election shall be held for the purpose of electing the initial seven members of the board of trustees of the land use district. The county auditor shall cause notice of the election to be posted and published, and shall perform all other acts with reference to the election, and conduct it in like manner, as nearly as may be, as provided in this Act for the election on the question of establishing the district. Each trustee must be a United States citizen not less than eighteen years of age and a resident of the district. Each qualified elector at the election may write in upon the ballot the names of not more than seven persons whom the elector desires for trustees and may cast not more than one vote for each of the seven persons. The seven persons receiving the highest number of votes cast shall constitute the first board of trustees of the district.

2. Following the initial special election, an annual election shall be held on the second Tuesday of each September at a single polling place within the district designated by the county auditor for the purpose of electing a trustee to replace a trustee whose term will expire. Notice of the election shall be posted by the county auditor at seven or more public places within the district at least two weeks prior to the date of the election. The county auditor shall perform all other acts with reference to the election and conduct it in like manner, as nearly as may be, as provided in this Act for the election on the question of establishing the district. Each qualified elector at the election may write upon the ballot the name of one person whom the elector desires as a trustee for each expiring term. The term of office for each trustee elected shall be three years.

3. Vacancies in the office of trustee of a land use district shall be filled by the remaining members of the board of trustees for the period extending to the second Tuesday in September at which time the qualified electors of the district shall elect a new trustee to fill the vacancy for the unexpired term. Expenses incurred in carrying out the annual elections of trustees shall be paid for by the land use district.

4. When the initial board of trustees is elected under this section the trustees shall be ranked in the order of votes received from highest to lowest. Any ties shall be resolved by a random method. The last ranked trustee shall receive an initial term expiring at the next annual election for trustees in September, the sixth and fifth ranked trustees receive an initial term expiring one year later, the fourth ranked trustee receives an initial term expiring two years after that election, the third and second ranked trustees receive initial terms expiring three years after that election, and the first ranked trustee shall receive an initial term expiring four years after that election.

Sec. 10. NEW SECTION. TRUSTEE'S BOND. Each trustee shall, before entering upon the duties of office, execute a bond payable to the district, with security to be approved by the board of supervisors which had jurisdiction of the petition for establishment of the district, in a form and amount as that board of supervisors may determine, and file the bond with the county auditor of that county.

Sec. 11. NEW SECTION. LAND USE DISTRICT TO BE A BODY CORPORATE. A land use district organized under this Act is a body corporate and politic, with the name and style under which it was organized, and by that name and style may sue and be sued, contract and be contracted with, acquire and hold real and personal property necessary for corporate purposes, adopt a corporate seal and alter it, and exercise all the powers conferred in this chapter.

The courts of this state shall take judicial notice of the existence of a land use district organized under this Act.

Sec. 12. NEW SECTION. BOARD OF TRUSTEES—POWERS.

1. The trustees elected under this Act constitute the board of trustees for the district, which is the corporate authority of the district, and shall exercise all the powers and manage and control all the affairs of the district. A majority of the board of trustees is a quorum, but a smaller number may adjourn from day to day. The board of trustees may elect a president, clerk, and a treasurer from their own number and, from without their own number, employees of the district. The compensation of members of the board of trustees is fixed not to exceed ten dollars per day, or any part of a day, for each day the board is actually in session and ten dollars per day when not in session but employed on board service, and twenty cents for every mile traveled in going to and from sessions of the board and in going to and from the place of performing board service. Members of the board shall not receive compensation for more than sixty days of session and board service each year.

2. The board of trustees shall formulate and administer a land use plan which includes all ordinances, resolutions, rules, and regulations necessary for the proper administration of the land use district. The land use plan shall be created for the primary purpose of regulating and restricting, where deemed necessary, the erection, construction, reconstruction, alteration, repair, or use of buildings, structures, or land in a manner which would maintain or enhance the distinctive historical and cultural character of the district. The ordinances, resolutions, rules, and regulations shall not apply to any tillable farmland, pastureland, timber pasture or forestland located within the district.

3. The board of trustees shall provide for the manner in which the land use plan shall be established and enforced and amended, supplemented, or changed. However, a plan shall not become effective until after a public hearing on it, at which parties in interest and citizens of the district shall have an opportunity to be heard. At least fifteen days notice of the time and place of the hearing shall be published in a newspaper of general circulation within the district giving the time, date, and location of the public hearing.

4. The board of trustees shall appoint an administrative officer authorized to enforce the resolutions or ordinances adopted by the board of trustees. The board of trustees may pay the administrative officer such compensation as it deems fit, not exceeding that authorized for the members of the board, from the funds of the district.

Sec. 13. NEW SECTION. CHANGES AND AMENDMENTS. The land use plan, once established, may be amended, supplemented, changed, modified, or repealed. In case, however, of a protest against a change signed by the owners of twenty percent or more either of the area included in the proposed change, or of the immediately adjacent area and within five hundred feet of the boundaries, the amendment shall not become effective except by the favorable vote of at least eighty percent of all of the members of the board of trustees.

Sec. 14. NEW SECTION. BOARD OF ADJUSTMENT. The board of trustees of the district shall provide for the appointment of a board of adjustment, shall provide that the board of adjustment may, in appropriate cases, and subject to appropriate conditions and safeguards, make special exceptions to the terms of the land use plan which are in harmony with its general purpose and intent and in accordance with the general or specific rules of the plan, and provide that a property owner aggrieved by the action of the board of trustees in the adoption of the land use plan may petition the board of adjustment directly to modify regulations and restrictions as applied to those property owners.

Sec. 15. NEW SECTION. MEMBERSHIP OF BOARD. The board of adjustment shall consist of five members, all of whom shall reside within the district, each to be appointed for a term of five years. For the initial board one member shall be appointed for a term of five years, one for a term of four years, one for a term of three years, one for a term of two years, and one for a term of one year. Members shall be removable for cause by the appointing authority upon written charges and after public hearing. Vacancies shall be filled for the unexpired term of a member whose term becomes vacant.

Sec. 16. NEW SECTION. RULES. The board of adjustment shall adopt rules in accordance with any regulation or ordinance adopted by the board of trustees pursuant to this Act. Meetings of the board of adjustment shall be held at the call of the chairperson and at other times as the board determines. The chairperson, or the acting chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating that fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record.

Sec. 17. NEW SECTION. APPEALS TO BOARD. Appeals to the board of adjustment may be taken by any person aggrieved or affected by the land use plan. The appeal shall be taken within a reasonable time, as provided by the rules of the board of adjustment, by filing with the board of adjustment a notice of appeal specifying the grounds of the appeal.

Sec. 18. NEW SECTION. POWERS OF BOARD. The board of adjustment may:

1. Hear and decide appeals where it is alleged there is error in an order, requirement, decision, or determination made by an administrative official in the enforcement of this Act or of any ordinance adopted pursuant to it.

2. Hear and decide special exceptions to the terms of the ordinance upon which the board is required to pass under the ordinance.

3. Authorize upon appeal, in specific cases, a variance from the terms of the land use plan which are not contrary to the public interest, where owing to special conditions a literal enforcement of the plan would result in unnecessary hardship, and so that the spirit of the plan shall be observed and substantial justice done.

Sec. 19. NEW SECTION. DECISION. In exercising its powers the board may, in conformity with this Act, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or

determination as ought to be made, and to that end shall have all the powers of the board of trustees from whom the appeal is taken.

Sec. 20. NEW SECTION. VOTE REQUIRED. The concurring vote of three members of the board is necessary to reverse an order, requirement, decision, or determination, or to decide in favor of the applicant on a matter upon which it is required to pass under an ordinance or to effect a variation in the land use plan.

Sec. 21. NEW SECTION. PETITION TO COURT. Any persons, jointly or severally, aggrieved by a decision of the board of adjustment under this Act, or any taxpayer, may present to a court of record a petition, duly verified, setting forth that the decision is illegal, in whole or in part, specifying the grounds of the illegality. The petition shall be presented to the court within thirty days after the filing of the decision in the office of the board.

Sec. 22. NEW SECTION. REVIEW BY COURT. Upon the presentation of a petition, the court may allow a writ of certiorari directed to the board of adjustment to review the decision of the board of adjustment prescribing the time within which a return must be made and served upon the relator's attorney, which shall not be less than ten days and may be extended by the court. The allowance of the writ does not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the board and on due cause shown, grant a restraining order.

Sec. 23. NEW SECTION. TRIAL TO COURT. If upon the hearing, which shall be tried de novo, it appears to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take evidence as it directs and report the evidence to the court with findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

Costs shall not be allowed against the board unless it appears to the court that it acted with gross negligence or in bad faith or with malice in making the decision appealed from.

Sec. 24. NEW SECTION. PRECEDENCE. All issues in any proceedings under sections 1 through 23 of this Act have preference over all other civil actions and proceedings.

Sec. 25. NEW SECTION. RESTRAINING ORDER. If a building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or a building, structure, or land is used in violation of this Act or of an ordinance or other regulation made under this Act, the board of trustees, in addition to other remedies, may institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use, to restrain, correct, or abate the violation, to prevent the occupancy of the building, structure, or land, or to prevent any illegal act, conduct, business, or use in, or about the premises.

Sec. 26. NEW SECTION. TAXES—POWER TO LEVY—TAX SALES. The board of trustees of a land use district organized under this Act may by ordinance levy annually for the purpose of paying the administrative costs of the district, a tax upon real property within the territorial limits of the land use district not exceeding twenty-seven cents per thousand dollars of the adjusted taxable valuation of the property for the preceding fiscal year. The tax shall not be levied on any tillable farmland, pastureland, timber pasture or forestland located within the district.

Taxes levied by the board shall be certified on or before the first day of March to the county auditor of each county where any of the property included within the territorial limits of the land use district is located, and shall be placed upon the tax list for the current year, and the county treasurer shall collect the taxes in the same manner as other taxes, and when delinquent they shall draw the same interest and penalties. All taxes so levied and collected shall be paid over to the treasurer of the district.

Sales for delinquent taxes owing to a land use district shall be made at the same time and in the same manner as sales are made for other taxes, and all provisions of the law of this state

relating to the sale of property for delinquent taxes are applicable, so far as may be, to such sales.

Sec. 27. **NEW SECTION. RECORDS AND DISBURSEMENTS.** The clerk of each land use district shall keep a record of all the proceedings and actions of the trustees. The treasurer shall receive, collect, and disburse all moneys belonging to the district, and no claim shall be paid or disbursement made until it has been duly audited by the board of trustees.

Sec. 28. **NEW SECTION. CONFLICT WITH OTHER REGULATIONS.** If the regulations made under this Act impose higher standards than are required in any other statute or local ordinance or regulation, the regulations made under this Act govern. If any other statute or local ordinance or regulation imposes higher standards than are required by the regulations made under authority of this Act, that statute or ordinance or regulation governs. If a regulation proposed or made under this Act relates to a structure, building, dam, obstruction, deposit, or excavation in or on the flood plains of a river or stream, prior approval of the department of water, air and waste management is required to establish, amend, supplement, change, or modify the regulation or to grant a variation or exception from it.

Sec. 29. Sections 1 through 28 of this Act are created as a new division of chapter 303.

Approved May 9, 1983

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## CHAPTER 109

### BANKHEAD-JONES FARM TENANT ACT FUNDS

*H.F. 557*

**AN ACT** relating to the use of the Bankhead-Jones Farm Tenant Act funds by the family farm development authority to insure or guarantee loans made to certain farmers.

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

Section 1. Section 175.30, Code 1983, is amended by adding the following new unnumbered paragraph:

**NEW UNNUMBERED PARAGRAPH.** Beginning with the effective date of this Act, the authority shall establish an insurance or guarantee loan program with those funds received pursuant to section 175.28 to the extent those funds were not committed under a program authorized by this chapter on the effective date of this Act. This program shall provide for the insuring or guaranteeing of seventy-five percent of the amount of an agricultural loan, not in excess of twenty-five thousand dollars, made to a beginning farmer to provide new operating moneys for farming purposes in this state. The authority shall insure or guarantee only one such loan of that farmer. The authority shall insure or guarantee a loan for only one year but with the option to extend the insurance or guarantee once for an additional year. The authority shall not insure or guarantee a loan where the ratio of the beginning farmer's liabilities, excluding the amount of the loan, to assets is greater than three to one. Provision shall be made in the insuring or guaranteeing of a loan that only those funds set aside for this program as provided in this paragraph shall be used for the payment of all or a portion of the loan insured

or guaranteed. Provision shall also be made which provides that the authority shall pay under its insurance or guarantee seventy-five percent of the actual amount of the default. A mortgage lender which seeks to have a loan of the lender insured or guaranteed under this program shall apply to the authority for the insurance or guarantee pursuant to rules established by the authority for this purpose. This program shall not obligate the state, authority, or other agency except to the extent provided in this paragraph. The authority shall define by rule what constitutes a loan made to provide new operating moneys which definition shall not include a loan made for acquisition of agricultural land or agricultural improvements, or the refinancing of an existing loan even if made for operating purposes.

Sec. 2. As soon as possible after June 30, 1983, the Iowa family farm development authority shall request the secretary of agriculture of the United States to amend the agreement between the authority and the secretary pursuant to section 175.29 to increase from three percent to five percent the maximum percentage of the trust assets covered by the agreement which may be used for administration expenses of the authority.

Sec. 3. Section 1 of this Act takes effect on the date that the agreement between the Iowa family farm development authority and the secretary of agriculture of the United States is amended for the reason specified in section 2 of this Act.

Approved May 10, 1983

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**CHAPTER 110**  
**COMMERCIAL FISHING AND FISH STOCKING**  
*H.F. 341*

**AN ACT** relating to the taking of fish for stocking and exchange.

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

Section 1. Section 109.16, Code 1983, is amended to read as follows:

109.16 **TAKING BY DIRECTOR FOR STOCKING AND EXCHANGE.** The director may take from any of the public waters of the state, at any time and in any manner, any fish for the purpose of propagating or restocking other waters, or exchanging with fish commissioners or wardens and wildlife agencies of other states, or the federal government, or private fish hatcheries.

Sec. 2. Section 109.107, unnumbered paragraph 4, Code 1983, is amended by striking the unnumbered paragraph.

Sec. 3. Section 109.113, Code 1983, is amended to read as follows:

109.113 **SIZE LIMITS.** It shall be lawful for any person to take or catch, with commercial fishing gear, any catfish not less than thirteen inches long. The conservation commission shall promulgate rules determining the size limit for any person to take or catch catfish with commercial fishing gear. However, a length limitation promulgated under this section does not prohibit the commission or director from lawfully taking catfish under section 109.16.

Approved May 10, 1983

**CHAPTER 111**  
**PROPERTY TAX CREDIT FOR DECEASED CLAIMANT**  
*H.F. 525*

**AN ACT** to authorize certain persons to file a claim for the property tax credit on behalf of a deceased homeowner.

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

Section 1. Section 425.18, Code 1983, is amended to read as follows:

425.18 **RIGHT TO FILE A CLAIM.** ~~The right to file a claim for credit under this division is personal to the claimant and does not survive the claimant's death, but the right may be exercised on behalf of a claimant by the claimant's legal guardian, spouse or attorney.~~ The right to file a claim for reimbursement or credit under this division may be exercised by the claimant or on behalf of a claimant by the claimant's legal guardian, spouse, or attorney, or by the executor or administrator of the claimant's estate. If a claimant dies after having filed a claim for reimbursement for rent constituting property taxes paid, the amount of the reimbursement may be paid to another member of the household as determined by the director. If the claimant was the only member of the household, the reimbursement may be paid to the claimant's executor or administrator, but if neither is appointed and qualified within one year from the date of the filing of the claim, the reimbursement shall escheat to the state. If a claimant dies after having filed a claim for credit for property taxes due, the amount of credit shall be paid as if the claimant had not died.

Sec. 2. Section 425.20, unnumbered paragraph 2, Code 1983, is amended to read as follows:

A claim for credit for property taxes due shall not be paid or allowed unless the claim is actually filed with the county treasurer between January 1 and July 1, both dates inclusive, immediately preceding the fiscal year during which the property taxes are due and, with the exception of a claim filed on behalf of a deceased claimant by the claimant's legal guardian, spouse, or attorney, or by the executor or administrator of the claimant's estate, contains an affidavit of the claimant's intent to occupy the homestead for six months or more during the fiscal year beginning in the calendar year in which the claim is filed. The county treasurer shall submit the claim to the director of revenue on or before August 1 of each year.

Sec. 3. Section 425.26, subsection 8, Code 1983, is amended to read as follows:

8. A statement that the property taxes due and used for purposes of this division have been or will be paid by the claimant, unless the claim is 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, and that there are no delinquent property taxes on the homestead.

Sec. 4. This Act takes effect January 1 following enactment.

Approved May 10, 1983

**CHAPTER 112**  
**SALES TAX PERMIT FEE**  
*H.F. 527*

**AN ACT** to remove the sales tax permit fee.

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

Section 1. Section 422.53, Code 1983, is amended to read as follows:  
422.53 PERMITS—APPLICATIONS FOR.

1. It shall be is unlawful for any person to engage in or transact business as a retailer within this state, unless a permit ~~or permits shall have has~~ been issued to him as hereinafter prescribed the retailer under this section, except as otherwise provided in subsection 7 6. Every person desiring to engage in or conduct business as a retailer within this state shall file with the department an application for a permit ~~or permits~~. Every application for such a permit shall be made upon a form prescribed by the director and shall set forth the name under which the applicant transacts or intends to transact business, the location of his the applicant's place or places of business, and ~~such any~~ other information as the director may require. The application shall be signed by the owner if a natural person; in the case of an association or partnership, by a member or partner thereof; in the case of a corporation, by an executive officer thereof or some person specifically authorized by the corporation to sign the application, to which shall be attached the written evidence of his the person's authority.

2. At the time of making such application, the applicant shall pay to the department a permit fee of one dollar for each permit, and ~~the~~ The applicant must have a permit for each place of business.

3. Upon the payment of the permit fee or fees herein required, ~~the~~ The department shall grant and issue to each applicant a permit for each place of business within the state. A permit is not assignable and shall be is valid only for the person in whose name it is issued and for the transaction of business at the place designated therein. It shall at all times be conspicuously displayed at the place for which issued.

4. Permits issued under the provisions of this division shall be are valid and effective without further payment of fees until revoked by the department.

5. ~~Whenever~~ If the holder of a permit fails to comply with any of the provisions of this division or any orders or rules of the department ~~prescribed and~~ adopted under this division, the director upon hearing after giving ten days' notice of the time and place of the hearing to show cause why the permit should not be revoked, may revoke the permit. The director shall ~~also have the power to~~ may restore permits after such revocation. The director shall ~~promulgate~~ adopt rules setting forth the period of time a retailer must wait before a permit may be restored or a new permit may be issued. The waiting period shall not exceed ninety days from the date of the revocation of the permit.

6. The department shall charge a fee of one dollar for the issuance of a permit to a retailer whose permit has been previously revoked.

7 6. Persons who are not regularly engaged in selling at retail and do not having have a permanent place of business, but who are temporarily engaged in selling from trucks, portable roadside stands, concessionaires at state, county, district or local fairs, carnivals and the like, shall report and remit the tax on a nonpermit basis, under such rules as the director shall provide for the efficient collection of the sales tax ~~on such sales~~.

§ 7. The provisions of subsection 1, dealing with lawful right of a retailer to transact business, according to the context, shall apply to persons having receipts from rendering, furnishing, or performing services enumerated in section 422.43, except that ~~no~~ a person holding a permit pursuant to subsection 1 shall not be required to obtain any separate sales tax permit for the purpose of engaging in business involving ~~such~~ the services.

Approved May 10, 1983

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**CHAPTER 113**  
**DISSEMINATION OF CRIMINAL HISTORY DATA**  
*S.F. 349*

**AN ACT** relating to the definition of "criminal justice agency" and the dissemination of criminal history data.

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

Section 1. Section 692.1, subsection 10, Code 1983, is amended to read as follows:

10. "Criminal justice agency" means ~~any~~ an agency or department of any level of government or an entity wholly owned, financed, or controlled by one or more such agencies or departments which performs as its principal function the apprehension, prosecution, adjudication, incarceration, or rehabilitation of criminal offenders.

Sec. 2. Section 692.2, subsection 1, Code 1983, is amended to read as follows:

1. The Except in cases in which members of the department are participating in an investigation or arrest, the department and bureau may provide copies or communicate information from criminal history data only to the following:

- a. Criminal justice agencies.
- b. Other public agencies as authorized by the confidential records council.
- c. The department of social services for the purposes of section 237.8, subsection 2 and section 237A.5.

Sec. 3. Section 692.2, Code 1983, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. In cases in which members of the department are participating in the investigation or arrest, or where officers of other criminal justice agencies participating in the investigation or arrest consent, the department may disseminate criminal history data and intelligence data when the dissemination complies with section 692.3.

Approved May 11, 1983

**CHAPTER 114****DISPOSAL OF RIGHTS OF WAY BY DEPARTMENT OF TRANSPORTATION***S.F. 145*

**AN ACT** requiring the state department of transportation to dispose of all right of way owned by the department and not needed for projects by July 1, 1992.

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

Section 1. 1981 Iowa Acts, Second Extraordinary Session, chapter 2, section 18, is amended to read as follows:

SEC. 18. It is the intent of the general assembly that not later than ~~January 1, 1985~~ July 1, 1992, the state department of transportation shall dispose of all right of way owned by the department and not needed for projects. In determining need, the department shall consider both its five-year program requirements and its long-range, statewide corridor development needs. In determining need based upon long-range, statewide corridor development, the department shall give careful consideration to economically depressed urban areas not served directly by the national system of interstate and defense highways.

Approved May 12, 1983

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**CHAPTER 115****PRACTICE OF VETERINARY MEDICINE***S.F. 444*

**AN ACT** relating to the practice of veterinary medicine.

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

Section 1. Chapter 169, Code 1983, is amended by adding the following new section:

**NEW SECTION.** A veterinarian may employ certified veterinary assistants for any purpose other than diagnosis, prescription or surgery. Veterinary assistants must act under the direct supervision of a licensed veterinarian.

The board shall issue certificates to veterinary assistants who have met the educational, experience and testing requirements as the board shall specify by rule. The certificate is not a license and does not expire. The certificate may be suspended or revoked, or any other disciplinary action may be taken as specified in section 258A.3, subsection 2. All disciplinary actions shall be taken pursuant to section 169.14.

Sec. 2. Section 169.3, Code 1983, is amended by adding the following new subsection:

**NEW SUBSECTION.** "Veterinary assistant" means an assistant employed by a licensed veterinarian as an animal technician and any other assistant the board designates by rule.

Sec. 3. Section 169.4, subsections 2 and 9, Code 1983, are amended to read as follows:

2. A person who is a veterinary student in an accredited or approved college of veterinary medicine from performing duties or actions assigned by instructors, or working under the direct supervision of a licensed veterinarian. The ~~secretary of agriculture~~ board shall issue to any veterinary medicine student who attends an accredited veterinary medicine college or school and who has been certified as being competent by an instructor of such college or school to perform veterinary duties under the direction of an instructor of veterinary medicine or under the direct supervision of a licensed veterinarian, a certificate authorizing the veterinary medicine student to perform such functions.

9. Any veterinary ~~lay~~ assistant employed by a licensed veterinarian from performing duties other than diagnosis, prescription, or surgery under the direct supervision of such veterinarian which assistant has been issued a certificate by the ~~secretary of agriculture~~ after a ~~proper showing of competency~~ board subject to section 1 of this Act.

Sec. 4. Section 169.5, subsections 1 and 7 and subsection 9, unnumbered paragraph 1 and paragraph h, Code 1983, are amended to read as follows:

1. ~~For the purpose of administering examinations to applicants for license to practice veterinary medicine and performing other duties, functions and responsibilities as outlined in this chapter, the~~ The governor shall appoint, subject to confirmation by the senate, a board of five individuals, three of whom shall be licensed veterinarians and two of whom shall not be licensed veterinarians, but shall be knowledgeable in the area of animal husbandry and who shall represent the general public. The representatives of the general public shall not prepare, grade or otherwise administer examinations to applicants for license to practice veterinary medicine. The board shall be known as the Iowa board of veterinary medicine. Each licensed veterinarian shall be actively engaged in veterinary medicine and shall have been so engaged for a period of five years immediately preceding appointment, the last two of which shall have been in Iowa. A member of the board shall not be employed by or have any material or financial interest in any wholesale or jobbing house dealing in supplies, equipment or instruments used or useful in the practice of veterinary medicine. The person designated as the state veterinarian shall serve as secretary of the board.

Professional associations or societies composed of licensed veterinarians may recommend the names of potential board members to the governor, but the governor is not bound by the recommendations.

7. At its annual meeting, the board shall organize by electing a president and such other officers as may be necessary. Officers of the board serve for terms of one year and until a successor is elected, without limitation on the number of terms an officer may serve. The president shall serve as chairperson of board meetings.

The duties of the ~~secretary~~ board shall include carrying on the correspondence of the board, keeping permanent accounts and records of all receipts and disbursements by the board and of all board proceedings, including the disposition of all applications for license, and keeping a register of all persons currently licensed by the board. All board records shall be open to public inspection during regular office hours.

At the end of each fiscal year, the president and secretary shall submit to the governor a report on the transactions of the board, including an account of moneys received and disbursed.

9. Upon a ~~two-thirds~~ three-fifths vote with the secretary of agriculture sitting as a voting board member for these purposes, the board may:

h. ~~Through the offices of the secretary of agriculture and the attorney general, bring~~ Bring proceedings in the courts for the enforcement of this chapter or any regulations made pursuant to this chapter.

Sec. 5. Section 169.8, unnumbered paragraph 3, Code 1983, is amended by striking the unnumbered paragraph.

Sec. 6. Section 169.8, unnumbered paragraph 6, Code 1983, is amended to read as follows:

When any person licensed to practice under this chapter changes residence, the ~~department of agriculture board~~ shall be notified within thirty days and such change shall be noted in the registry book.

Sec. 7. Section 169.9, unnumbered paragraph 3, Code 1983, is amended to read as follows:

After each examination, the ~~secretary board~~ shall notify each examinee of the examination result, and the board shall issue licenses to the individuals successfully completing the examination. The ~~secretary board~~ shall record the new licenses and issue a certificate of registration to the new licensees. Any individual failing an examination shall be admitted to any subsequent examination on payment of the application fee.

Sec. 8. Section 169.13, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

**169.13 DISCIPLINE OF LICENSEES.** The board of veterinary medicine, after due notice and hearing, may revoke or suspend a license to practice veterinary medicine if it determines that a veterinarian licensed to practice veterinary medicine is guilty of any of the following acts or offenses:

1. Knowingly making misleading, deceptive, untrue, or fraudulent representation in the practice of the profession.

2. Being convicted of a felony in the courts of this state or another state, territory, or country. Conviction as used in this paragraph includes a conviction of an offense which if committed in this state would be deemed a felony without regard to its designation elsewhere, or a criminal proceeding in which a finding or verdict of guilt is made or returned, but the adjudication or guilt is either withheld or not entered. A certified copy of the final order or judgment of conviction or plea of guilty in this state or in another state is conclusive evidence.

3. Violating a statute or law of this state, another state, or the United States, without regard to its designation as either felony or misdemeanor, which statute or law relates to the practice of veterinary medicine.

4. Having the person's license to practice veterinary medicine revoked or suspended, or having other disciplinary action taken by a licensing authority of another state, territory, or country. A certified copy of the record or order of suspension, revocation, or disciplinary action is conclusive or prima facie evidence.

5. Knowingly aiding, assisting, procuring, or advising a person to unlawfully practice veterinary medicine.

6. Being adjudged mentally incompetent by a court of competent jurisdiction. The adjudication shall automatically suspend a license for the duration of the license unless the board orders otherwise.

7. Being guilty of a willful or repeated departure from, or the failure to conform to, the minimal standard of acceptable and prevailing practice of veterinary medicine as defined in rules adopted by the board, in which proceeding actual injury to an animal need not be established; or the committing by a veterinarian of an act contrary to honesty, justice, or good morals, whether the act is committed in the course of the practice or otherwise, and whether committed within or without this state.

8. Inability to practice veterinary medicine with reasonable skill and safety by reason of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or other type of material or as a result of a mental or physical condition. The board, upon probable cause, may compel a veterinarian to submit to a mental or physical examination by designated physicians. Failure of a veterinarian to submit to an examination constitutes an admission to the allegations made against that veterinarian and the finding of fact and decision of the board may be entered without the taking of testimony or presentation of evidence. At reasonable intervals, a veterinarian shall be afforded an opportunity to demonstrate that the veterinarian can resume the competent practice of veterinary medicine with reasonable skill and safety to animals.

A person licensed to practice veterinary medicine who makes application for the renewal of the person's license as required by section 169.12 gives consent to submit to a mental or physical examination as provided by this paragraph when directed in writing by the board. All objections shall be waived as to the admissibility of the examining physician's testimony or examination reports on the grounds that they constitute privileged communication. The medical testimony or examination reports shall not be used against a veterinarian in another proceeding and are confidential except for other actions filed against a veterinarian to revoke or suspend that person's license.

9. Willful or repeated violation of lawful rules adopted by the board or violation of a lawful order of the board, previously entered by the board in a disciplinary hearing.

Sec. 9. Section 169.14, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

**169.14 PROCEEDINGS.** A proceeding for the revocation or suspension of a license to practice veterinary medicine or to discipline a person licensed to practice veterinary medicine shall be substantially in accord with the following:

1. The board, upon its own motion or upon verified complaint in writing, may issue an order fixing the time and place for hearing. A written notice of the time and place of the hearing, together with a statement of the charges, shall be served upon the licensee at least ten days before the hearing in the manner required for the service of notice of the commencement of an ordinary action.

2. If the licensee has left the state, the notice and statement of the charges shall be so served at least twenty days before the date of the hearing, wherever the licensee may be found. If the whereabouts of the licensee is unknown, service may be had by publication as provided in the rules of civil procedure upon filing the affidavit required by those rules. If the licensee fails to appear either in person or by counsel at the time and place designated in the notice, the board shall proceed with the hearing.

3. The hearing shall be before a member or members designated by the board or before a hearing officer appointed by the board. The presiding board member or hearing officer may issue subpoenas, administer oaths, and take or cause depositions to be taken in connection with the hearing. The member or officer shall issue subpoenas at the request and on behalf of the licensee.

4. A mechanized or stenographic record of the proceedings shall be kept. The licensee shall be given the opportunity to appear personally and by attorney, with the right to produce evidence in one's own behalf, to examine and cross-examine witnesses, and to examine documentary evidence produced against the licensee.

5. If a person refuses to obey a subpoena issued by the presiding member or hearing officer or to answer a proper question put to that person during the hearing, the presiding member or hearing officer may invoke the aid of a court of competent jurisdiction in requiring the attendance and testimony of that person and the production of papers. A failure to obey the order of the court may be punished by the court as a civil contempt may be punished.

6. Unless the hearing is before the entire board, a transcript of the proceeding, together with exhibits presented, shall be considered by the entire board at the earliest practicable time. The licensee and attorney shall be given the opportunity to appear personally to present the licensee's position and arguments to the board. The board shall determine the charge upon the merits on the basis of the evidence in the record before it.

7. Upon three members of the board voting in favor of finding the licensee guilty of an act or offense specified in section 169.13, the board shall prepare written findings of fact and its decision imposing one or more of the following disciplinary measures:

a. Suspend the license to practice veterinary medicine for a period to be determined by the board.

b. Revoke the license to practice veterinary medicine.

c. Suspend imposition of judgment and penalty or impose the judgment and penalty, but suspend enforcement and place the veterinarian on probation. The probation ordered may be vacated upon noncompliance. The board may restore and reissue a license to practice veterinary medicine, and may impose a disciplinary or corrective measure which it might originally have imposed.

8. Judicial review of the board's action may be sought in accordance with the terms of chapter 17A.

9. The filing of a petition for review does not in itself stay execution or enforcement of board action. Upon application, the board or the review court, in appropriate cases, may order a stay pending the outcome of the review proceedings.

Sec. 10. Section 169.15, Code 1983, is amended to read as follows:

169.15 APPEAL. Any party aggrieved by a decision of the board may appeal the matter to the district court ~~within thirty days after receipt of notice of the board's final determination as provided in section 17A.19. Appeals shall be taken by filing the action with the court and serving upon the secretary of the board written notice of the appeal, stating the grounds thereof. The attorney general shall represent the board and the secretary of agriculture in any such court proceedings.~~

Sec. 11. Section 169.16, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

169.16 REINSTATEMENT. A person whose license is suspended or revoked may be relicensed or reinstated at any time by a vote of five members of the board after written application made to the board showing cause justifying relicensing or reinstatement. Examination of the applicant may be waived by the board.

Sec. 12. Section 169.19, subsection 3, Code 1983, is amended to read as follows:

3. The county attorney of the county in which any violation of this chapter occurs shall conduct the necessary prosecution for such violation. Notwithstanding this provision, the board of veterinary medicine ~~or the secretary of agriculture~~, or any citizen of this state may bring an action to enjoin any person from practicing veterinary medicine without a currently valid license or temporary permit. The action brought to restrain a person from engaging in the practice of veterinary medicine without possessing a license shall be brought in the name of the state of Iowa. If the court finds that the individual is violating or threatening to violate this chapter it shall enter an injunction restraining the individual from such unlawful acts.

Approved May 12, 1983

**CHAPTER 116****MOVEMENT OF CERTAIN VEHICLES AND LOADS***S.F. 452*

**AN ACT** relating to certain vehicles, which deletes the requirement that a person transporting a mobile home provide a copy of a tax clearance statement to the state department of transportation, provides for an increase in the permit fees charged vehicles of excessive size and weight, increases the suspension period for violators, requires certain vehicles to carry a warning device, eliminates the length restriction of seventy feet for Iowa manufactured vehicles, and permits the department of transportation to require an escort for over-dimensional vehicles.

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

Section 1. Section 321.21, subsection 1, Code 1983, is amended to read as follows:

1. A person owning any special mobile equipment may make application to the department, upon the appropriate form furnished by the department, for a certificate containing a general distinguishing number and for one or more special mobile equipment plates. The applicant shall also submit proof of the status of the vehicle as special mobile equipment as may reasonably be required by the department. ~~If the application is for a mobile home, one copy of the tax clearance form issued to the owner of the mobile home must be submitted by the person transporting the mobile home or other evidence of current taxes being paid as prescribed by the department.~~

Sec. 2. Acts of the Seventieth General Assembly, 1983 Session, Senate File 207, section 6, subsection 1, amending section 321.457, Code 1983, is amended to read as follows:

1. A combination of four vehicles is not allowed on the highways of this state, except for power units saddle mounted on other power units which shall be restricted to a maximum overall length of sixty-five feet.

Sec. 3. Section 321E.1, Code 1983, is amended to read as follows:

321E.1 PERMITS BY DEPARTMENT. The department and local authorities may in their discretion and upon application and with good cause being shown ~~therefor~~ issue permits for the movement of construction machinery being temporarily moved on streets, roads or highways and for vehicles with indivisible loads ~~carried thereon~~ which exceed the maximum dimensions and weights specified in sections 321.452 to 321.466, but not to exceed the limitations imposed in sections 321E.1 to 321E.15 except as provided in sections 321E.29 and 321E.30. Vehicles permitted to transport indivisible loads may exceed the width and length limitations specified in sections 321.454 and 321.457 for the purpose of picking up an indivisible load or returning from delivery of the indivisible load. ~~Permits so issued may be single-trip permits or annual permits. All permits~~ Permits shall be in writing and shall be carried in the cab of the vehicle for which the permit has been issued and shall be available for inspection at all times. The vehicle and load for which the permit has been issued shall be open to inspection by any a peace officer or ~~to any~~ an authorized agent of any a permit granting authority. When in the judgment of the issuing local authority in cities and counties the movement of a vehicle with an indivisible load or construction machinery which exceeds the maximum dimensions and weights will be unduly hazardous to public safety or will cause undue

damage to streets, avenues, boulevards, thoroughfares, highways, curbs, sidewalks, trees, or other public or private property, the permit shall be denied and the reasons ~~therefor~~ for denial endorsed upon the application. Permits issued by local authorities shall designate the days when and routes upon which loads and construction machinery may be moved within the county on other than primary roads.

Sec. 4. Section 321E.7, Code 1983, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Trailers registered in the state as of March 31, 1983 for the 1983 registration year used exclusively in the transportation of soil conservation equipment are not subject to the requirements for distance in feet between the extremes of any group of axles or the extreme axles of the vehicle or combination of vehicles as are required under section 321.463, except on the interstate road system as defined in section 306.3, subsection 3.

Sec. 5. Section 321E.10, unnumbered paragraph 1, Code 1983, is amended to read as follows:

The department or local authorities may ~~in their discretion and~~ upon application issue annual trip permits for the movement of truck trailers manufactured or assembled in this state that exceed the maximum length specified in section 321.457 and the maximum width specified in section 321.454. Movement of ~~such the~~ truck trailers shall be solely for the purpose of delivery or transfer from the point of manufacture or assembly to another point of manufacture or assembly within the state or to a point outside the state, shall be only on roadways of twenty-four feet or more in width or on four-lane highways, shall be on the most direct route necessary for such movement, and shall display the special plates designated in section 321.57. All truck trailers under permit for such movement shall ~~not~~ contain ~~no~~ freight or additional load. ~~All truck~~ Truck trailers under permit for ~~such~~ movement shall be at a speed not to exceed forty-five miles an hour or the established speed limit whichever is lower. ~~No A~~ vehicle or combination of two or more vehicles inclusive of front and rear bumpers, including towing units, involved in the movement of truck trailers shall ~~not exceed seventy feet in length and~~ an overall width of ten feet. ~~All such vehicles~~ Vehicles or combinations shall be distinctly marked on both the front and rear of the unit in ~~such a manner as~~ the director of transportation shall ~~designate~~ designates to indicate that the vehicles or combinations are being moved for delivery or transfer purposes only.

Sec. 6. Section 321E.14, Code 1983, is amended to read as follows:

321E.14 FEES FOR PERMITS. The department or local authorities issuing the permits shall charge a fee of ~~ten~~ twenty-five dollars for an annual permit and a fee of ~~five ten~~ ten dollars for a single-trip permit and shall determine charges for special permits issued pursuant to section 321E.29 by rules adopted pursuant to chapter 17A. Fees for the movement of buildings, parts of buildings, or unusual vehicles or loads may be increased to cover the costs of inspections by the issuing authority. A fee not to exceed ~~eighty one~~ eighty one hundred dollars per ten-hour day or a prorated fraction ~~thereof of that fee per person and car~~ for escort service may be charged when requested or when required under this chapter. Proration of escort fees between state and local authorities when more than one governmental authority provides or is required to provide escort for a movement during the period of a day shall be determined by rule under section 321E.15. The department and local authorities may charge ~~any a~~ permit applicant for the cost of trimming trees and removal and replacement of natural obstructions or official signs and signals or other public or private property required to be removed during the movement of a vehicle and load. In addition to the fees provided in this section, the annual fee for a permit for special mobile equipment, as defined in section 321.1, subsection 17, operated pursuant to section 321E.7, subsection 2, with a combined gross weight up to and including eighty thousand pounds shall be twenty-five dollars and for a combined gross weight exceeding eighty thousand pounds, fifty dollars.

In addition to the fees provided in this section, the annual fee for a permit for a trailer transporting soil conservation equipment operated under section 321E.7, subsection 3, shall be one hundred dollars.

Sec. 7. Section 321E.16, Code 1983, is amended to read as follows:

321E.16 VIOLATIONS – PENALTIES. A person shall not commit any act forbidden or fail to perform any act required by the provisions of this chapter or any provision of rules adopted pursuant to section 321E.15. Any person who is convicted of a violation of any provision of this chapter or of rules adopted under section 321E.15, other than length, height, width, or weight of allowed by any permit issued under this chapter shall be punished by a fine of not less than one hundred dollars for the first conviction, ~~nor more than five two hundred fifty~~ dollars for a second conviction within a twelve month period, and five hundred dollars for a third conviction within a twelve month period. The fine for violation of the length, height, width, and weight allowed by permit shall be based upon the difference between the actual length, height, width, and weight of the vehicle and load and the maximum allowable by permit and in accordance with section 321.482 for violations of length, height, or width limitations and sections 321.482 and 321.463 for violation of weight limitations. If a vehicle with indivisible load traveling under permit is found to be in violation of weight limitations, the vehicle operator shall be allowed a reasonable amount of time to remove any ice, mud, snow, and other weight attributable to climatic conditions accumulated along the route prior to application of the penalties prescribed in sections 321.463 and 321.482. The department shall adopt rules to require peace officer escorts for permit holders convicted for the third time in a twelve month period of violating a provision of this chapter or a provision of rules adopted pursuant to section 321E.15.

Sec. 8. Section 321E.19, Code 1983, is amended to read as follows:

321E.19 PERMIT SUSPENDED, CHANGED OR REVOKED. Upon complaint by local authorities or on the department's own initiative and after notice and hearing before one or more members of the permit issuing body, any permit issued privileges under this chapter may be suspended, changed, or revoked in whole or in part by the issuing authority for willful failure to comply with any provisions of this chapter or with any rule or regulation adopted under authority of this chapter or with any term, condition, or limitation of the permit.

Sec. 9. Section 321E.20, Code 1983, is amended to read as follows:

321E.20 SUSPENSION PERIOD. Whenever the issuing authority ~~shall find~~ finds from the evidence adduced at ~~such~~ hearing that a permit holder has willfully operated or caused to be operated a vehicle or vehicles in violation of this chapter, the authority may enter an order suspending, modifying, or revoking the permit in whole or in part at its discretion for a period ~~of not more than ninety to exceed one hundred eighty days.~~ of not more than ninety to exceed one hundred eighty days. If the issuing authority finds in a subsequent proceeding within twelve months from the date of the initial suspension, modification, or revocation that a permit holder has again willfully operated in violation of this chapter, the issuing authority shall order suspension, modification, or revocation of the permit privileges in whole or in part for a period not to exceed ~~one year~~ two years.

Sec. 10. Section 321E.24, Code 1983, is amended to read as follows:

321E.24 WARNING DEVICE ON LONG LOADS. Any vehicle and load which, including load, exceeds the exceed the limits provided in section 321.457 and in excess of a length of seventy-five feet shall carry a warning device clearly visible to a motorist approaching from the rear for a distance of five hundred feet.

Approved May 12, 1983

**CHAPTER 117**  
**LIABILITY OF DOG OWNERS**  
*S.F. 477*

**AN ACT** relating to the liability of dog owners.

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

Section 1. Section 351.28, Code 1983, is amended to read as follows:

351.28 **LIABILITY FOR DAMAGES.** The owner of any a dog, whether licensed or unlicensed, shall be liable to the an injured party injured for all damages done by said the dog, when the dog is caught in the action of worrying, maiming, or killing a domestic animal, or the dog is attacking or attempting to bite a person, except when the party damaged is doing an unlawful act, directly contributing to said the injury. This section shall does not apply to any damage done by a dog affected with hydrophobia unless the owner of such the dog had reasonable grounds to know that such the dog was afflicted with said malady, hydrophobia and by reasonable effort might have prevented the injury.

Approved May 12, 1983

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**CHAPTER 118**  
**COURT JOURNAL PUBLICATION FEE**  
*S.F. 481*

**AN ACT** relating to the court fees charged and collected as the journal publication fee.

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

Section 1. Section 331.705, subsection 1, paragraph a, Code 1983, is amended to read as follows:

a. For filing a petition, appeal, or writ of error and docketing them, twenty-five dollars. Four dollars of the fee shall remain in the county treasury for the use of the county and twenty-one dollars of the fee shall be paid into the state treasury. One dollar shall be deposited in the judicial retirement fund created in section 605A.4 to be used to pay retirement benefits of the judicial retirement system. The remainder of the fee shall be deposited in the general fund of the state. In counties having a population of one hundred thousand or over, an additional ~~one dollar~~ five dollars shall be charged and collected, to be known as the journal publication fee and used for the purposes provided for in section 618.13.

Approved May 12, 1983

**CHAPTER 119**  
**COMPUTER SELECTION OF PETIT JURORS**  
*S.F. 492*

**AN ACT** relating to the method of selecting petit jurors.

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

Section 1. Section 609.24, Code 1983, is amended to read as follows:  
609.24 DETAILS OF DRAWING.

1. ~~The~~ At the time of the drawing the appropriate box shall, at the time of the drawing, be first thoroughly shaken in the presence of the commissioners attending the drawing, and ~~thereupon.~~ Next the seal on the opening of the box shall be broken, likewise in the presence of the commissioners. One of ~~said~~ the commissioners shall then, without looking at the ballots, successively draw the required number of names from the box, and successively pass ~~said~~ the ballots to one of the other commissioners, who shall open ~~said~~ the ballots as they are drawn, and read aloud the names ~~thereon~~ on the ballots, and enter ~~said~~ the names in writing on an appropriate list.

2. Instead of the method provided in subsection 1 for the drawing of ballots, a computer selection process may be used.

Approved May 12, 1983

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**CHAPTER 120**  
**SUBROGATION CLAIM FOR MEDICAL ASSISTANCE**  
*S.F. 498*

**AN ACT** relating to the liability for a subrogation claim for medical care or expenses through a medical assistance program.

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

Section 1. Section 249A.6, Code 1983, subsections 1, 2, 3, and 5 are amended to read as follows:

1. When payment is made by the department for medical care or expenses through the medical assistance program on behalf of any a recipient, the department shall be is subrogated, to the extent of those payments, to all monetary claims which the recipient may have against third parties as a result of the medical care or expenses received or incurred. No A compromise, including but not limited to a settlement, waiver or release, of any a claim to

which the department is subrogated under this section ~~shall~~ does not defeat the department's right of recovery except pursuant to the written agreement of the commissioner or the commissioner's designee or except as provided in this section.

2. The department shall be given notice of monetary claims against third parties as follows:

a. Applicants for medical assistance shall notify the department of any possible claims against third parties upon submitting the application. Recipients of medical assistance shall notify the department of any possible claims when those claims arise.

b. Any A person who provides health care services to a person receiving assistance through the medical assistance program shall notify the department whenever the person has reason to believe that third parties may be liable for payment of the costs of those health care services.

c. Any An attorney representing an applicant for or recipient of assistance on a claim to which the department is subrogated under this section shall notify the department of the claim of which the attorney has actual knowledge, prior to filing any a claim, commencing any an action or negotiating any a settlement offer.

The mailing and deposit in a United States post office or public mailing box of the notice, addressed to the department at its state or district office location, is adequate legal notice of the claim.

3. The subrogation rights of the department ~~shall be~~ are valid and binding on an attorney, insurer, or other third party only upon notice by the department or unless the insurer or third party has actual notice that the recipient is receiving medical assistance from the department and only to the extent to which ~~such the~~ the attorney, insurer, or third party has not made payment to the recipient or an assignee of the recipient prior to ~~such the~~ the notice. Payment of benefits by an insurer or third party pursuant to the subrogation rights ~~hereunder shall discharge such of this section discharges the attorney~~, insurer, or third party from liability to the recipient or the recipient's assignee to the extent of ~~such the~~ the payment to the department.

5. For purposes of this section the term "third party" includes any an attorney, individual, institution, corporation, or public or private agency which is or may be liable to pay part or all of the medical costs incurred as a result of injury, disease or disability by or on behalf of an applicant for or recipient of assistance under the medical assistance program.

Approved May 12, 1983

**CHAPTER 121**  
**PRESERVATION OF RAIL CORRIDORS**  
*S.F. 499*

**AN ACT** providing for the preservation of rail corridors for future rail use upon abandonment of the rail corridors.

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

Section 1. Section 307B.7, Code 1983, is amended by adding the following new subsection:  
**NEW SUBSECTION. 25.** Acquire property interests subject to the limitations on purchases provided in section 307B.7, subsection 5, in rail lines to ensure continued rail use and preserve abandoned rail lines for future railroad use.

Sec. 2. **NEW SECTION. 307B.24 ACQUISITION OF ABANDONED RIGHT-OF-WAY.** A railway corporation which has received authorization to abandon a rail line must offer the line to the authority for sale prior to removing the track materials. The corporation shall state a reasonable price for:

1. The corporation's right, title, and interest in the right-of-way, track materials, and rail facilities.
2. An exclusive, transferable, five-year option to purchase all of the corporation's right, title, and interest in the right-of-way, track materials, and rail facilities.

The authority may waive the requirements of this section.

The authority shall have thirty days in which to accept or decline the corporation's offer for all or any part of the rail line. If the authority fails to accept the offer within thirty days of the offer, the corporation may dispose of the property.

If the authority accepts all or any part of the offer, the corporation shall execute the proper documents upon delivery of the purchase price which shall not be later than ninety days from the date of the offer.

Sec. 3. Section 327D.1, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

**327D.1 APPLICABILITY OF CHAPTER.** This chapter shall apply to intrastate transportation by for hire common carriers of persons and property.

Sec. 4. Chapter 327D, Code 1983, is amended by adding the following new sections:

**NEW SECTION. 327D.200 INCONSISTENCY WITH FEDERAL LAW—RAILROADS.** If any provision of this chapter is inconsistent or conflicts with federal laws, rules or regulations applicable to railway corporations subject to the jurisdiction of the federal interstate commerce commission, the authority shall suspend the provision, but only to the extent necessary to eliminate the inconsistency or conflict.

**NEW SECTION. 327D.201 RAILROAD INTRASTATE RATES—RULES.** The authority may issue rules relating to the regulation of railroad intrastate rates, classifications, rules and practices in accordance with the standards and procedures of the federal interstate commerce commission applicable to rail carriers.

Sec. 5. Section 327G.76, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

**327G.76 TIME OF REVERSION.** Railroad property rights which are extinguished upon cessation of service by the railroad divest when the railway finance authority or the railroad, having obtained authority to abandon the rail line, removes the track materials to the right-of-way. If the railway finance authority does not acquire the line and the railway company does not remove the track materials, the property rights which are extinguished upon cessation of service by the railroad divest one year after the railway obtains the final authorization necessary from the proper authority to remove the track materials.

Sec. 6. Section 327G.77, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

**327G.77 REVERSION OF RAILROAD RIGHT-OF-WAY.**

1. If a railroad easement is extinguished under section 327G.76, the property shall pass to the owners of the adjacent property at the time of abandonment. If there are different owners on either side, each owner will take to the center of the right-of-way. Section 614.24 which requires the filing of a verified claim does not apply to rights granted under this subsection.

2. An adjoining property owner may perfect title under subsection 1 by filing an affidavit of ownership with the county recorder. The affidavit shall include the name of the adjoining property owner, a description of the property, the present name of the railroad, the jurisdiction, docket number, and date of order authorizing the railroad to terminate service, and the approximate date the track materials on the right-of-way were removed. A copy of the affidavit must be mailed by the landowner by certified mail to the railroad. The landowner shall pay taxes on the right-of-way from the date the affidavit is filed.

3. Utility facilities located on abandoned railroad right-of-way shall remain on the right-of-way subject to payment by the utility of the fair market value of an easement for the facilities. The utility shall, within sixty days from the time the property is transferred from the railroad, extend a written offer to the landowner to purchase the easement at fair market value. The landowner shall accept or reject the utility's offer within sixty days from the time of receipt. If a disagreement arises between the parties concerning the price or other terms of the transaction, either party may make written application to a compensation commission as established pursuant to chapter 472 to resolve the disagreement. This application shall be made within sixty days from the time the landowner's response is served upon the utility. The compensation commission shall hear the controversy and make a final determination of the fair market value of the easement and the other terms of the transaction which were in dispute within ninety days after the application is filed. All correspondence shall be by certified mail.

Sec. 7. Section 327G.78, unnumbered paragraph 1, Code 1983, is amended to read as follows:

Subject to sections 327G.77, ~~and 471.16, and 471.17~~, when a railroad corporation, its trustee, or successor in interest have interests in real property adjacent to a railroad right-of-way that are abandoned by order of the interstate commerce commission, reorganization court, bankruptcy court, or the authority ~~or are otherwise abandoned as defined by section 471.15~~, or when a railroad corporation, trustee, or successor in interest seeks to sell its interests in that property under any other circumstance, the railroad corporation or trustee shall extend a written offer to sell at a fair market value price to the persons holding leases, licenses, or permits upon those properties, allowing sixty days from the time of receipt for a written response. If a disagreement arises between the parties concerning the price or other terms of the sale transaction, either or both parties may make written application to the authority to resolve the disagreement. The application shall be made within sixty days from the time an initial written response is served upon the railroad corporation, trustee, or successor in

interest by the person wishing to purchase the property. The authority shall hear the controversy and make a final determination of the fair market value of the property and the other terms of the transaction which were in dispute within ninety days after the application is filed. All correspondence shall be by certified mail.

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

Sec. 8. Section 427.1, Code 1983, is amended by adding the following new subsection:

**NEW SUBSECTION. 39.** Railroad right-of-way and improvements on the right-of-way only during that period of time that the Iowa railway finance authority holds an option to purchase the right-of-way under section 307B.24.

Sec. 9. Section 471.6, Code 1983, is amended to read as follows:

**471.6 RAILWAYS.** The state Iowa railway finance authority or any railway corporation, may acquire by condemnation property as ~~may~~ be necessary for the location, construction, and convenient use of a railway. The Iowa railway finance authority may acquire fee title or a lesser property interest. The authority shall offer to sell its interest in the property at fair market value to the adjoining property owners upon abandonment. The acquisition shall carry the right to use for the construction and repair of the railway and its appurtenances any earth, gravel, stone, timber, or other material, on or from the land taken.

Sec. 10. Section 471.9, unnumbered paragraph 1, Code 1983, is amended to read as follows:

The state Iowa railway finance authority or a railway corporation may, by condemnation or otherwise, acquire lands for the following additional purposes:

Sec. 11. Section 471.10, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

**471.10 INITIATING RAILROAD CONDEMNATION.**

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

2. The railway finance authority may begin condemnation proceedings in district court.

Sec. 12. Section 471.11, Code 1983, is amended to read as follows:

**471.11 LANDS FOR WATER STATIONS—HOW SET ASIDE.** Lands which are sought to be condemned for water stations, dams, or reservoirs, including all the overflowed lands, if any, shall, if requested by the owner, be set aside in a square or rectangular shape by the transportation regulation authority or district court.

Sec. 13. Section 471.16, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

**471.16 RIGHT TO CONDEMN ABANDONED RIGHT-OF-WAY.** Railroad right-of-way which has been abandoned by order of the proper authority, may be condemned by a railway corporation or the Iowa railway finance authority before or after the track materials have been removed. The procedure to condemn abandoned right-of-way shall be the same as for an original condemnation.

Sec. 14. Section 471.18, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

**471.18 NO DOUBLE DAMAGES.** Owners of abandoned right-of-way which was originally condemned for rail purposes shall not receive additional compensation unless the track materials were removed prior to the second condemnation.

Sec. 15. Sections 471.15 and 471.17, Code 1983, are repealed.

Approved May 12, 1983

**CHAPTER 122**  
**COMMERCIAL FEED INSPECTION FEES**  
*S.F. 500*

**AN ACT** relating to the rate of inspection fees paid on commercial feeds.

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

Section 1. Section 198.9, subsection 1, unnumbered paragraph 1, Code 1983, is amended to read as follows:

An inspection fee to be fixed annually by the secretary, at the rate of no more than ~~ten~~ twelve cents per ton shall be paid on commercial feeds distributed in this state, by the person who distributes the commercial feed to the consumer, subject to the following:

Approved May 12, 1983

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**CHAPTER 123**  
**COUNTY FINANCES, FUNDS AND LEVIES**  
*H.F. 628*

**AN ACT** relating to county finances by requiring annual budgets and reports, consolidating funds and levies and establishing levy limitations, expanding the duties and tenure of the county finance committee, providing for current and noncurrent debt, making coordinating amendments, and continuing certain penalties.

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

Section 1. Chapter 331, division IV, part 1, Code 1983, is amended by adding sections 2 and 3 of this Act.

Sec. 2. NEW SECTION. 331.403 ANNUAL FINANCIAL REPORT.

1. Not later than October 1 of each year, a county shall prepare an annual financial report showing for each county fund the financial condition as of June 30 and the results of operations for the year then ended. Copies of the report shall be maintained as a public record at the auditor's office and shall be furnished to the county finance committee and to the auditor of state. A summary of the report, in a form prescribed by the county finance committee, shall be published by each county not later than October 1 of each year in one or more newspapers which meet the requirements of section 618.14.

2. Beginning with the fiscal year ending June 30, 1985, the annual financial report required in subsection 1 shall be prepared in conformity with generally accepted accounting principles.

3. The county finance committee may waive the application of subsection 2 to a county for a one-year period, if evidence is presented that substantial progress is being made towards removing the cause for the need of the waiver. The committee shall not grant a waiver for more than three successive years to the same county.

Sec. 3. NEW SECTION. 331.404 COUNTY INDEMNIFICATION FUND.

1. A county indemnification fund is created in the office of the treasurer of state, to be used to indemnify and pay on behalf of a county officer, township trustee, deputy, assistant, or employee of the county or the township, all sums that the person is legally obligated to pay because of an error or omission in the performance of official duties, except that the first five hundred dollars of each claim shall not be paid from this fund.

2. The fund does not relieve an insurer issuing insurance under section 613A.7 from paying a loss incurred. An insurer shall not be subrogated to the assets of the fund regardless of provisions in a policy of insurance.

3. If the balance in the fund on September 30 is less than six hundred thousand dollars, the treasurer of state shall notify the board of each county to levy one-half cent per thousand dollars on the assessed value of all taxable property in the county.

4. Not later than December 15 or June 15 of a year in which the tax is collected, the treasurer shall transmit the amount of the tax levied and collected to the treasurer of state who shall credit it to the county indemnification fund. The treasurer of state shall invest moneys in the fund in the same manner as other public funds and shall credit interest received from that investment to the county indemnification fund.

5. A claim for an act or omission of a county officer, township trustee, or deputy, assistant, or employee of a county or township, which occurred after July 1, 1978, shall be processed in accordance with chapter 613A and paid from the fund, except that payment of a claim, except a final judgment, in excess of fifteen hundred dollars must have the unanimous approval of all members of the state appeal board, the attorney general, and the district court of Polk county.

6. If a final judgment is obtained against a county officer, township trustee, or deputy, assistant, or employee of a county or township, for an act or omission\* which occurred subsequent to July 1, 1978, and which is payable from the county indemnification fund, the county attorney shall ascertain if an insurance policy exists indemnifying the person against the judgment or any part of it. If no insurance exists, or if the judgment exceeds the limits of insurance, the county attorney shall submit a claim to the state comptroller against the county indemnification fund on behalf of the plaintiff for the amount of the judgment exceeding the amount recoverable by reason of the insurance. The state comptroller shall promptly issue a warrant payable to the plaintiff for that amount, and the treasurer of state shall pay the warrant. Payment discharges the person from liability for that act or omission.

Sec. 4. Chapter 331, Code 1983, is amended by adding sections 5 through 21 of this Act as a new part 2 of division IV entitled "County levies, funds, budgets, and expenditures".

Sec. 5. NEW SECTION. 331.421 DEFINITIONS. As used in this part, unless the context otherwise requires:

1. "General county services" means the services which are primarily intended to benefit all residents of a county, including secondary road services, but excluding debt service and services financed by other statutory funds.

2. "Rural county services" means the services which are primarily intended to benefit those persons residing in the county outside of incorporated areas, including secondary road services, but excluding debt service and services financed by other statutory funds.

3. "Secondary road services" means the services related to secondary road construction and maintenance, excluding debt service and services financed by other statutory funds.

4. "Debt service" means expenditures for servicing the county's debt.

\*According to enrolled Act

5. "Basic levy" means a levy authorized and limited by section 331.423 for general county services and rural county services.

6. "Supplemental levy" means a levy authorized and limited by section 331.424 for general county services and rural county services.

7. "Debt service levy" means a levy authorized and limited by section 331.422, subsection 3.

8. "Fiscal year" means the period of twelve months beginning July 1 and ending on the following June 30.

9. "Committee" means the county finance committee established in chapter 333A.

Sec. 6. **NEW SECTION. 331.422 COUNTY PROPERTY TAX LEVIES.** Subject to this section and sections 331.423 through 331.426 or as otherwise provided by state law, the board of each county shall certify property taxes annually at its March session to be levied for county purposes as follows:

1. Taxes for general county services shall be levied on all taxable property within the county.

2. Taxes for rural county services shall be levied on all taxable property not within incorporated areas of the county.

3. Taxes in the amount necessary for debt service shall be levied on all taxable property within the county, except as otherwise provided by state law.

4. Other taxes shall be levied as provided by state law.

Sec. 7. **NEW SECTION. 331.423 BASIC LEVIES—MAXIMUMS.** Annually, the board may certify basic levies, subject to the following limits:

1. For general county services, three dollars and fifty cents per thousand dollars of the assessed value of all taxable property in the county.

2. For rural county services, three dollars and ninety-five cents per thousand dollars of the assessed value of taxable property in the county outside of incorporated areas.

Sec. 8. **NEW SECTION. 331.424 SUPPLEMENTAL LEVIES.** To the extent that the basic levies are insufficient to meet the county's needs for the following services, the board may certify supplemental levies as follows:

1. For general county services, an amount sufficient to pay the charges for the following:

a. To the extent that the county is obligated by statute to pay the charges for:

(1) Care and treatment of patients by a state mental health institute.

(2) Care and treatment of patients by either of the state hospital-schools or by any other facility established under chapter 222 and diagnostic evaluation under section 222.31.

(3) Care and treatment of patients under chapter 225.

(4) Care and treatment of persons at the alcoholic treatment center at Oakdale or facilities provided under chapter 125. However, the county may require that an admission to a center or other facility shall be reported to the board by the center or facility within five days as a condition of the payment of county funds for that admission.

(5) Care of children admitted or committed to the Iowa juvenile home at Toledo.

(6) Clothing, transportation, medical, or other services provided persons attending the Iowa braille and sight-saving school, the Iowa school for the deaf, or the state hospital-school for severely handicapped children at Iowa City, for which the county becomes obligated to pay pursuant to sections 263.12, 269.2, and 270.4 through 270.7.

b. To the extent that the board deems it advisable to pay, the charges for professional evaluation, treatment, training, habilitation, and care of persons who are mentally retarded, autistic persons, or persons who are afflicted by any other developmental disability, at a suitable public or private facility providing inpatient or outpatient care in the county. As used in this paragraph:

(1) "Developmental disability" has the meaning assigned that term by 42 U.S.C. sec. 6001(7) (1976), Supp. II, 1978, and Supp. III, 1979.

(2) "Autistic persons" means persons, regardless of age, with severe communication and behavior disorders that became manifest during the early stages of childhood development and that are characterized by a severely disabling inability to understand, communicate, learn, and participate in social relationships. "Autistic persons" includes but is not limited to those persons afflicted by infantile autism, profound aphasia, and childhood psychosis.

c. Care and treatment of persons placed in the county hospital, county care facility, a health care facility as defined in section 135C.1, subsection 4, or any other public or private facility, which placement is in lieu of admission or commitment to or is upon discharge, removal, or transfer from a state mental health institute, hospital-school, or other facility established pursuant to chapter 222.

d. Amounts budgeted by the board for the cost of establishment and initial operation of a community mental health center in the manner and subject to the limitations provided by state law.

e. Foster care and related services provided under court order to a child who is under the jurisdiction of the juvenile court, including court-ordered costs for a guardian ad litem under section 232.71.

f. The care, admission, commitment, and transportation of mentally ill patients in state hospitals, to the extent that expenses for these services are required to be paid by the county, including compensation for the advocate appointed under section 229.19.

g. Amounts budgeted by the board for mental health services or mental retardation services furnished to persons on either an outpatient or inpatient basis, to a school or other public agency, or to the community at large, by a community mental health center or other suitable facility located in or reasonably near the county, provided that services meet the standards of the mental health and mental retardation commission and are consistent with the annual plan for services approved by the board.

h. Reimbursement on behalf of mentally retarded persons under section 249A.12.

i. Elections, and voter registration pursuant to chapter 48.

j. Employee benefits under chapters 96, 97B, and 97C, which are associated with salaries for general county services.

k. Joint county and city building authorities established under section 346.27, as provided in subsection 22 of that section.

l. Tort liability insurance to cover the liability of the county or its officers as provided in chapter 613A.

m. The maintenance and operation of the courts, including but not limited to the salary and expenses of the clerk of the district court, deputy clerks and other employees of the clerk's office, and bailiffs, establishment and operation of a public defender's office, court costs if the prosecution fails or if the costs cannot be collected from the person liable, costs and expenses of prosecution under section 189A.17, salaries and expenses of juvenile probation officers under chapter 231, court-ordered costs in domestic abuse cases under section 236.5, the county's expense for confinement of prisoners under chapter 356A, temporary assistance to the county attorney, county contributions required under section 602.34, reimbursement for judicial magistrates under section 602.42, claims filed under section 622.93, interpreters' fees under section 622B.7, uniform citation and complaint supplies under section 805.6, and witness fees under section 819.3.

n. Court-ordered costs of conciliation procedures under section 598.16.

o. Establishment and maintenance of a joint county indigent defense fund pursuant to an agreement under section 28E.19.

The board may require a public or private facility, as a condition of receiving payment from county funds for services it has provided, to furnish the board with a statement of the income, assets, and legal residence including township and county of each person who has received services from that facility for which payment has been made from county funds under paragraphs a through h. However, the facility shall not disclose to anyone the name or street or route address of a person receiving services for which commitment is not required, without first obtaining that person's written permission.

Parents or other persons may voluntarily reimburse the county or state for the reasonable cost of caring for a patient or an inmate in a county or state facility.

2. For rural county services, an amount sufficient to pay the charges for the following:

a. Employee benefits under chapters 96, 97B, and 97C, which are associated with salaries for rural county services.

b. An aviation authority under chapter 330A, to the extent that the county contributes to the authority under section 330A.15.

Sec. 9. NEW SECTION. 331.425 ADDITIONS TO LEVIES—SPECIAL LEVY ELECTION. The board may certify an addition to a levy in excess of the amounts otherwise permitted under sections 331.423, 331.424, and 331.426 if the proposition to certify an addition to a levy has been submitted at a special levy election and received a favorable majority of the votes cast on the proposition. A special levy election is subject to the following:

1. The election shall be held only if the board gives notice to the county commissioner of elections, not later than February 15, that the election is to be held.

2. The election shall be held on the second Tuesday in March and be conducted by the county commissioner of elections in accordance with the law.

3. The proposition to be submitted shall be substantially in the following form:

"Vote for only one of the following:

Shall the county of \_\_\_\_\_ levy an additional tax at a rate of \$\_\_\_\_\_ each year for \_\_\_\_\_ years beginning next July 1 in excess of the statutory limits otherwise applicable for the (general county services or rural county services) fund?

or

The county of \_\_\_\_\_ shall continue the (general county services or rural county services fund) under the maximum rate of \$\_\_\_\_\_."

4. The canvass shall be held beginning at one o'clock on the second day which is not a holiday following the special levy election.

5. Notice of the proposed special levy election shall be published at least twice in a newspaper as specified in section 331.305 prior to the date of the special levy election. The first notice shall appear as early as practicable after the board has decided to seek a special levy.

Sec. 10. NEW SECTION. 331.426 ADDITIONS TO BASIC LEVIES. If a county has unusual circumstances, creating a need for additional property taxes for general county services or rural county services in excess of the amount that can be raised by the levies otherwise permitted under sections 331.423 through 331.425, the board may certify additions to each of the basic levies as follows:

1. The basis for justifying an additional property tax under this section must be one or more of the following:

a. An unusual increase in population as determined by the preceding certified federal census.

b. A natural disaster or other emergency.

- c. Unusual problems relating to major new functions required by state law.
  - d. Unusual staffing problems.
  - e. Unusual need for additional moneys to permit continuance of a program which provides substantial benefit to county residents.
  - f. Unusual need for a new program which will provide substantial benefit to county residents, if the county establishes the need and the amount of necessary increased cost.
  - g. A reduced or unusually low growth rate in the property tax base of the county.
2. The public notice of a hearing on the county budget required by section 331.434, subsection 3, shall include the following additional information for the applicable class of services:
- a. A statement that the accompanying budget summary requires a proposed basic property tax rate exceeding the maximum rate established by the general assembly.
  - b. A comparison of the proposed basic tax rate with the maximum basic tax rate, and the dollar amount of the difference between the proposed rate and the maximum rate.
  - c. A statement of the major reasons for the difference between the proposed basic tax rate and the maximum basic tax rate.

The information required by this subsection shall be published in a conspicuous form as prescribed by the committee.

Sec. 11. **NEW SECTION. 331.427 GENERAL FUND.**

1. Except as otherwise provided by state law, county revenues from taxes and other sources for general county services shall be credited to the general fund of the county, including revenues received under sections 84.21, 98.35, 98A.6, 101A.3, 101A.7, 110.12, 123.36, 123.143, 144.46, 176A.8, 247A.10, 321.105, 321.152, 321.192, 321.485, 321G.7, 331.554, subsection 6, 331.703, subsection 6, 341A.20, 364.3, 368.21, 422.65, 422.100, 422A.2, 428A.8, 430A.3, 433.15, 434.19, 441.68, 445.52, 445.57, 533.24, 556B.1, 567.10, 583.6, 809.6, 906.17, and 911.3, and the following:

- a. License fees for business establishments.
  - b. Moneys remitted for fines and forfeited bail under section 602.55, except those directed to be placed in the school fund.
  - c. Other amounts in accordance with state law.
2. The board may make appropriations from the general fund for general county services, including but not limited to the following:
- a. Expenses of a joint disaster services and emergency planning administration under section 29C.9.
  - b. Development, operation, and maintenance of memorial buildings or monuments under chapter 37.
  - c. Purchase of voting machines under chapter 52.
  - d. Expenses incurred by the county conservation board established under chapter 111A, in carrying out its powers and duties.
  - e. Local health services. The county auditor shall keep a complete record of appropriations for local health services and shall issue warrants on them only on requisition of the local or district health board.
  - f. Expenses relating to county fairs, as provided in chapter 174.
  - g. Maintenance of a juvenile detention home under chapter 232.
  - h. Relief of veterans under chapter 250.
  - i. Care and support of the poor under chapter 252.
  - j. Operation, maintenance, and management of a health center under chapter 346A.
  - k. Payment of bounties on wild animals.
  - l. For the use of a nonprofit historical society organized under chapter 504 or 504A.
  - m. Services listed in section 331.424, subsection 1 and section 331.554.

3. Appropriations specifically authorized to be made from the general fund shall not be made from the rural services fund, but may be made from other sources.

**Sec. 12. NEW SECTION. 331.428 RURAL SERVICES FUND.**

1. Except as otherwise provided by state law, county revenues from taxes and other sources for rural county services shall be credited to the rural services fund of the county.

2. The board may make appropriations from the rural services fund for rural county services, including but not limited to the following:

- a. Road clearing, weed eradication, and other expenses incurred under chapter 317.
- b. Maintenance of a county library and library contracts under chapter 358B.
- c. Planning, operating, and maintaining sanitary disposal projects under chapter 455B.
- d. Services listed under section 331.424, subsection 2.

3. Appropriations specifically authorized to be made from the rural services fund shall not be made from the general fund, but may be made from other sources.

**Sec. 13. NEW SECTION. 331.429 SECONDARY ROAD FUND.**

1. Except as otherwise provided by state law, county revenues for secondary road services shall be credited to the secondary road fund, including the following:

a. Transfers from the general fund not to exceed in any year the dollar equivalent of a tax of sixteen and seven-eighths cents per thousand dollars of assessed value on all taxable property in the county.

b. Transfers from the rural services fund not to exceed in any year the dollar equivalent of a tax of three dollars and three-eighths cents per thousand dollars of assessed value on all taxable property not located within the corporate limits of a city in the county.

c. Moneys allotted to the county from the state road use tax fund.

d. Moneys provided by individuals from their own contributions for the improvement of any secondary road.

e. Other moneys dedicated to this fund by law including but not limited to sections 306.15, 309.52, 311.23, 311.29, and 313.28.

2. The board may make appropriations from the secondary road fund for the following secondary road services:

a. Construction and reconstruction of secondary roads and costs incident to the construction and reconstruction.

b. Maintenance and repair of secondary roads and costs incident to the maintenance and repair.

c. Payment of all or part of the cost of construction and maintenance of bridges in cities having a population of eight thousand or less and all or part of the cost of construction of roads which are located within cities of less than four hundred population and which lead to state parks.

d. Special drainage assessments levied on account of benefits to secondary roads.

e. Payment of interest and principal on bonds of the county issued for secondary roads, bridges, or culverts constructed by the county.

f. A legal obligation in connection with secondary roads and bridges, which obligation is required by law to be taken over and assumed by the county.

g. Secondary road equipment, materials, and supplies, and garages or sheds for their storage, repair, and servicing.

h. Assignment or designation of names or numbers to roads in the county and erection, construction, or maintenance of guideposts or signs at intersections of roads in the county.

i. The services provided under sections 306.15, 309.18, 309.52, 311.7, 311.23, 313A.23, 316.14, 321.426, 455.50, 455.118, 460.7, and 460.8, or other state law relating to secondary roads.

**Sec. 14. NEW SECTION. 331.430 DEBT SERVICE FUND.**

1. Except as otherwise provided by state law, county revenues from taxes and other sources for debt service shall be credited to the debt service fund of the county. However, moneys pledged or available to service general obligation bonds, and received from sources other than property taxes, shall be deposited in the fund from which the debt is to be retired.

2. The board may make appropriations from the debt service fund for the following debt service:

a. Judgments against the county, except those authorized by law to be paid from sources other than property tax.

b. Interest as it becomes due and the amount necessary to pay, or to create a sinking fund to pay, the principal at maturity of all general obligation bonds issued by the county except those serviced through the secondary road services levies.

3. A tax levied for the debt service fund is not invalid if it raises moneys in excess of those needed for a specific purpose. Only excess moneys remaining after retirement of all indebtedness payable from the debt service fund may be transferred from the fund to the fund most closely related to the project for which the indebtedness arose, or to the general fund, subject to the terms of the original bond issue.

4. When the amount in the hands of the treasurer belonging to the debt service fund, after setting aside the sum required to pay interest maturing before the next levy, is sufficient to redeem one or more bonds which by their terms are subject to redemption, the treasurer shall notify the owner of the bonds. If the bonds are not presented for payment or redemption within thirty days after the date of notice, the interest on the bonds shall cease, and the amount due shall be set aside for payment when presented. Redemptions shall be made in the order of the bond numbers.

Sec. 15. NEW SECTION. 331.431 ADDITIONAL FUNDS. A county may establish other funds in accordance with generally accepted accounting principles. Taxes may be levied for those funds as provided by state law. The condition and operations of each fund shall be included in the annual financial report required in section 331.403.

Sec. 16. NEW SECTION. 331.432 INTERFUND TRANSFERS. It is unlawful to make permanent transfers of money between the general fund and the rural services fund. Moneys credited to the secondary road fund for the construction and maintenance of secondary roads shall not be transferred. Other transfers, including transfers from the debt service fund made in accordance with section 331.430, and transfers from the general or rural services fund to the secondary road fund in accordance with section 331.429, subsection 1, paragraphs a and b, are not effective until authorized by resolution of the board. The transfer of inactive funds is subject to section 24.21.

Sec. 17. NEW SECTION. 331.433 ESTIMATES SUBMITTED BY DEPARTMENTS.

1. On or before January 15 of each year, each elective or appointive officer or board, except tax certifying boards as defined in section 24.2, subsection 3, having charge of a county office or department, shall prepare and submit to the auditor or other official designated by the board an estimate, itemized in the detail required by the board and consistent with existing county accounts, showing all of the following:

a. The proposed expenditures of the office or department for the next fiscal year.

b. An estimate of the revenues, except property taxes, to be collected for the county by the office during the next fiscal year.

2. On or before January 20 of each year, the auditor or other designated official shall compile the various office and department estimates and submit them to the board. In the preparation of the county budget the board may consult with any officer or department concerning the estimates and requests and may adjust the requests for any county office or department.

Sec. 18. NEW SECTION. 331.434 COUNTY BUDGET. Annually, the board of each county, subject to sections 331.423 through 331.426 and other applicable state law, shall prepare and adopt a budget, certify taxes, and provide appropriations as follows:

1. The budget shall show the amount required for each class of proposed expenditures, a comparison of the amounts proposed to be expended with the amounts expended for like purposes for the two preceding years, the revenues from sources other than property taxation, and the amount to be raised by property taxation, in the detail and form prescribed by the committee.

2. Not less than twenty days before the date that a budget must be certified under section 24.17 and not less than ten days before the date set for the hearing under subsection 3 of this section, the board shall file the budget with the auditor. The auditor shall make available a sufficient number of copies of the budget to meet the requests of taxpayers and organizations and have them available for distribution at the courthouse or other places designated by the board.

3. The board shall set a time and place for a public hearing on the budget before the final certification date and shall publish notice of the hearing not less than ten nor more than twenty days prior to the hearing in one or more newspapers which meet the requirements of section 618.14. A summary of the proposed budget, in the form prescribed by the committee, shall be included in the notice. Proof of publication shall be filed with and preserved by the auditor. A levy is not valid unless and until the notice is published and filed.

4. At the hearing, a resident or taxpayer of the county may present to the board objections to or arguments in favor of any part of the budget.

5. After the hearing, the board shall adopt by resolution a budget and certificate of taxes for the next fiscal year and shall direct the auditor to properly certify and file the budget and certificate of taxes as adopted. The board shall not adopt a tax in excess of the estimate published, except a tax which is approved by a vote of the people, and a greater tax than that adopted shall not be levied or collected. A county budget and certificate of taxes adopted for the following fiscal year becomes effective on the first day of that year.

6. The board shall appropriate, by resolution, the amounts deemed necessary for each of the different county officers and departments during the ensuing fiscal year. Increases or decreases in these appropriations do not require a budget amendment, but may be provided by resolution at a regular meeting of the board, as long as each class of proposed expenditures contained in the budget summary published under subsection 3 of this section is not increased. However, decreases in appropriations for a county officer or department of more than ten percent or five thousand dollars, whichever is greater, shall not be effective unless the board sets a time and place for a public hearing on the proposed decrease and publishes notice of the hearing not less than ten nor more than twenty days prior to the hearing in one or more newspapers which meet the requirements of section 618.14.

Sec. 19. NEW SECTION. 331.435 BUDGET AMENDMENT. The board may amend the adopted county budget, subject to sections 331.423 through 331.426 and other applicable state law, to permit increases in any class of proposed expenditures contained in the budget summary published under section 331.434, subsection 3.

The board shall prepare and adopt a budget amendment in the same manner as the original budget, as provided in section 331.434, and the amendment is subject to protest as provided in section 331.436, except that the committee may by rule provide that amendments of certain types or up to certain amounts may be made without public hearing and without being subject to protest. A county budget for the ensuing fiscal year shall be amended by May 31 to allow time for a protest hearing to be held and a decision rendered before June 30. An amendment of a budget after May 31 which is properly appealed but without adequate time for hearing and decision before June 30 is void.

Sec. 20. NEW SECTION. 331.436 PROTEST. Protests to the adopted budget must be made in accordance with sections 24.27 through 24.32 as if the county were the municipality under those sections.

Sec. 21. NEW SECTION. 331.437 EXPENDITURES EXCEEDING APPROPRIATIONS. It is unlawful for a county official, the expenditures of whose office come under this part, to authorize the expenditure of a sum for the official's department larger than the amount which has been appropriated for that department by the board.

A county official in charge of a department or office who violates this law is guilty of a simple misdemeanor. The penalty in this section is in addition to the liability imposed in section 331.476.

Sec. 22. Chapter 331, Code 1983, is amended by adding sections 23 through 26 of this Act as a new part 5 of division IV entitled "Current and noncurrent debt".

Sec. 23. NEW SECTION. 331.476 EXPENDITURES CONFINED TO RECEIPTS. Except as otherwise provided in section 331.478, a county officer or employee shall not allow a claim, issue a warrant, or execute a contract which will result during a fiscal year in an expenditure from a county fund in excess of an amount equal to the collectible revenues in the fund for that fiscal year plus any unexpended balance in the fund from a previous year. A county officer or employee allowing a claim, issuing a warrant, or executing a contract in violation of this section is personally liable for the payment of the claim or warrant or the performance of the contract.

Sec. 24. NEW SECTION. 331.477 CURRENT DEBT AUTHORIZED. A debt payable from resources which will have accrued in a fund by the end of the fiscal year in which the debt is incurred may be authorized only by resolution of the board. The debt may take the form of:

1. Anticipatory warrants subject to chapter 74.
2. Loans from other county funds.
3. Other formal short-term debt instruments or obligations.

Sec. 25. NEW SECTION. 331.478 NONCURRENT DEBT AUTHORIZED.

1. A county may contract indebtedness and issue bonds as otherwise provided by state law.  
2. The board may by resolution authorize noncurrent debt as defined in subsection 3 which is payable from resources accruing after the end of the fiscal year in which the debt is incurred, in accordance with section 331.479, for any of the following purposes:

- a. Expenditures for bridges or buildings destroyed by fire, flood, or other extraordinary casualty.
- b. Expenditures incurred in the operation of the courts.
- c. Expenditures for bridges which are made necessary by the construction of a public drainage improvement.
- d. Expenditures for the benefit of a person entitled to receive assistance from public funds.
- e. Expenditures authorized by vote of the electorate.
- f. Contracts executed on the basis of the budget submitted as provided in section 309.93.
- g. Expenditures authorized by supervisors acting in the capacity of trustees or directors of a drainage district or other special district.
- h. Expenditures for land acquisition for county conservation purposes not to exceed in any year the monetary equivalent of a tax of six and three-fourths cents per thousand dollars of assessed value on all the taxable property in the county.
- i. Expenditures for purposes for which counties may issue general obligation bonds without an election under state law.

3. Noncurrent debt authorized by subsection 2 may take any of the following forms:

- a. Anticipatory warrants subject to chapter 74. Anticipatory warrants drawn on the secondary road fund are also subject to sections 309.46 through 309.55.

- b. Advances from other funds.
  - c. Installment purchase contracts.
  - d. Other formal debt instruments or obligations other than bonds.
4. Noncurrent debt as defined in subsection 3 shall be retired from resources of the fund from which the expenditure was made for which the debt was incurred.

Sec. 26. NEW SECTION. 331.479 OTHER NONCURRENT DEBT ISSUANCE. Before the board may institute proceedings for the incurrence of debt for the purposes listed in section 331.478, subsection 2, a notice of the proposed action, including a statement of the amount, purposes, and form of the debt, the proposed time of its liquidation, and the time and place of the meeting at which the board proposes to take action to authorize the debt, shall be published as provided in section 331.305. At the meeting, the board shall receive oral or written objections from any resident or property owner of the county. After all objections have been received and considered, the board, at that meeting or a date to which it is adjourned, may take additional action to authorize the debt or abandon the proposal.

#### COORDINATING AMENDMENTS

Sec. 27. Section 1.15, Code 1983, is amended to read as follows:

1.15 ATTORNEY APPOINTED BY STATE IN CIVIL ACTIONS. In all civil causes of action ~~wherein~~ where the state of Iowa or any of its subdivisions or departments is a party, and a member of the Sac and Fox Indian settlement is a party, the district court of Iowa shall appoint competent legal counsel at all stages of hearing, appeal and final determination for any Indian not otherwise represented by legal counsel, in any domestic relations matter, including, but not limited to, matters pertaining to dependency, neglect, delinquency, care or custody of minors. The court shall fix and allow reasonable compensation for the services of ~~said~~ the attorney, costs of transcripts and depositions, and investigative expense, which shall be paid as a claim by the office of county auditor ~~from the welfare fund~~ of the county where the ~~said~~ action is commenced, and ~~said~~ the county shall be ~~refunded and~~ paid for all sums so paid ~~for legal counsel, transcripts and depositions, and investigative expense~~ out of any funds in the state treasury not otherwise appropriated upon filing claim with the state comptroller.

Sec. 28. Section 11.21, unnumbered paragraph 1, Code 1983, is amended to read as follows:

Upon payment by the state of the salary and expenses, the auditor of state shall file with the warrant-issuing officer of the county, municipality or school, whose offices were examined, a sworn statement consisting of the itemized expenses paid and prorated salary costs paid under section 11.20. Upon audit and approval by the board of supervisors, council or school board, the ~~said~~ warrant-issuing officer shall draw ~~his a~~ warrant for ~~said the~~ amount on the ~~general fund of the county, or on the general fund of the municipality or school~~ in favor of the auditor of state, which warrant shall be placed to the credit of the general fund of the state. In the event of the disapproval of any items of said statement by the county, municipality, or school authorities, written objections shall be filed with the auditor of state within thirty days from the filing thereof. Disapproved items of ~~said the~~ statement shall be paid the auditor of state upon receiving final decisions emanating from public hearing established by the auditor of state.

Sec. 29. Section 11.23, Code 1983, is amended to read as follows:

11.23 DUTY TO INSTALL. ~~It shall be the specific duty of each county and Each school officer to shall~~ install and use in ~~his the~~ office a system of uniform blanks and forms as prescribed by law. State auditors ~~are charged with the specific duty to shall~~ assist ~~all such the~~ school officers in installing ~~said the~~ system.

Sec. 30. Section 24.2, subsection 1, Code 1983, is amended to read as follows:

1. The word "municipality" shall mean the county, school corporation, and all other "Municipality" means a public bodies body or corporations corporation that have has power to levy or certify a tax or sum of money to be collected by taxation, ~~but shall not include any except~~ a county, city, drainage district, township, or road district.

Sec. 31. Section 24.6, Code 1983, is amended to read as follows:

24.6 EMERGENCY FUND—LEVY. ~~Each A municipality as defined herein, may include in the estimate herein required, an estimate for an emergency fund. Each such A municipality shall have power to may assess and levy a tax for such the emergency fund at a rate not to exceed twenty-seven cents per thousand dollars of assessed value of taxable property of the municipality, provided that no such an emergency tax levy shall not be made until such the municipality shall have has first petitioned the state board to make such levy and received its approval thereof. Transfers of moneys may be made from the emergency fund to any other fund of the municipality for the purpose of meeting deficiencies in any such a fund arising from any cause, provided, however, that no such a transfer shall not be made except upon the written approval of the state board, and then only when such that approval is requested by a two-thirds vote of the governing body of said the municipality. Approval may be granted by the state board upon an application approved by a two-thirds vote of the board of supervisors of a county to use this fund for the purpose of matching funds available to such county from federal programs including, but not limited to, crime control, public health, disaster services, highway safety, juvenile delinquency, narcotics control and pollution.~~

Sec. 32. Section 24.9, unnumbered paragraph 2, Code 1983, is amended by striking the unnumbered paragraph.

Sec. 33. Section 24.14, Code 1983, is amended to read as follows:

24.14 TAX LIMITED. ~~No A greater tax than that so entered upon the record shall not be levied or collected for the municipality proposing the tax for the purpose or purposes indicated; and thereafter no a greater expenditure of public money shall not be made for any specific purpose than the amount estimated and appropriated therefor for that purpose, except as provided in sections 24.6, and 24.15 and section 331.901, subsection 6, paragraph "d". All budgets set up in accordance with the statutes shall take such funds, and allocations made by sections 123.53, 324.79 and 405.1, into account, and all such funds, regardless of their source, shall be considered in preparing the budget, all as is provided in this chapter.~~

Sec. 34. Section 24.22, Code 1983, is amended to read as follows:

24.22 TRANSFER OF ACTIVE FUNDS—POOR FUND. ~~Upon the approval of the state board, it is lawful to make temporary or permanent transfers of money from one fund of the municipality to another fund thereof of the municipality. However, funds collected and received for the construction and maintenance of secondary roads shall not be transferred for any purpose. The certifying board or levying board shall provide that money temporarily transferred shall be returned to the fund from which it was transferred within the time and upon the conditions the state board determines; provided that. However, it is not necessary to return to the emergency fund, or to any other fund no longer required, any money transferred therefrom to any other fund. No transfer shall be made to a poor fund unless there is a shortage in the fund after the maximum permissible levy has been made for the fund.~~

Sec. 35. Section 24.48, unnumbered paragraph 6, Code 1983, is amended to read as follows:

For purposes of this section only, "political subdivision" means a city, ~~county~~, school district, or any other special purpose district which certifies its budget to the county auditor and derives funds from a property tax levied against taxable property situated within the political subdivision.

Sec. 36. NEW SECTION. 28E.19 JOINT COUNTY INDIGENT DEFENSE FUND. Two or more counties may execute an agreement under chapter 28E to create a joint county indigent defense fund to be used to compensate attorneys appointed to represent indigents under section 331.778 when funds budgeted for that purpose are exhausted. In addition to other requirements of an agreement under chapter 28E, 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. 37. Section 28E.23, unnumbered paragraph 1, Code 1983, is amended to read as follows:

The public safety commission, on or before January tenth of each year, shall make an estimate of the total amount of revenue deemed necessary for operation of the district and, in conjunction with the county board of supervisors and city councils in the district, determine the amounts which will be contributed by the county and by each city in the district from ~~their~~ its general funds fund which are based upon an average of revenues raised for law enforcement purposes in the county or city for the three previous years.

Sec. 38. Section 28E.24, unnumbered paragraph 2, Code 1983, is amended to read as follows:

In addition, the county board of supervisors and the city council of each city in the district shall certify to the public safety commission the amounts of revenue from the county ~~general fund~~ and from the city general fund credited to each city in the district based upon an average of revenues raised for law enforcement purposes in each city for the three previous years. The public safety commission shall subtract the total of these amounts from the amount of revenue to be contributed by each city respectively. The difference for each city is the amount of additional revenue needed for unified law enforcement purposes.

Sec. 39. Section 28E.24, unnumbered paragraph 5, Code 1983, is amended to read as follows:

The county board of supervisors and the city council of each city in the district shall deposit in the public safety fund the amounts of revenue ~~from their general funds~~ certified to the public safety commission in this section based upon an average of revenues raised for law enforcement purposes for the three previous years.

Sec. 40. Section 29C.9, subsection 1, Code 1983, is amended to read as follows:

1. The county boards of supervisors, city councils and boards of directors of school districts shall ~~co-operate~~ cooperate with the office of disaster services to carry out the provisions of this chapter. Boards of supervisors and city councils shall form a joint county-municipal disaster services and emergency planning administration. Such joint administration shall be composed of a member of the county board of supervisors and the mayor or ~~his~~ the mayor's representative of the city governments within the county and the sheriff of ~~sueh~~ the county. One member of the joint administration shall be designated as chairperson and one as vice chairperson. The joint administration shall appoint a ~~co-ordinator~~ coordinator who possesses ~~sueh~~ such qualifications as established by rule of the director of the office of disaster services as provided in chapter 17A. The ~~co-ordinator~~ coordinator shall be responsible to the joint administration for the administration and ~~co-ordination~~ coordination of all disaster services and emergency planning matters throughout the county, subject to the direction and control of the joint administration. The disaster services and emergency planning ~~co-ordinator~~ coordinator shall prepare a comprehensive countywide disaster plan that ~~shall be~~ is subject to the approval of the state office of disaster services. The plan shall be integrated into and ~~co-ordinated~~ coordinated with the disaster plans of the state office of disaster services and other political subdivisions within the state. Each county and city located within the county may appropriate money ~~from the general fund of the county or city~~ for the purpose of paying expenses relating to disaster services and emergency planning matters of ~~sueh~~ the joint administration and establish a joint county-municipal disaster services fund in the office of the county treasurer. A city's appropriation shall be made from its general fund. The county and cities located in that county may deposit moneys in ~~sueh~~ the fund, which ~~fund~~ shall be used for the purpose of paying expenses relating to disaster services and emergency planning matters of ~~sueh~~ the joint administration. Any reimbursement, matching funds, or moneys received from sale of property obtained through the surplus property program or moneys obtained

from any source in connection with the disaster services and emergency planning program, shall be deposited in the joint disaster services fund. Withdrawal of moneys from the joint county-municipal disaster services fund may be made on warrants drawn by the county auditor, supported by claims and vouchers signed by the chairperson or vice chairperson of the joint administration and the ~~co-ordinator~~ coordinator of the joint county-municipal disaster services and emergency planning administration.

Sec. 41. Section 37.3, Code 1983, is amended to read as follows:

37.3 ELECTION. Upon the filing of the requisite petition, the ~~board of supervisors, or city council, as the case may be,~~ shall cause the proposition to be submitted at a regular election, or at a special election to be called if requested in the petition, in substantially the following form:

"Shall the ~~county (or city)~~ of . . . . . erect and equip (or purchase and equip) a memorial building (or erect a monument) as provided in chapter 37 of the Code for the purpose of . . . . . (set forth purpose of memorial as outlined in section 37.18) and issue bonds in the sum of . . . . dollars to cover the expense of the ~~same building or monument~~ (or levy a tax of . . . . per thousand dollars of assessed value for a period of . . . . years to defray the expense of the ~~same building or monument~~)?"

Sec. 42. Section 37.4, Code 1983, is amended to read as follows:

37.4 NOTICE. Notice of ~~such the~~ election shall be given by publication in one newspaper published or having general circulation in the ~~county or city, as the case may be,~~ as provided in section 362.3. ~~Such~~ The notice shall state the purpose of the memorial proposed as outlined in section 37.18.

Sec. 43. Section 37.8, Code 1983, is amended to read as follows:

37.8 LEVY FOR MAINTENANCE. For the development, operation, and maintenance of a building or monument constructed, purchased, or donated under this chapter, a ~~county may levy a tax as provided in section 331.422, subsection 3,~~ and a city may levy a tax not to exceed eighty-one cents per thousand dollars of assessed value on all the taxable property within the city, as provided in section 384.12, subsection 2.

Sec. 44. Section 37.28, Code 1983, is amended to read as follows:

37.28 ANTICIPATORY WARRANTS. If the funds raised under this chapter ~~and sections 331.421, subsection 1, and 331.422, subsection 3,~~ are insufficient for any fiscal year to pay the principal and interest due in that year on bonds issued for hospital purposes under section 37.6 and to pay the expenses of the operation and maintenance of the hospital and any other hospital expenses authorized by this chapter for the fiscal year, the commission may issue ~~tax~~ anticipatory warrants drawn on the funds to be raised. The warrants shall be in denominations of one hundred, five hundred and one thousand dollars and shall draw interest at a rate not exceeding that permitted by chapter 74A. These warrants are not a general obligation of any political subdivision which owns the hospital.

Sec. 45. Section 37.30, Code 1983, is amended to read as follows:

37.30 REGISTRATION—CALL. All ~~tax~~ anticipatory warrants drawn under this chapter shall be numbered consecutively, be registered in the office of the treasurer of a political subdivision which owns the hospital and be subject to call in numerical order at any time when sufficient money derived from the tax levied ~~under this chapter and sections 331.421, subsection 1, and 331.422, subsection 3,~~ is in the hands of the treasurer to retire any of the warrants together with accrued interest.

Sec. 46. Section 52.3, Code 1983, is amended to read as follows:

52.3 TERMS OF PURCHASE—TAX LEVY. The county board of supervisors, on the adoption and purchase of a voting machine or an electronic voting system, may issue bonds under section 331.441, subsection 2, paragraph "b", subparagraph (1), ~~or levy as provided in section 331.422, subsection 4.~~

Sec. 47. Section 66.23, Code 1983, is amended to read as follows:

66.23 EFFECT OF DISMISSAL. If the petition be for removal is dismissed on final hearing on the merits, the defendant shall have judgment against the state, if the action was instituted by the attorney general, and against the county, city or other subdivision of the state if the action is otherwise instituted, be reimbursed for the reasonable and necessary expenses incurred by the defendant in making his a defense, including a reasonable attorney fee, to be fixed attorney's fees, as determined by the court or judge. If the petition for removal is filed by the attorney general, the state shall pay the expenses. If the petition for removal is filed by the county attorney or special prosecutor, the expenses shall be paid by the political subdivision of the state represented by the county attorney or special prosecutor. ~~Such~~ The payment shall be made out of any funds in the state treasury not otherwise appropriated, or out of the general fund of the county treasury, or the general fund of the city or other subdivision of the state, as the case may be.

Sec. 48. Section 74.1, subsections 1 and 2, Code 1983, are amended to read as follows:

1. ~~The procedures of this This~~ chapter apply ~~applies~~ to all warrants which are legally drawn on a public treasury, including the treasury of a city or county, and which, when presented for payment, are not paid for want of funds.

2. ~~The procedures of this This~~ chapter also apply whenever ~~applies when~~ a municipality as defined in section 24.2, or a city shall determine or county determines that there are not or will not be sufficient funds on hand to pay the legal obligations of a fund. ~~Each of these municipalities and cities is authorized to~~ A municipality, city, or county may provide for the payment of such present and future obligations an obligation by drawing one or more an anticipatory ~~warrants~~ warrant payable to a bank or other business entity authorized by law to loan money in an amount or amounts legally available and believed to be sufficient to cover the anticipated ~~deficiencies~~ deficiency. The duties imposed on the treasurer by this chapter may be assigned by a city council to another city officer.

Sec. 49. Section 80.12, Code 1983, is amended to read as follows:

80.12 ATTENDANCE AT SHORT COURSE. The commissioner of public safety is authorized to send members of the department of public safety to any course of instruction for peace officers, not exceeding a total of six weeks' length in any one year, given by the college of law of the state University of Iowa, or the course of instruction in public safety education given at Iowa State University of science and technology, and ~~such the~~ members shall be considered on duty while in attendance upon such authority. The legislative body in any a county may authorize the attendance at such a course of any law enforcing officer under the jurisdiction of ~~such the~~ county and may provide for the payment of the actual and necessary expenses of ~~such that~~ person while in attendance, ~~which payment shall be made out of the general fund of such county.~~

Sec. 50. Section 96.31, Code 1983, is amended to read as follows:

96.31 TAX FOR BENEFITS. Political subdivisions may levy a tax outside their general fund levy limits to pay the cost of unemployment benefits.

Sec. 51. Section 98.35, Code 1983, is amended to read as follows:

98.35 TAX AND FEES PAID TO GENERAL FUND. The proceeds derived from the sale of stamps and the payment of taxes, fees and penalties provided for under this chapter, and the permit fees received from all permits issued by the department, shall be credited to the general fund of the state. All permit fees provided for in this chapter and collected by cities in the issuance of permits granted by the cities shall be paid to the treasurer of the city ~~wherein~~ where the permit is effective, or to another city officer as designated by the council, and credited to the general fund of ~~said the~~ city. Permit fees so collected by counties shall be paid to the county treasurer and ~~credited to the general fund of such county.~~

Sec. 52. Section 98A.6, unnumbered paragraph 2, Code 1983, is amended to read as follows: Judicial magistrates shall hear and determine violations of this chapter. The civil fines paid pursuant to this chapter shall be deposited in the county ~~general fund~~ treasury.

Sec. 53. Section 101A.3, subsection 5, Code 1983, is amended to read as follows:

5. The sheriff or the chief of police shall charge a fee of three dollars for each permit issued. The money collected from permit fees shall be deposited in the ~~general fund of the county or treasury or the general fund of the city~~.

Sec. 54. Section 101A.7, unnumbered paragraph 3, Code 1983, is amended to read as follows:

If the licensee or permittee corrects the improper security within ~~such~~ the thirty-day period, the explosives shall be returned to the licensee or permittee after ~~he has made such~~ correction and after ~~he~~ the licensee or permittee has paid into to the county fund an amount equal to the expense incurred by the county in storing the explosives during the period of confiscation. The amount of ~~such~~ expense shall be determined by the sheriff.

Sec. 55. Section 101A.7, unnumbered paragraph 5, Code 1983, is amended to read as follows:

The licensee or permittee may obtain possession of the explosives from the sheriff during the thirty-day period for the purpose of disposing of them. The disposal procedure shall conform to the provisions of section 101A.9. The licensee or permittee shall first pay ~~into to the county fund~~ an amount equal to the expense incurred by the county in storing the explosives during the period of confiscation. The amount of the expense shall be determined by the sheriff.

Sec. 56. Section 110.12, unnumbered paragraph 2, Code 1983, is amended to read as follows:

The county recorder may require that a writing fee of twenty-five cents be charged for each license sold by the county recorder's office. ~~The writing fees from the sale of licenses by the county recorder shall be deposited in the county general fund.~~

Sec. 57. Section 111.27, Code 1983, is amended to read as follows:

111.27 MANAGEMENT BY MUNICIPALITIES. The commission may enter into an agreement or arrangement with the board of supervisors of ~~any~~ a county or the council of ~~any~~ a city whereby ~~such~~ the county or city shall undertake the care and maintenance of any lands under the jurisdiction of the commission. Counties and cities ~~are authorized to~~ may maintain ~~such~~ the lands and ~~to pay the expense thereof of maintenance. A city may pay the expense from the general fund of such county or city as the case may be.~~

Sec. 58. Section 111A.6, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

111A.6 FUNDS – TAX LEVY – GIFTS – ANTICIPATORY BONDS. Upon request of the county conservation board, the board of supervisors shall establish a reserve for county conservation land acquisition and capital improvement projects. The board of supervisors may periodically credit an amount of money to the reserve. Moneys credited to the reserve shall remain in the reserve until expended for such projects upon warrants requisitioned by the county conservation board.

Annually, the total amount of money credited to the reserve, plus moneys appropriated for conservation purposes from sources other than the reserve, shall not be less than the amount of gifts, contributions, and bequests of money, rent, licenses, fees, charges, and other revenues received by the county conservation board. However, moneys given, bequeathed, or contributed upon specified trusts shall be held, appropriated, and expended in accordance with the trust specified.

The county auditor shall keep a complete record of the appropriations and shall issue warrants on them only on requisition of the county conservation board. The county conservation

board is subject to the contract letting procedures in section 331.341, subsections 1, 2, and 4. Upon request of the county conservation board, the board of supervisors may issue general county purpose bonds for the purposes in section 331.441, subsection 2, paragraph c, subparagraph (2), as provided in chapter 331, division IV, part 3.

Sec. 59. Section 123.36, subsection 8, Code 1983, is amended to read as follows:

8. The department shall credit all fees to the beer and liquor control fund. The department shall remit to the appropriate local authority, a sum equal to sixty-five percent of the fees collected for each class "A", class "B", or class "C" license except special class "C" licenses, covering premises located within ~~their respective jurisdictions~~ the local authority's jurisdiction. The department shall remit to the appropriate local authority a sum equal to seventy-five percent of the fees collected for each special class "C" license covering premises located within ~~their respective jurisdictions~~ the local authority's jurisdiction. The appropriate local authority to receive the fee collected for the privilege authorized under subsection 6 is the appropriate county which shall ~~deposit the fee in the county mental health and institutions fund to be used~~ use it only for the care and treatment of persons admitted or committed to the alcoholic treatment center at Oakdale or any facilities as provided in chapter 125.

Sec. 60. Section 123.143, subsection 1, Code 1983, is amended to read as follows:

1. All retail beer permit fees collected by any local authority at the time application for the permit is made shall be retained by the local authority. A certified copy of the receipt for the permit fee shall be submitted to the department with the application and the local authority shall be notified at the time the permit is issued. Those amounts retained by the appropriate local authority out of the fee collected for the privilege authorized under section 123.134, subsection 5, shall be ~~deposited in the county mental health and institutions fund to be used~~ only for the care and treatment of persons admitted or committed to the alcoholic treatment center at Oakdale or any facilities as provided in chapter 125.

Sec. 61. Section 125.45, subsection 1, Code 1983, is amended to read as follows:

1. Except as provided in section 125.43, each county shall pay for the remaining twenty-five percent of the cost of the care, maintenance, and treatment under this chapter of residents of that county ~~from the levy authorized by section 331.421, subsection 14~~. The commission shall establish guidelines for use by the counties in estimating the amount of expense which the county will incur each year. The facility shall certify to the county of residence once each month twenty-five percent of the unpaid cost of the care, maintenance, and treatment of a substance abuser. However, the approval of the board of supervisors is required before payment is made by a county for costs incurred which exceed a total of five hundred dollars for one year for treatment provided to any one substance abuser, except that approval is not required for the cost of treatment provided to a substance abuser who is detained pursuant to section 125.91. A facility may, upon approval of the board of supervisors, submit to a county a billing for the aggregate amount of all care, maintenance, and treatment of substance abusers who are residents of that county for each month. The board of supervisors may demand an itemization of billings at any time or may audit them.

Sec. 62. Section 125.49, Code 1983, is amended to read as follows:

125.49 TRANSFER FROM INSTITUTIONAL COUNTY FUND. The county auditor upon receipt of certification by the facility as required by section 125.45 shall enter the ~~same amount~~ amount to the credit of the facility and issue a notice authorizing the county treasurer to transfer the amount from the county ~~mental health and institutions~~ fund to the credit of the facility, which notice shall be filed by the treasurer as authority for making ~~such~~ the transfer, and the amount transferred shall be included in the auditor's next remittance to the facility.

Sec. 63. Section 137.12, Code 1983, is amended to read as follows:

137.12 APPOINTMENT. On receipt of notice of approval as a district health department, a district board shall be appointed as specified in the plan. Board members shall serve without compensation, but shall be reimbursed ~~from the local health fund, established under section 137.17,~~ for necessary expenses in accordance with rules established by the state board.

Sec. 64. Section 137.17, Code 1983, is amended to read as follows:

137.17 LOCAL FUND FOR DISTRICT. On establishment of a district health department, the district board shall designate the treasurer of a city or county within its jurisdiction to establish a "local health fund" for the district. ~~Upon establishment of the fund, moneys in previously existing local health funds in the district shall be transferred to the fund.~~

Sec. 65. Section 137.18, Code 1983, is amended to read as follows:

137.18 DEPOSIT OF MONEYS IN FUND. All moneys received by a ~~county~~ or district for local health purposes from federal appropriations, from local taxation, from licenses, from fees for personal services, or from gifts, grants, bequests, or other sources shall be deposited in the ~~local~~ health fund. Expenditures shall be made from the fund on order of the ~~local~~ district board for the purpose of carrying out its duties.

Sec. 66. Section 139.29, Code 1983, is amended to read as follows:

139.29 APPROVAL AND PAYMENT OF CLAIMS. The board of supervisors ~~shall~~ is not be bound by the action of the local board in approving ~~such the~~ bills, but shall allow the ~~same from the poor fund them~~ for a reasonable amount and within a reasonable time.

Sec. 67. Section 144.11, Code 1983, is amended to read as follows:

144.11 FEES PAID BY COUNTY AUDITOR. The state registrar shall certify to the auditor of the county, monthly, quarterly, semiannually or annually the number of birth, death, and fetal death certificates registered by each local registrar with the names of the local registrars and the amount due. Upon such certification the fees due the local registrars shall be paid by the auditor of the county ~~out of the general fund of the county.~~

Sec. 68. Section 144.46, Code 1983, 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 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 under this section shall be deposited in the general fund of the state if the service is performed by the department or in the ~~general fund treasury~~ of the county if the service is performed by the county or local registrar. A fee shall not be collected from a political subdivision or agency of this state.

Sec. 69. Section 159.5, subsection 13, paragraph e, unnumbered paragraph 1, Code 1983, is amended to read as follows:

~~Certify indemnity claims to the boards of supervisors to compensate~~ Compensate the owners of condemned swine ~~from funds as provided under section 331.421, subsection 6, 74 of this Act,~~ following the general procedures for filing claims and paying indemnities as provided in chapter 165.

Sec. 70. Section 160.15, Code 1983, is amended to read as follows:

160.15 APPROPRIATION BY COUNTY. All expenses, except salaries, incurred by the state apiarist or ~~his the~~ apiarist's assistants in the performance of their duties within a county shall be paid not to exceed two hundred dollars per annum ~~from the general fund of such county~~ for the purpose of eradication of diseases among bees. Such work of eradication shall be done in such county under the supervision of the state apiarist.

Sec. 71. Section 163A.12, Code 1983, is amended to read as follows:

163A.12 OWNER REQUESTING TEST. If the owner requests the department to inspect and test breeding swine for brucellosis, and agrees to comply with the rules made by the

department under section 163A.9, the department may designate a veterinarian to make an inspection and test, with the expense to be paid as provided in section 164.6 for cattle brucellosis testing, but only to the extent the funds provided in that section are not required for the cattle testing program. The board of supervisors shall reimburse the department for the expense of the inspection and testing program for swine brucellosis as provided in section 331.421, subsection 5, but only to the extent that the moneys in the fund are not required for expenses incurred under chapter 164.

Sec. 72. Section 164.6, Code 1983, is amended to read as follows:

164.6 EXPENSE OF TEST. If the owner ~~shall agree~~ agrees to comply with and carry out the rules made by the department under section 164.4, the expense of ~~such~~ the inspection and test shall be borne by the United States department of agriculture, or by the department, or ~~county~~ by the brucellosis and tuberculosis eradication fund or any combination ~~thereof~~ of these.

Sec. 73. Section 164.21, unnumbered paragraphs 2 and 3, Code 1983, are amended to read as follows:

Indemnity can only be paid if money is available in the ~~county of origin~~ brucellosis and tuberculosis eradication fund and if indemnity payment is also made by the United States department of agriculture.

In the case of individual payment, all animals shall be individually appraised and the amount of indemnity shall be equal to the difference between the slaughter value and the appraisal price, less the amount of indemnity paid by the United States department of agriculture. The total amount of indemnity paid by the ~~county of origin~~ brucellosis and tuberculosis eradication fund for a grade animal or a purebred animal shall not exceed two hundred dollars. However, if a purebred animal is purchased and owned for at least one year before testing and the owner can verify the actual cost, the ~~board of supervisors of the county of origin~~ secretary of agriculture may, ~~by resolution~~ award the payment of an additional indemnification not to exceed five hundred fifty dollars or the actual cost of the animal when purchased, whichever is less.

Sec. 74. NEW SECTION. 165.18 BRUCELLOSIS AND TUBERCULOSIS ERADICATION FUND.

1. A brucellosis and tuberculosis eradication fund is created in the office of the secretary of agriculture, to be used together with state and federal funds available to pay:

- a. The indemnity and other expenses provided in this chapter.
- b. The indemnity as set out in section 164.21 and other expenses provided in chapter 164.
- c. The expenses of the inspection and testing program provided in chapter 163A, but only to the extent that the moneys in the fund are not required for expenses incurred under chapter 164 or 165.

d. Indemnities as provided in section 159.5, subsection 13, but only to the extent that the moneys in the fund are not required to pay expenses under chapter 163A, 164, or 165.

2. If it appears to the secretary of agriculture that the balance in the fund on January 20 is insufficient to carry on the work in the state for the following fiscal year, the secretary shall notify the board of supervisors of each county to levy an amount sufficient to pay the expenses estimated to be incurred under subsection 1 for the following fiscal year, subject to a maximum levy of thirty-three and three-fourths cents per thousand dollars of assessed value of all taxable property in the county.

3. Not later than December 15 or June 15 of a year in which the tax is collected, the county treasurer shall transmit the amount of the tax levied and collected to the treasurer of state, who shall credit it to the county brucellosis and tuberculosis eradication fund.

Sec. 75. Section 174.13, Code 1983, is amended to read as follows:

174.13 COUNTY AID. The board of supervisors of the county in which a society is located may ~~levy and expend a tax for fairground purposes in accordance with section 331.422, subsections 7 and 8~~ appropriate moneys to be used for fitting up or purchasing fairgrounds for the society or for aiding boys and girls 4-H club work and payment of agricultural and livestock premiums in connection with the fair, if the society owns or leases at least ten acres of land for the fairground and owns or leases buildings and improvements on the land of at least eight thousand dollars in value. A society may meet the requirement of owning or leasing land, buildings, and improvements through ownership by a joint entity under chapter 28E, of which the society is a part.

Sec. 76. NEW SECTION. 174.14 FAIRGROUND AID. The board of supervisors of a county which has acquired real estate for county or district fair purposes and which has a society using the real estate, may appropriate moneys to be used for the erection and repair of buildings or other permanent improvements on the real estate, and for the payment of debts contracted in the erection or repair and payment of agricultural and livestock premiums. In addition, the net proceeds from the sale of fairground sites and structures on the sites shall be placed in this fund to be used for the erection of permanent buildings on a new fairground site or the cost of moving structures from the old to the new site.

Sec. 77. Section 176A.8, subsection 16, Code 1983, is amended to read as follows:

16. To carry over unexpended county agricultural extension education funds into the next year so that funds will be available to carry on the program until such time as moneys received from taxes are collected by the county treasurer, ~~provided, however, that.~~ However, the unencumbered funds in the county agricultural extension education fund in excess of one-half the amount expended from ~~said the~~ fund in the previous year shall be paid over to the county treasurer who shall transfer such funds to the general fund of the county. The treasurer of the extension council with the approval of the council may invest agricultural extension education funds retained by the council and not needed for current expenses in the manner authorized for treasurers of political subdivisions under section 453.1.

Sec. 78. NEW SECTION. 176A.12 COUNTY AGRICULTURAL EXTENSION FUND. A county agricultural extension education fund shall be established in each county and the county treasurer of each county shall keep the amount of tax levied under this chapter in that fund. Before the fifteenth day of each month, the treasurer shall notify the chairperson of the county extension council of the amount collected for this fund to the first day of that month, and the chairperson shall draw a draft for that amount, countersigned by the secretary, upon the treasurer who shall pay that amount to the treasurer of the extension council upon receipt of the draft.

Sec. 79. Section 189A.17, subsection 5, paragraph c, Code 1983, is amended to read as follows:

c. If ~~any~~ a person required by this chapter to file ~~any an~~ annual or special report shall fail so fails to do so within the time fixed by the secretary for filing the same it, and ~~such~~ the failure shall ~~continue~~ continues for thirty days after notice of ~~such~~ default, ~~such~~ the person shall forfeit to this state the sum of one hundred dollars for each ~~and every~~ day of the continuance of ~~such the~~ failure, which forfeiture shall be ~~is~~ payable into the treasury of this state, and shall be ~~is~~ recoverable in a civil suit in the name of the state brought in the district court of the county where the person has ~~his a~~ principal office or in the district court of any county in which ~~he the~~ person does business. It shall be the duty of the various The county attorneys of this state to

shall prosecute for the recovery of such forfeitures. ~~The costs and expenses of such prosecution shall be paid out of the court expense fund of the county.~~

Sec. 80. Section 218.99, Code 1983, is amended to read as follows:

218.99 COUNTY AUDITORS TO BE NOTIFIED OF PATIENTS' PERSONAL ACCOUNTS. The director of a division of the department of social services in control of a state institution shall direct the business manager of each institution under the director's jurisdiction which is mentioned in section ~~331.425~~ 331.424, subsection ~~13~~, 1, paragraphs a through g to quarterly inform the auditor of the county of legal settlement of any patient or inmate who has an amount in excess of two hundred dollars on account in the patients' personal deposit fund and the amount on deposit. The directors shall direct the business manager to further notify the auditor of the county at least fifteen days before the release of funds in excess of two hundred dollars or upon the death of the patient or inmate. If the patient or inmate has no county of legal settlement, notice shall be made to the commissioner of the department of social services and the director of the division of the department in control of the institution involved.

Sec. 81. Section 222.31, subsection 3, Code 1983, is amended to read as follows:

3. Commit the person to the state hospital-school designated by the director to serve the county in which the hearing is being held, or to a special unit. The court shall prior to issuing an order of commitment request that a diagnostic evaluation of the person be made by the superintendent of the hospital-school or the special unit, or ~~his~~ the superintendent's qualified designee. The evaluation shall be conducted at ~~such a~~ place as the superintendent may direct. The cost of the evaluation shall be defrayed by the county of legal settlement ~~from its state institution fund~~ unless otherwise ordered by the court. ~~Such~~ The cost may be equal to but shall not exceed the actual cost of the evaluation. Persons referred by a court to a hospital-school or the special unit for diagnostic evaluation shall be considered as outpatients of ~~such the~~ institution. No order of commitment shall be issued unless the superintendent of the institution ~~shall recommend~~ recommends that ~~such the~~ order be issued, and ~~shall advise~~ advises the court that adequate facilities for the care of ~~such the~~ person are available.

Sec. 82. Section 222.74, Code 1983, is amended to read as follows:

222.74 DUPLICATE TO COUNTY. When certifying to the comptroller amounts to be charged against each county as provided in section 222.73, the superintendent shall send to the county auditor of each county against which ~~he~~ the superintendent has so certified any amount, a duplicate of ~~such the~~ certificate. The county auditor upon receipt of the duplicate certificate shall enter ~~the same~~ it to the credit of the state in ~~his the~~ ledger of state accounts, and shall immediately issue a notice to the county treasurer authorizing the treasurer to transfer the amount from the county ~~mental health and institutions~~ fund to the general state revenue. The treasurer shall file ~~such the~~ notice as ~~his~~ authority for making ~~such the~~ transfer and shall include the amount so transferred in ~~his the~~ next remittance of state taxes to the treasurer of state, designating the fund to which the amount belongs.

Sec. 83. Section 222.77, Code 1983, is amended to read as follows:

222.77 PATIENTS ON LEAVE. The cost of support of patients placed on convalescent leave or removed as a habilitation measure from a hospital-school, or a special unit, except when living in the home of a person legally bound for the support of the patient, shall be paid by the county of legal settlement as provided in section ~~331.425~~, subsection 13. If the patient has no county of legal settlement, the cost shall be paid from the support fund of the hospital-school or special unit and charged on abstract in the same manner as other state inpatients until ~~such time~~ as the patient becomes self-supporting or qualifies for support under other existing statutes.

Sec. 84. Section 225.21, Code 1983, is amended to read as follows:

225.21 VOUCHERS. The person making claim to compensation shall present to the court or judge an itemized sworn statement of the claim, and when the claim for compensation has been approved by the court or judge or clerk, it shall be filed in the office of the county auditor and shall be allowed by the board of supervisors and ~~paid from the county mental health and institutions fund.~~

Sec. 85. Section 229.19, unnumbered paragraph 3, Code 1983, is amended to read as follows:

The court shall from time to time prescribe reasonable compensation for the services of the advocate. ~~Such~~ The compensation shall be based upon the reports filed by the advocate with the court. The advocate's compensation shall be paid on order of the court ~~from~~ by the county ~~mental health and institutions fund of the county in which the court is located.~~

Sec. 86. Section 230.21, Code 1983, is amended to read as follows:

230.21 DUTY OF COUNTY AUDITOR AND TREASURER. The county auditor, upon receipt of the duplicate statement required by section 230.20, shall enter ~~the same~~ it to the credit of the state in ~~his or her~~ the ledger of state accounts, shall furnish to the board of supervisors a list of the names of the persons so certified, and at once issue a notice authorizing the county treasurer to transfer the amount billed to the county by the statement, from the county ~~mental health and institutions fund~~ to the general state revenue, which notice shall be filed by the treasurer as authority for making ~~such~~ the transfer. The auditor shall promptly remit the amount so transferred to the treasurer of state, designating the fund to which it belongs.

Sec. 87. Section 230A.1, Code 1983, is amended to read as follows:

230A.1 ESTABLISHMENT AND SUPPORT OF COMMUNITY MENTAL HEALTH CENTERS. A county or affiliated counties, by action of the board or boards of supervisors with approval of the director of the division of mental health, mental retardation, and developmental disabilities, may establish a community mental health center under this chapter to serve the county or counties. In establishing the community mental health center, the board of supervisors of each county involved may make a single nonrecurring expenditure ~~from the county fund specified in section 331.425, subsection 13,~~ in an amount determined by the board. This section does not limit the authority of the board or boards of supervisors of any county or group of counties to continue to expend money ~~from the county fund specified in this section~~ to support operation of the center, and to form agreements with the board of supervisors of any additional county for that county to join in supporting and receiving services from or through the center.

Sec. 88. Section 230A.14, Code 1983, is amended to read as follows:

230A.14 SUPPORT OF CENTER—FEDERAL FUNDS. The board of supervisors of any county served by a community mental health center established or continued in operation as authorized by section 230A.1 may expend money from ~~the county mental health and institutions fund~~ funds, federal revenue-sharing funds, or other federal matching funds designated by the board of supervisors for ~~such~~ that purpose, without a vote of the electorate of the county, to pay the cost of any services described in section 230A.2 which are provided by the center or by an affiliate under contract with the center, or to pay the cost of or grant funds for establishing, reconstructing, remodeling or improving any facility required for the center. However, the county board shall not expend money from that fund, except for designated revenue-sharing or other federal matching funds, for mental health treatment obtained outside a state institution in an amount exceeding eight dollars per capita in any county having less than forty thousand population.

Sec. 89. Section 231.12, Code 1983, is amended to read as follows:

231.12 SALARIES—EXPENSES—HOW PAID. The judges making the appointments shall fix the salaries of all appointees at not exceeding the amount authorized by law. All appointees shall serve during the pleasure of ~~such~~ the judges, and in addition to salaries shall receive their necessary and actual expenses incurred while performing their duties. For use of an automobile in the discharge of their duties within the particular ~~county or counties~~ for which they are appointed ~~such~~ the officers may receive the mileage rate provided by law, or, in lieu ~~thereof of that rate~~, they may receive a monthly allowance in ~~such~~ amounts as the ~~judge or judges of the juvenile court may~~ determine and order. For use of an automobile outside the ~~county or counties~~ for which they have been appointed ~~such~~ the officers shall be paid the regular mileage rate. All salaries and expenses shall be paid by the county either from the general county fund or from the court expense fund.

Sec. 90. Section 232.71, subsection 12, Code 1983, is amended to read as follows:

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

Sec. 91. Section 232.142, subsection 2, Code 1983, is amended to read as follows:

2. For the purpose of providing and maintaining a county or multicounty home, the board of supervisors of any county may issue general county purpose bonds in accordance with sections 331.441 to 331.449 and levy a tax in accordance with section 331.422, subsection 9. Expenses for providing and maintaining a multicounty home shall be paid by the counties participating in a manner to be determined by the boards of supervisors.

Sec. 92. Section 234.36, Code 1983, is amended to read as follows:

234.36 WHEN COUNTY TO PAY FOSTER CARE COSTS. Each county shall pay ~~from the county fund specified in section 331.425, subsection 13, paragraph "c"~~, the cost of foster care for a child placed by a court as provided in section 232.50 or section 232.99. However, in any fiscal year for which the general assembly appropriates state funds to pay for foster care for children placed by courts under sections 232.50 and 232.99, the county is responsible for these costs only when the funds so appropriated to the department for that fiscal year have been exhausted. The rate of payment by the county or the state under this section shall be that fixed by the department of social services pursuant to section 234.38.

Sec. 93. Section 236.5, subsection 1, Code 1983, is amended to read as follows:

1. The court may order that the plaintiff and the defendant receive professional counseling, either from a private source approved by the court or from a source appointed by the court. Costs of counseling shall be paid in full or in part by the parties and taxed as court costs. If the court determines that the parties are unable to pay the costs, they may be paid in full or in part from the ~~court expense fund~~ county treasury.

Sec. 94. Section 244.14, unnumbered paragraph 1, Code 1983, is amended to read as follows:

Each county ~~shall be~~ is liable for sums paid by the home in support of all its children to the extent of a sum equal to one-half of the net cost of the support and maintenance of its children. The superintendent shall certify to the state comptroller on the first day of each fiscal quarter the amount chargeable to each county for ~~such~~ support. The sums for which each county is ~~so~~ liable shall be charged to the county and collected as a part of the taxes due the state, and paid by the county ~~from the county mental health and institutions fund~~ at the same time state taxes are paid.

Sec. 95. Section 247A.10, Code 1983, is amended to read as follows:

**247A.10 ALLEGED WORK RELEASE VIOLATORS — REIMBURSEMENT TO COUNTIES FOR TEMPORARY CONFINEMENT.** The division of adult corrections shall negotiate a reimbursement rate with each county for the temporary confinement of alleged violators of work release conditions who are in the custody of the director of the division of adult corrections. The amount to be reimbursed shall be determined by multiplying the number of days so confined by the average daily cost of confining a person in the county facility as negotiated with the department. Payment shall be made upon submission of a voucher executed by the sheriff and approved by the director of the division of adult corrections. ~~The money shall be deposited in the county general fund to be credited to the jail account.~~

Sec. 96. Section 249A.12, subsection 2, unnumbered paragraph 2, Code 1983, is amended to read as follows:

Each county board entering into an agreement with the department under this subsection shall agree to reimburse the department ~~from the county poor fund or the county mental health and institutions fund~~, on a monthly basis, for that portion of the cost of assistance furnished under this section which is not paid from federal funds. The department shall place all such reimbursements from counties in the appropriation for medical assistance, and may use the reimbursed funds for any purpose for which the funds so appropriated by the general assembly may lawfully be used. Any county-reimbursed funds remaining unexpended shall revert to the general fund of the state in the same manner as the original appropriation.

Sec. 97. Section 250.5, Code 1983, is amended to read as follows:

**250.5 COMPENSATION.** A member of the commission shall receive twenty-five dollars for each month during which the member attends one or more commission meetings and shall be reimbursed for mileage the same as a member of the board of supervisors. Compensation and mileage shall be paid out of the ~~tax levied under appropriation authorized in section 331.422, subsection 10 99 of this Act.~~

Sec. 98. Section 250.10, unnumbered paragraph 1, Code 1983, 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 ~~same drawn upon the veteran affairs fund the claims.~~ All applications, investigation reports and case records ~~shall be~~ 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 the ~~provisions of this chapter.~~ Provided, however, that ~~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 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. 99. NEW SECTION. 250.14 APPROPRIATION. The board of supervisors of each county may appropriate moneys for the benefit of, and to pay the funeral expenses of honorably discharged, indigent men and women of the United States 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, and the Vietnam Conflict at any time between August 5, 1964, and May 7, 1975, both dates inclusive, and their indigent spouses, surviving spouses, and minor children not over eighteen years of age, having a legal residence in the county.

The appropriation shall be expended by the joint action and control of the board of supervisors and the county commission of veteran affairs.

Sec. 100. Section 250.17, Code 1983, is amended to read as follows:

250.17 MAINTENANCE OF GRAVES. The board of supervisors of the several counties in this state shall each year, ~~out of the general fund of their respective counties,~~ appropriate and pay to the owners of, or to the public board or officers having control of cemeteries within the state in which any such deceased service man or woman of the United States is buried, a sum sufficient to pay for the care and maintenance of the lots on which they are so buried, in any and all cases in which provision for such care is not otherwise made.

Sec. 101. Section 251.4, Code 1983, is amended to read as follows:

251.4 GRANTS FROM STATE FUNDS TO COUNTIES. The state division may require as a condition of making available state assistance to counties for emergency relief purposes, that the county boards of supervisors shall ~~make maximum tax levies for relief, establish budgets as needed in respect to the relief situation in the counties, and comply with restrictions in section 331.422, subsection 11.~~

Sec. 102. Section 252.26, Code 1983, is amended to read as follows:

252.26 GENERAL RELIEF DIRECTOR. The board of supervisors in each county in the state shall, ~~no later than July 1, 1980,~~ appoint or designate a general relief director for the county, who shall have the powers and duties conferred by this chapter. In counties of one hundred thousand or less population, the county board may designate as general relief director an employee of the state department of social services who is assigned to work in that county and is directed by the commissioner of social services, pursuant to an agreement with the county board, to exercise the functions and duties of general relief director in that county. The director shall receive as compensation an amount to be determined by the county board, ~~which may be paid either from the general or poor fund of the county.~~

Sec. 103. Section 252.35, Code 1983, is amended to read as follows:

252.35 PAYMENT OF CLAIMS. All claims and bills for the care and support of the poor shall be certified to be correct by the general relief director and presented to the board of supervisors, and, ~~if they are the board is~~ satisfied that the claims and bills are reasonable and proper, they shall be paid out of the county treasury.

Sec. 104. Section 252.42, Code 1983, is amended to read as follows:

252.42 CO-OPERATION ON WORK-RELIEF PROJECTS. ~~Notwithstanding the provisions of any laws to the contrary, the~~ The county board of supervisors ~~shall have the power to use the poor fund to~~ may join and co-operate with the United States government, or cities within their boundaries, or both the United States government and cities within their boundaries, in sponsoring work projects, provided that the money used ~~from the poor fund for such purposes~~ does not exceed the cost per month of supplying relief to the certified persons working on projects who would be receiving direct relief if they were not employed on ~~said work the~~ projects.

Sec. 105. Section 255.26, unnumbered paragraph 2, Code 1983, is amended to read as follows:

The county auditor, upon receipt of such ~~the~~ certificate, shall ~~thereupon~~ enter the ~~same~~ it to the credit of the state in ~~his~~ the ledger of state accounts, and at once issue a notice to ~~his~~ the county treasurer authorizing ~~him~~ the county treasurer to transfer the amount ~~from the poor or county fund~~ to the general state revenue, which notice shall be filed by the treasurer as his authority for making ~~such the~~ transfer; ~~and he.~~ The county treasurer shall include the amount ~~so transferred in his~~ the next remittance of state taxes to the treasurer of state, to accrue to the credit of the university hospital fund.

Sec. 106. Section 270.7, Code 1983, is amended to read as follows:

270.7 PAYMENT BY COUNTY. The county auditor shall, upon receipt of ~~said~~ the certificate, pass the ~~same~~ it to the credit of the state, and ~~thereupon~~ issue a notice to the county

treasurer authorizing ~~him~~ the county treasurer to transfer the amount ~~from the county mental health and institutions fund~~ to the general state revenue, which shall be filed by the treasurer as ~~his~~ authority for making ~~such~~ the transfer, and ~~the county treasurer~~ shall include the amount in ~~his~~ the next remittance of state taxes to the treasurer of state, designating the fund to which it belongs.

~~Should any~~ If a county fail fails to pay these bills within sixty days from the date of certificate from the superintendent, the state comptroller shall charge the delinquent county ~~the~~ a penalty of three-fourths of one percent per month on and after sixty days from the date of certificate until paid. ~~Such~~ The penalties shall be credited to the general fund of the state.

Sec. 107. Section 306.15, Code 1983, is amended to read as follows:

306.15 PURCHASE AND SALE OF PROPERTY. If as to any one or more properties affected by the proposed vacation and closing of ~~any a~~ secondary road, it ~~should appear~~ appears to the board of supervisors to be in the interest of economy or public welfare, the board may purchase or condemn, by proceeding as this chapter provides, the ~~said entire property or~~ properties, and make payment ~~therefor out of the secondary road fund for them~~. After the road has been vacated and closed the board shall sell ~~such property or the~~ properties at the best attainable price, and credit the proceeds of such sale to the secondary road fund.

Sec. 108. Section 309.10, unnumbered paragraph 2, Code 1983, is amended to read as follows:

A county shall not use farm-to-market road funds as described in this section unless the total funds that the county ~~raised transferred or provided~~ during the prior ~~calendar~~ fiscal year pursuant to section ~~331.425, subsection 7, paragraph "a", subparagraphs (1), (3) and (4)~~ 331.429, subsection 1, paragraphs a, b, and d, are at least seventy-five percent of the maximum funds the county could have ~~raised transferred in the prior calendar fiscal year pursuant to section 331.422, subsections 12 and 13~~ 331.429, subsection 1, paragraphs a and b.

Sec. 109. Section 309.18, unnumbered paragraph 1, Code 1983, is amended to read as follows:

The board shall fix the compensation of ~~said engineer or the engineers, and pay the same, together with all engineering costs, from the general county fund, or from the secondary road construction fund or from the secondary road maintenance fund, or from any or all of said funds~~.

Sec. 110. Section 309.52, Code 1983, is amended to read as follows:

309.52 DUTY OF TREASURER. The treasurer shall sell ~~said the~~ certificates in accordance with the provisions of chapter 75, and shall credit the amount received to ~~said secondary road fund, or if unable to sell said the certificates for par plus accrued interest, the treasurer may apply said the certificates at par plus accrued interest in payment of any warrants duly authorized and issued for secondary road work~~.

Sec. 111. Section 310.1, subsection 1, Code 1983, is amended to read as follows:

1. "County's allotment of road use tax fund" or "allotment of road use tax fund" ~~shall mean~~ means that part of the road use tax fund allotted to any county by the treasurer of state from the portion of the state road use tax fund which ~~he~~ the treasurer has credited to the secondary road ~~construction~~ fund of the counties.

Sec. 112. Section 311.7, unnumbered paragraph 7, Code 1983, is amended to read as follows:

Any road or roads so improved by graveling or other suitable surfacing under the provisions of this section shall be maintained by the county ~~from the secondary road fund~~.

Sec. 113. Section 311.19, unnumbered paragraph 2, Code 1983, is amended to read as follows:

In case of assessments on lands owned by the county, the ~~same~~ assessments shall be paid

from the county general fund treasury. In case of assessments on lands owned by the state, the same assessments shall be paid out of any funds in the state treasury not otherwise appropriated. In case of assessments on lands owned by a city, the same assessments shall be paid from any available city fund.

Sec. 114. Section 311.23, Code 1983, is amended to read as follows:

**311.23 PAYMENT OF CONSTRUCTION COSTS.** The total cost of any secondary road assessment district project shall in the first instance be paid out of the secondary road fund of said county treasury. Any assessments which are paid in cash and in anticipation of which assessments no certificates have been issued, shall be transferred to the secondary road fund county treasury.

If no special assessment certificates are issued and sold on account of any particular secondary road assessment district, the special assessments on lands included in that district, and the interest on such the assessments when collected, shall be transferred to the secondary road fund of said the county. If certificates are issued and sold in anticipation of the special assessments levied on any such a district as herein provided, the proceeds of such the certificates shall be credited to the secondary road fund of said county treasury. In that event, the special assessments in anticipation of which certificates have been issued, and the interest on such the assessments shall, when collected, be used to retire such the certificates.

Sec. 115. Section 311.29, Code 1983, is amended to read as follows:

**311.29 SALE OF CERTIFICATES.** Upon the signing of each of the certificates by the chairperson of the board, the certificates shall be delivered to the county treasurer, who shall countersign them and who shall be responsible for them on his or her the treasurer's bond. The treasurer may apply the certificates in payment of warrants duly authorized and issued for surfacing the roads within the district, or the treasurer may sell the certificates for the best attainable price and for not less than par, plus accrued interest, and credit the proceeds to the secondary road fund. The certificates shall be retired in the order of their numbering.

Sec. 116. Section 312.2, subsection 8, Code 1983, is amended to read as follows:

8. Beginning July 1, 1981, and each subsequent year, the The treasurer of state, before making any allotments to counties under this section, shall reduce the allotment to any county for the secondary road fund by an amount by which the total funds that the county raised transferred or provided during the prior calendar fiscal year under section 331.425, subsection 7, paragraph "a," subparagraphs (1), (3) and (4) 331.429, subsection 1, paragraphs a, b, and d, are less than seventy-five percent of the maximum funds that the county could have raised transferred in the prior calendar fiscal year under section 331.422, subsections 12 and 13 331.429, subsection 1, paragraphs a and b. Funds remaining in the secondary road fund of the counties due to a reduction of allocations to counties for failure to maintain a minimum local tax effort shall be reallocated to counties that are not reduced under this subsection pursuant to the allocation provisions of section 312.3, subsection 1, based upon the needs and area of the county. Information necessary to make allocations under this subsection shall be provided by the state department of transportation or the state comptroller upon request by the treasurer of state.

Sec. 117. Section 313.28, subsection 2, Code 1983, is amended to read as follows:

2. Determine such amount as will adequately compensate the county exercising exclusive or concurrent jurisdiction over the secondary road or portion thereof for excessive traffic upon the secondary road or portion thereof during the period of its designation as a temporary primary road. The department shall certify the amount determined to the state comptroller. The comptroller shall credit the amount to the secondary road fund of the county.

Sec. 118. Section 316.14, Code 1983, is amended to read as follows:

316.14 FUNDING. Payments and expenditures under the provisions of this chapter are incident to and arise out of the construction, maintenance, and supervision of public highways and streets, and, in the case of any federal-aid highway project, may be made by the department from the primary road fund and funds made available by the federal government for the purpose of carrying out the provisions of this chapter. Payments made under authority of section 316.10 may be made from the primary road fund in case of a primary road project only, and in other cases may be made from the secondary road fund or from appropriate funds under control of a political subdivision.

Sec. 119. Section 317.3, unnumbered paragraph 1, Code 1983, is amended to read as follows:

The board of supervisors of each county shall annually appoint a county weed commissioner who may be a person otherwise employed by the county and who is familiar with the various types of weeds and the recognized methods for their control and elimination. The county weed commissioner's appointment shall be effective as of March 1 and shall continue for a term of one year unless the commissioner is removed from office as provided for by law. The county weed commissioner may, with the approval of the board of supervisors, appoint a deputy or such the number of deputies as are necessary to carry out the purposes of this chapter. The name and address of the person appointed as county weed commissioner shall be certified to the county auditor and to the secretary of agriculture within ten days of the appointment. The board of supervisors shall fix the compensation of the county weed commissioner and deputies. In addition to compensation, the commissioner and deputies shall be paid their necessary travel expenses from the county general fund or the weed eradication and equipment fund.

Sec. 120. Section 317.4, Code 1983, is amended to read as follows:

317.4 DIRECTION AND CONTROL. As used in this chapter, "commissioner" or "commissioners" means the county weed commissioners and their deputies commissioner or the commissioner's deputy within their respective counties each county. Each commissioner, subject to direction and control by the county board of supervisors, shall supervise the control and destruction of all noxious weeds in the county, including those growing within the limits of cities, within the confines of abandoned cemeteries, and those growing along streets and highways unless otherwise provided. A commissioner may enter upon any land in the county at any time for the performance of the commissioner's duties, and shall hire the labor and equipment necessary subject to the approval of the board of supervisors. This necessary labor and equipment shall be paid for from the county general fund or the funds specified in section 331.426, subsection 7.

Sec. 121. Section 317.16, Code 1983, is amended to read as follows:

317.16 FAILURE TO COMPLY. In case of a substantial failure to comply by the date prescribed in any order of destruction of weeds made pursuant to the provisions of this chapter, the weed commissioner or his the deputies shall, subsequent to the time after service of the notice provided for in section 317.6 enter upon the land and cause such the weeds to be destroyed. The actual cost and expense of such cutting, burning or otherwise destroying of said the weeds, the cost of serving notice and special meetings or proceedings, if any, shall be paid from by the county general fund and, together with the additional assessment to apply toward costs of supervision and administration, be recovered by an assessment against the tract of real estate on which the weeds were growing, as provided in section 317.21.

Sec. 122. Section 317.18, Code 1983, is amended to read as follows:

317.18 ORDER FOR DESTRUCTION ON ROADS. The board of supervisors shall order all weeds other than noxious weeds, on all county trunk and local county roads and between the fence lines thereof to be cut, burned or otherwise destroyed to prevent seed production thereof, either upon its own motion or upon receipt of written notice requesting such the action from any residents of the township in which such the roads are located, or any person regularly using said the roads. ~~Said~~ The order shall define the roads along which ~~said~~ weeds are required to be cut, burned or otherwise destroyed and shall require ~~said~~ the weeds to be cut, burned or otherwise destroyed within thirty days after the publication of ~~said~~ the order in the official newspapers of ~~said~~ the county. If the adjoining owner fails to cut, burn or otherwise destroy ~~said~~ the weeds as required in ~~said~~ the order, the county commissioner shall have ~~same~~ them cut, burned or otherwise destroyed and the cost thereof shall be paid ~~from~~ by the ~~general~~ county fund, and recovered later by an assessment against the adjoining property owners as provided in section 317.21.

Sec. 123. NEW SECTION. 317.19 ROAD CLEARING APPROPRIATION. The board of supervisors may appropriate moneys to be used for the purposes of cutting, burning, or otherwise destroying all weeds, second, or undergrowth brush between the fence rows on the county trunk roads and local county roads in time to prevent reseeding.

The board of supervisors may purchase or hire necessary equipment or contract with the adjoining landowner to carry out the purposes of this section.

Sec. 124. NEW SECTION. 317.20 EQUIPMENT AND MATERIALS—USE ON PRIVATE PROPERTY. The board of supervisors may appropriate moneys for the purpose of purchasing weed eradicating equipment and materials to carry out the duties of the commissioner for use on all lands in the county, public or private, and for the payment of the necessary expenses and compensation of the commissioner, and the commissioner's deputies, if any. When equipment or materials so purchased are used on private property within the corporate limits of cities by the commissioner, the cost of materials used and an amount to be fixed by the board of supervisors for the use of the equipment shall be returned by the county treasurer upon the collection of the special assessment taxed against the property. In the certification to the county treasurer by the county auditor this apportionment shall be designated along with the special tax assessed under section 317.21. The equipment and its use are subject to the authorization and direction of the county board of supervisors.

Sec. 125. Section 321.105, unnumbered paragraph 2, Code 1983, is amended to read as follows:

~~Said~~ The registration fee shall be paid to the county treasurer at the same time the application is made for the registration or reregistration of ~~said~~ the motor vehicle or trailer. ~~Any~~ ~~An~~ owner may, when applying for registration or reregistration of his a motor vehicle or trailer, request that the plates be mailed to his the owner's post-office address. ~~His~~ ~~The~~ owner's request shall be accompanied by a mailing fee as determined annually by the director. ~~Said~~ fee shall be deposited in the county general fund.

Sec. 126. Section 321.152, Code 1983, is amended to read as follows:

321.152 FEE FOR COUNTY. ~~Each~~ ~~A~~ county treasurer shall be allowed to ~~may~~ retain for deposit in the county general fund, two point six percent of the total collection for each annual or semiannual vehicle registration and each duplicate registration card or plate issued; sixty-five percent of all fees collected for certificates of title and certified copies of certificates of title; and one hundred percent of all fees collected for notation of security interests. The moneys retained shall be deducted, and reported to the department, when the county treasurer transfers the money collected under the provisions of this chapter; ~~provided,~~ ~~however,~~ ~~that~~ ~~no~~ ~~such~~. However, a deduction shall be ~~is~~ not lawful unless the county treasurer has complied with the provisions of sections 321.24 and 321.153.

Sec. 127. Section 321.192, Code 1983, is amended to read as follows:

321.192 DISPOSAL OF FEES. ~~Such~~ The license fees shall be forwarded by the department to the treasurer of state who shall place ~~same them~~ in the general fund of the state, ~~provided that.~~ However, for each operator's and motorized bicycle license issued by a county sheriff for which a license fee is paid, the sheriff issuing ~~the same shall be entitled to it~~ may retain the sum of fifteen cents and for each chauffeur's license, the sum of fifty cents, ~~which shall be credited to the county general fund.~~

Sec. 128. Section 321.346, Code 1983, is amended to read as follows:

321.346 COST OF SIGNS. The cost of ~~such the~~ signs on primary highways shall be paid out of the primary road fund. The cost of ~~such the~~ signs on secondary roads shall be paid ~~out of~~ by the county ~~secondary road fund.~~

Sec. 129. Section 321.352, Code 1983, is amended to read as follows:

321.352 ADDITIONAL SIGNS—COST. The county board of supervisors shall, at places deemed by them unusually dangerous on the local county roads, furnish and erect suitable warning signs. The cost of ~~such the~~ signs shall be paid ~~out of~~ by the county ~~road maintenance or construction fund.~~

Sec. 130. Section 321.485, subsection 3, Code 1983, is amended to read as follows:

3. For preparing the summons or memorandum referred to in this section, there shall be charged to the person named in the summons or memorandum, upon conviction, a fee of two dollars. The fee shall be assessed as part of the court costs ~~and shall be paid into the general fund of the county.~~

Sec. 131. Section 330.20, Code 1983, is amended to read as follows:

330.20 APPOINTMENT OF COMMISSION. When a majority of the voters favors airport control and management by a commission, the governing body shall, within ten days, appoint an airport commission of three or five resident voters. In case of a commission of three members the first appointees shall hold office, one for two years, one for four years, and one for six years. In case of a commission of five members the first appointees shall hold office, one for two years, one for three years, one for four years, one for five years, and one for six years. All subsequent appointments shall be for a term of six years. Vacancies shall be filled as original appointments are made. Members of the airport commission shall serve without compensation. Each commissioner shall execute and furnish a bond in an amount fixed by the governing body and filed with the city clerk or county auditor. ~~The cost of such bond shall be paid from the general fund.~~ The commission shall elect from its own members a ~~chairman~~ chairperson and a secretary who shall serve for ~~such~~ a term as the commission shall determine.

Sec. 132. Section 331.401, subsection 1, paragraph b, Code 1983, is amended to read as follows:

b. Establish budgets ~~in accordance with chapter 24, and establish budgets~~ for the farm-to-market road fund and the secondary road fund in accordance with sections 309.10 and 309.93 to 309.97.

Sec. 133. Section 331.401, subsection 1, paragraph e, Code 1983, is amended by striking the paragraph.

Sec. 134. Section 331.401, subsection 1, paragraph m, Code 1983, is amended to read as follows:

m. Levy taxes as certified to it by tax-certifying bodies in the county, in accordance with the statutes authorizing the levies and in accordance with ~~chapters~~ chapter 24 ~~and 344~~ and sections 444.1 to 444.8, and levy taxes as required in chapters 430A, 433, 434, 436, 437 and 438.

Sec. 135. Section 331.401, subsection 1, Code 1983, is amended by adding the following new paragraph:

NEW PARAGRAPH. Require a local historical society to submit to it a proposed budget including the amount of available funds and estimated expenditures, as a prerequisite to receiving funds. A local historical society receiving funds shall present to the board an annual report describing in detail its use of the funds received.

Sec. 136. Section 331.441, subsection 2, paragraph a, Code 1983, is amended to read as follows:

a. "General obligation bond" means a negotiable bond issued by a county and payable from the levy of ad valorem taxes on all taxable property within the county through its debt service fund which is required to be established by section ~~331.428~~ 331.430.

Sec. 137. Section 331.441, subsection 2, paragraph b, subparagraph (3), Code 1983, is amended to read as follows:

(3) Sanitary disposal projects as defined in section 455B.301, subject to the levy limit in section 331.422, subsection 27.

Sec. 138. Section 331.441, subsection 2, paragraph b, subparagraph (5), Code 1983, is amended to read as follows:

(5) Public buildings, including the site or grounds of, and the erection, equipment, remodeling, or reconstruction of, and additions or extensions to the buildings, and including the provision and maintenance of juvenile detention or shelter care facilities, when the cost does not exceed the following limits stated in section 345.1:

(a) Two hundred thousand dollars in a county having a population of twenty-five thousand or less.

(b) Two hundred fifty thousand dollars in a county having a population of more than twenty-five thousand but not more than fifty thousand.

(c) Three hundred thousand dollars in a county having a population of more than fifty thousand but not more than one hundred thousand.

(d) Four hundred thousand dollars in a county having a population of more than one hundred thousand but not more than two hundred thousand.

(e) Five hundred thousand dollars in a county having a population of more than two hundred thousand.

Sec. 139. Section 331.441, subsection 2, paragraph c, subparagraphs (1), (2), (3), and (9), Code 1983, are amended to read as follows:

(1) A memorial building or monument to commemorate the service rendered by soldiers, sailors, and marines of the United States, including the acquisition of ground and the purchase, erection, construction, reconstruction, and equipment of the building or monument, subject to the levy limit in section 331.421, subsection 1, and to be managed by a commission as provided in chapter 37. The election on the proposition to issue bonds for this purpose may be effected under sections 37.2 to 37.4 or section 331.442; after the election, the county shall take additional actions required to issue the bonds pursuant to this part.

(2) Acquisition and development of land for a public museum, park, parkway, preserve, playground, or other recreation or conservation purpose to be managed by the county conservation board, subject to the levy limit in section 331.422, subsection 6, and subject to a one million dollar maximum aggregate limit on outstanding county conservation bonds in the county. Expenses incurred for the bond election shall be paid from the county conservation fund. The board may only submit a proposition under this subparagraph only upon receipt of a petition from the county conservation board asking that bonds be issued for a specified amount.

(3) The building and maintenance of a bridge over state boundary line streams, ~~subject to the levy limit in section 331.422, subsection 14.~~ The board shall submit a proposition under this subparagraph to an election upon receipt of a petition which is valid under section 331.306.

(9) Public buildings, including the site or grounds of, the erection, equipment, remodeling, or reconstruction of, and additions or extensions to the buildings, and including the provision and maintenance of juvenile detention or shelter care facilities, when the cost exceeds the limits stated in ~~section 345.1~~ subsection 2, paragraph b, subparagraph (5).

Sec. 140. Section 331.447, subsection 1, unnumbered paragraph 1, Code 1983, is amended to read as follows:

Taxes for the payment of general obligation bonds shall be levied in accordance with chapter 76, and the bonds are payable from the levy of unlimited ad valorem taxes on all the taxable property within the county through its debt service fund required by section ~~331.428~~ 331.430 except that:

Sec. 141. Section 331.510, subsections 2 and 3, Code 1983, are amended by striking the subsections.

Sec. 142. Section 331.512, subsection 1, paragraph g, Code 1983, is amended to read as follows:

g. The levy for taxes for the county brucellosis ~~eradication fund~~ and the bovine tuberculosis eradication fund as provided in section ~~331.421, subsections 5 and 6~~ 74 of this Act.

Sec. 143. Section 331.552, subsection 10, Code 1983, is amended to read as follows:

10. File the notice of authority from the auditor to transfer funds ~~from the mental health and institutions fund~~ to a substance abuse treatment facility as provided in section 125.49.

Sec. 144. Section 331.552, subsection 12, Code 1983, is amended by striking the subsection.

Sec. 145. Section 331.552, subsection 29, Code 1983, is amended by striking the subsection.

Sec. 146. Section 331.552, subsection 33, Code 1983, is amended by striking the subsection.

Sec. 147. Section 331.554, subsection 6, Code 1983, is amended to read as follows:

6. The amount of a check or warrant outstanding for more than two years shall be paid to the treasurer and credited ~~to the general fund of the county~~ as unclaimed fees and trusts. The treasurer shall provide a list of the checks and warrants to the auditor who shall maintain a record of the unclaimed fees and trusts. A person may claim an unclaimed fee or trust within five years after the money is credited ~~to the general fund~~ upon proper proof of ownership. ~~Claims for unclaimed fees and trusts shall be paid from the general fund of the county.~~

Sec. 148. Section 331.559, subsection 1, Code 1983, is amended by striking the subsection.

Sec. 149. Section 331.559, subsections 3, 4, and 7, Code 1983, are amended to read as follows:

3. Collect the tax levied for the county brucellosis ~~eradication fund~~ and the county tuberculosis eradication fund as provided in section ~~331.421, subsections 5 and 6~~ 74 of this Act.

4. Collect the tax levied for the county agricultural extension education fund and pay it to the extension treasurer as provided in section ~~331.425, subsection 6~~ 78 of this Act.

7. Collect the costs assessed against a property owner for the destruction or eradication of weeds as provided in ~~section~~ sections 317.21 and 124 of this Act.

Sec. 150. Section 331.757, subsection 1, Code 1983, is amended to read as follows:

1. The county attorney may employ, with the approval of a judge of the district court, a temporary assistant to assist in the trial of a person charged with a felony. The temporary assistant shall be paid a reasonable compensation ~~for his or her services~~ as determined by the board upon certification of the services rendered, by the district judge before whom the defendant was tried. ~~The compensation paid to the temporary assistant shall be paid from the court expense fund of the county.~~

Sec. 151. Section 331.776, subsection 8, Code 1983, is amended by striking the subsection.

Sec. 152. Section 331.901, subsection 6, Code 1983, is amended by striking the subsection.

Sec. 153. Section 331.904, subsection 6, Code 1983, is amended by striking the subsection.

Sec. 154. Section 331.907, subsection 5, Code 1983, is amended by striking the subsection.

Sec. 155. Section 333A.4, subsections 1 and 2, Code 1983, are amended to read as follows:

1. Design budget forms required by section 331.434 and annual financial report forms required by section 331.403 for all county funds.

2. Establish guidelines for program budgeting and accounting and the preparation of five-year capital improvement plans. It shall, where practicable, use recommendations of the national council on governmental accounting or its successor organization.

Sec. 156. Section 341A.20, Code 1983, is amended to read as follows:

341A.20 BUDGET. The county board of supervisors of each county shall provide in the county budget for each fiscal year a sum equal to one-half of one percent of the preceding year's total payroll of those included under the jurisdiction and scope of this chapter. The funds so provided shall be used for the support of the commission. Any part of the funds not expended for the support of the commission during the fiscal year shall be placed in the general fund of returned to the county, or counties, according to the ratio of contribution, on the first day of January which is not a Saturday, Sunday, or holiday following the end of such the fiscal year.

Sec. 157. Section 346A.2, Code 1983, is amended to read as follows:

346A.2 AUTHORIZED IN CERTAIN COUNTIES. Counties may undertake and carry out any project as defined in section 346A.1, and the boards may operate, control, maintain and manage health centers and additions to and facilities for health centers. The boards may appoint committees, groups, or operating boards as they may deem necessary and advisable to facilitate the operation and management of health centers, additions and facilities. A board may lease space in any health center to other public corporations, public agencies and private nonprofit agencies engaged in furnishing health, welfare and social services which lease shall be on terms and conditions the board deems advisable. All contracts for the construction, reconstruction, completion, equipment, improvement, repair or remodeling of any buildings, additions or facilities shall be let in accordance with section 331.341, subsection 1. ~~To pay the cost of operating, maintaining and managing a health center the board of any such county may levy an annual tax in accordance with section 331.422, subsection 21.~~

Sec. 158. Section 349.18, Code 1983, is amended to read as follows:

349.18 SUPERVISORS' PROCEEDINGS—EACH PAYEE LISTED—PUBLICATION. All proceedings of each regular, adjourned, or special meeting of boards of supervisors, including the schedule of bills allowed, shall be published immediately after the adjournment of such the meeting of said the boards, and the publication of the schedule of the bills allowed shall show the name of each individual to whom the allowance is made and for what such purpose the bill is filed and the amount allowed thereon, except that names of persons receiving relief from the county poor fund shall not be published. The county auditor shall furnish a copy of such the proceedings to be published, within one week following the adjournment of the board.

Sec. 159. Section 351.15, Code 1983, is amended to read as follows:

351.15 ASSESSORS TO LIST DOGS—FEES. The assessor shall, at the time of listing property for assessment, cause to be listed and return to the county auditor the names of all persons who own or harbor dogs, and indicate on such the list whether the dogs be are male, female, or spayed, and the their number thereof. ~~For such service, the assessor shall receive, from the domestic animal fund, the sum of ten cents for each dog reported, which fee shall be paid in full when return is made. Such fees shall be considered as earnings of the office and shall, within ten days of the receipt thereof, be paid to the county treasurer and credited to the general fund of the county.~~

Sec. 160. Section 356A.3, Code 1983, is amended to read as follows:

356A.3 ALTERNATIVE CONFINEMENT OF PRISONERS. ~~Any~~ A district judge may sentence and commit a person to a facility established and maintained pursuant to section 356A.1 or 356A.2 instead of the county jail. A district judge may order the transfer of a person sentenced and committed to the county jail to such a facility upon the judge's own motion, the motion of the sentenced and committed person, or the motion of the sheriff. The original order of commitment or the order of transfer to the facility shall set forth the terms and conditions of the detention or commitment and that the detained or committed person shall abide by the terms and conditions of this chapter and the rules of the facility to which committed or transferred. The order shall be read to the detained, committed, or transferred person in open court. The committing court or a district judge may order ~~any~~ a person who has been detained, committed, or transferred to such a facility to be transferred to the county jail if, upon hearing, the court determines the person has been refractory or disorderly, has willfully destroyed or injured any property in the facility, or has violated any of the terms and conditions of the order of detention, commitment, or transfer or the provisions of this chapter or the rules of the facility where the person was detained or committed. Any violations of the order of detention, commitment, or transfer shall further be punished as contempt of court pursuant to chapter 665. ~~The provisions of section~~ Section 719.4 ~~are~~ is applicable to any person detained, committed, or transferred to a facility established and maintained pursuant to this chapter. The county or city to which the cause originally belonged is liable for the expense of the original detention, commitment, or transfer and the subsequent expenses of maintaining the person in the facility. ~~The county's expense shall be levied and paid out of the fund pursuant to section 331.426, subsection 9.~~

Sec. 161. Section 358A.9, Code 1983, is amended to read as follows:

358A.9 ADMINISTRATIVE OFFICER. The board of supervisors shall appoint an administrative officer authorized to enforce the resolutions or ordinances ~~so~~ adopted by the board of supervisors. ~~Such~~ The administrative officer may be a person holding other public office in the county, or in a city or other governmental subdivision within the county, and the board of supervisors is authorized to pay to ~~such~~ the officer ~~out of the general fund such~~ compensation as it ~~shall deem~~ deems fit.

Sec. 162. Section 358B.8, subsection 8, Code 1983, is amended to read as follows:

8. To have exclusive control of the expenditures of ~~all taxes levied for library purposes as provided by law, and of the expenditures of all moneys available by gift or otherwise for the erection of library buildings, and of all other moneys belonging to the library fund, including fines and rentals collected under the rules of the board of trustees.~~ Said ~~The~~ board shall keep a record of its proceedings.

Sec. 163. Section 358B.10, unnumbered paragraph 1, Code 1983, is amended to read as follows:

All moneys received and set apart for the maintenance of the library shall be deposited in the fund specified in ~~section 331.425, subsection 10, and shall be kept by the treasurer separate from all other moneys,~~ treasury of the county and paid out upon the orders warrants drawn by the county auditor upon requisition of the board of trustees, signed by its president and secretary.

Sec. 164. Section 358B.13, Code 1983, is amended to read as follows:

358B.13 MAINTENANCE EXPENSE ON PROPORTIONATE BASIS. The maintenance of a county library shall be on a proportionate population basis whereby each taxing unit shall bear its share in proportion to its population as compared to the whole population of the county library district. The board of library trustees shall on or before January 10 of each year make an estimate of the amount it deems necessary for the maintenance of the county library and shall transmit the estimate in dollars to the boards of supervisors and to the city

councils within the district. The entire rural area of each county in the library district shall be considered as a separate taxing unit. Each city which is a part of the county library district shall be considered as a separate taxing unit. The board of supervisors of each county and the boards of supervisors and the city councils within the district shall review the estimate and upon approval by the boards of supervisors and all city councils in the district, each governing body shall determine the source of its share and include its share within its proposed budget. The council of each city composing in a county library district shall may make the necessary levies for library maintenance purposes, but the county levy is subject to the levy limit in section 331.421, subsection 10.

Sec. 165. Section 358B.17, Code 1983, is amended to read as follows:

358B.17 HISTORICAL ASSOCIATION. ~~Whenever~~ If a local county historical association is formed in a county having a free public library, the trustees of the library may unite with the historical association and set apart the necessary room to care for articles which come into the possession of the association. The trustees may purchase necessary receptacles and materials for the preservation and protection of articles which are of a historical and educational nature and may pay for the same out of the library fund.

Sec. 166. Section 358B.18, subsection 2, paragraph a, Code 1983, is amended to read as follows:

a. Contracts shall provide for the rate of tax to be levied amount to be contributed. They may, by mutual consent of the contracting parties, be terminated at any time. They may also be terminated by a majority of the voters represented by either of the contracting parties, voting on a proposition to terminate which shall be submitted by the governing body upon a written petition of qualified voters in a number not less than five percent of those who voted in the area for president of the United States or governor at the last general election.

Sec. 167. Section 358B.18, subsection 4, Code 1983, is amended by striking the subsection.

Sec. 168. Section 359.46, subsection 1, unnumbered paragraph 1, Code 1983, is amended to read as follows:

A township trustee while engaged in official business shall be compensated at an hourly rate established by the county board of supervisors. However, the county board of supervisors may establish a minimum daily pay rate for the time spent by a township trustee attending a scheduled meeting of township trustees. The compensation shall be paid ~~from~~ by the general fund of the county except:

Sec. 169. Section 359.46, subsection 2, Code 1983, is amended to read as follows:

2. In cases where their fees or compensation are not paid ~~from the general fund of~~ by the county, the trustees shall be paid by the party requiring their services. The trustees shall attach to the report of their proceedings a statement specifying their services, directing who shall pay the fees or compensation, and specifying the amount to be paid by each party. A party who makes advance payment for the services of the trustees may take legal action to recover the amount of the payment from the party who is directed to pay by the trustees unless the party entitled to recovery under this subsection is paid within ten days after a demand for reimbursement is made.

Sec. 170. Section 361.3, subsection 4, Code 1983, is amended to read as follows:

4. Request the county board of supervisors to conduct a referendum authorizing the levy and collection of a tax ~~as provided in section 331.421, subsection 12, not to exceed two cents per acre on agricultural land in the county~~ for the administration of an artificial weather modification program.

Sec. 171. Section 364.3, subsection 2, Code 1983, is amended to read as follows:

2. A city may not provide a penalty in excess of a one hundred dollar fine or in excess of thirty days imprisonment for the violation of an ordinance. An amount equal to ten percent of

all fines collected by municipal corporations shall be remitted quarterly to the county treasurer of the county in which the municipal corporation is located ~~for deposit in the county general fund~~. However, one hundred percent of all fines collected by a city pursuant to section 321.236, subsection 1, shall be retained by the city.

Sec. 172. Section 368.21, Code 1983, is amended to read as follows:

368.21 SUPERVISION OF PROCEDURES. When an incorporation, discontinuance, or boundary adjustment is complete, the board shall supervise procedures necessary to carry out the proposal. In the case of an incorporation, the county commissioner of elections shall conduct an election for mayor and council of the city, who shall serve until their successors take office following the next regular city election. In the case of a discontinuance, the board shall publish two notices as provided in section 368.15 that it will receive and adjudicate claims against the discontinued city for a period of six months from the date of last notice, and shall cause necessary taxes to be levied against the property within the discontinued city to pay claims allowed. All records of a discontinued city shall be deposited with the county auditor of the county designated by the board. Any remaining balances shall be deposited in the ~~general fund of the county treasury~~ where the former city was located. In the case of boundary adjustments, the proper city officials shall carry out procedures necessary to implement the proposal.

Sec. 173. Section 422.65, subsection 2, Code 1983, is amended to read as follows:

2. Forty percent to the ~~general fund of the county~~ from which the tax is collected.

Sec. 174. Section 422.100, Code 1983, is amended to read as follows:

422.100 ALLOCATION TO MONEYS AND CREDITS REPLACEMENT FUND IN EACH COUNTY. There is created a permanent fund in the office of the treasurer of state to be known as the "moneys and credits replacement fund". The director shall determine the percentage which the aggregate taxable value for the year 1965 of the property described in and subject to taxation under section 429.2, Code 1966, owned or held by individuals, administrators, executors, guardians, conservators, trustees or an agent or nominee thereof, and the aggregate taxable value for the year 1965 of the property described in and subject to taxation under section 431.1, Code 1966, for the year 1965 but not subject to taxation under ~~said that~~ section for the year 1966, in each county bears to the total aggregate taxable value of such property reported from all of the counties in the state and shall certify the percentage for each county to the state comptroller prior to January 1, 1967. In July of each year, the state comptroller shall apply ~~said that~~ percentage to the money ~~which shall have accumulated~~ in the moneys and credits tax replacement fund prior to ~~such that~~ July and ~~thereby~~ determine the amount ~~thereof~~ due to each county. The state comptroller shall draw warrants on the moneys and credits tax replacement fund in such amounts payable to the county treasurer of each county and transmit them. The county treasurer shall apportion these amounts as follows: For the amounts received in January 1972, and all previously collected amounts, twenty percent to the county general fund, fifty percent to the school general fund, and the remaining thirty percent to cities and towns in the proportion that the taxable values for each city and town for 1965 of property subject to taxation in 1965 under sections 429.2, Code 1966, and 431.1, Code 1966, is to the total of such taxable values for all cities and towns within the county; for the amounts received in January 1973, and all subsequently collected amounts, forty percent to the county ~~general fund~~, and the remaining sixty percent to cities and towns in the proportion that the taxable values for each city and town for the year 1965 under sections 429.2 and 431.1, Code 1966, is to the total of such taxable values for all the cities and towns within the county.

Not later than December 31, 1973, the county auditor may file a certified statement with the state comptroller demonstrating errors made in calculating the aggregate taxable value for the year of 1965. The comptroller, upon verifying that an error was made, shall recalculate the amount payable to counties for the previous seven years, based upon the amounts which were available in the moneys and credits tax replacement fund in January of each year, and shall notify each county of its total overpayment or underpayment for the seven-year period. If a county has received an overpayment, it shall refund the overpayment to the comptroller for deposit in the moneys and credits tax replacement fund. The refund of an overpayment shall be made not later than December 31, 1976. If a county has received an underpayment, the comptroller shall pay the amount of the underpayment to the county from the moneys and credits tax replacement fund, not later than January of 1977. ~~The refund of an overpayment shall be made from the county general fund, and the amount received for an underpayment shall be deposited in the county general fund, but the board of supervisors shall distribute thirty percent of the overpayment to cities and towns in the county in proportion to the corrected taxable values for each city and town for 1965.~~

Sec. 175. Section 422A.2, subsection 3, Code 1983, is amended to read as follows:

3. Moneys received by the ~~county or city~~ from this fund shall be credited to the general fund of ~~such county or the city~~, subject to the provisions of subsection 4.

Sec. 176. Section 428A.8, unnumbered paragraph 2, Code 1983, is amended to read as follows:

The county recorder shall deposit the remaining twenty-five percent of the receipts to the credit of the county ~~general fund~~.

Sec. 177. Section 430A.3, Code 1983, is amended to read as follows:

430A.3 LEVY. There is hereby imposed upon capital employed in the business of making loans or investments within the state of Iowa, as determined under ~~the provisions of this chapter~~, a tax of five mills on each dollar of ~~such~~ capital; ~~such the~~ tax to be considered a tax upon moneys and credits of ~~such the~~ corporations which shall be levied by the board of supervisors, and placed upon the tax list and collected by the county treasurer. The amount collected in each taxing district in cities shall be apportioned twenty percent to the county ~~general fund~~, thirty percent to the city general fund, and fifty percent to the general fund of the state, and the amount collected in each taxing district outside of cities shall be apportioned fifty percent to the county ~~general fund~~ and fifty percent to the general fund of the state. The term "loans" as used herein ~~shall mean~~ means the lending of money to members of the general public upon other than real estate security. The term "investments" as used herein ~~shall mean~~ means the discounting, purchasing, or otherwise acquiring notes, mortgages, sales contracts, debentures, or any other evidences of indebtedness, based upon other than real estate security when ~~such the~~ investments are made in connection with loans made to members of the general public in the state of Iowa or in the course of any operations having as their effect the financing of business transactions within the state of Iowa resulting in the incurring of any indebtedness based upon security other than real estate security.

Sec. 178. Section 433.15, Code 1983, is amended to read as follows:

433.15 FAILURE TO FILE. In the event of the failure or refusal of any telephone or telegraph company, owning or operating any telephone or telegraph line not situated upon the right of way of a railway, to file the map required under ~~the provisions of section 433.14~~, at the time and according to the conditions named, then the county auditor may cause the ~~same~~ map to be prepared by the county surveyor and the cost thereof of it shall, in the first place, be audited and paid by the board of supervisors of the county, ~~out of the county fund~~, and the amount thereof shall be by ~~said the~~ board levied as a special tax against ~~said the~~ company and the property of ~~said the~~ company, which shall be collected in the same manner as county taxes and become a part of the county fund.

Sec. 179. Section 434.19, Code 1983, is amended to read as follows:

434.19 FAILURE TO FILE. In the event of the failure or refusal of any railroad company to file the plats required under the provisions of section 434.18, at the time or according to the conditions named, then the county auditor may cause ~~the same them~~ to be prepared by the county surveyor and ~~the their cost thereof~~ shall, in the first place, be audited and paid by the board of supervisors ~~out of the county fund~~, and the amount thereof shall be ~~by said board levied by the board~~ as a special tax against ~~said the~~ company and the property of ~~said the~~ company, which shall be collected as county taxes ~~and when collected be paid into the county fund~~.

Sec. 180. Section 441.68, Code 1983, is amended to read as follows:

441.68 COLLECTION OR ASSESSMENT OF COSTS. The auditor shall at the same time assess the amount pro rata by area upon the several subdivisions of the tract, lot or parcel so subdivided, and it shall be collected in the same manner as general taxes, ~~and shall go to the general county fund~~.

Sec. 181. Section 445.52, Code 1983, is amended to read as follows:

445.52 INTEREST AND PENALTIES—APPORTIONMENT—COMPENSATION OF COLLECTORS. The interest and penalty on delinquent taxes collected shall be apportioned to ~~and become a part of the general fund~~ of the county, and the amount allowed as compensation to delinquent tax collectors shall be paid ~~from said fund by the county~~.

Sec. 182. Section 446.7, unnumbered paragraph 2, Code 1983, is amended to read as follows:

Property of municipal and political subdivisions of the state of Iowa and property held by a city or county agency or the Iowa housing finance authority for use in an Iowa homesteading project, shall not be offered or sold at tax sale and a tax sale of that property shall be void from its inception. When delinquent taxes are owing against property owned or claimed by any municipal or political subdivision of the state of Iowa, or property held by a city or county agency or the Iowa housing finance authority for use in an Iowa homesteading project, the treasurer shall give notice to the governing body of the agency, subdivision or authority which shall then pay the amount of the due and delinquent taxes ~~from its general fund~~. If the governing body fails to pay the taxes, the board of supervisors shall abate the taxes as provided in chapters 332, 427 and 445 and section 569.8.

Sec. 183. Section 455.50, unnumbered paragraph 2, Code 1983, is amended to read as follows:

Such assessments against primary highways and other state-owned lands under the jurisdiction of the state department of transportation shall be paid by the state department from the primary road fund on due certification of the amount by the county treasurer to ~~said the~~ department, and against all secondary roads and other county owned lands under the jurisdiction of the board of supervisors, from the ~~secondary road construction fund or from the secondary road maintenance fund, or from both of said county funds~~.

Sec. 184. Section 455.118, unnumbered paragraph 1, Code 1983, is amended to read as follows:

When ~~such a~~ levee, ditch, drain, or change of any natural watercourse crosses a public highway, necessitating moving or building or rebuilding any secondary road bridge upon, or ditch or drain crossing ~~such the~~ road, the board of supervisors shall move, build, or rebuild ~~the same it~~, paying the costs and expenses thereof, including construction, maintenance, repair and improvement costs, from the ~~secondary road fund county funds~~.

Sec. 185. Section 455.164, Code 1983, is amended to read as follows:

455.164 PRELIMINARY EXPENSES—HOW PAID. If the proposed district is all in one county, the board of supervisors is ~~authorized to may~~ pay all necessary preliminary expenses in connection ~~therewith from the general fund of the county with the district~~. If it extends into other counties, the boards of the respective counties are ~~authorized to pay from the~~

general fund thereof, such may pay a proportion of said the expenses as the work done or expenses created in each county bears to the whole amount of work done or expenses created. Said The amounts shall be ascertained and reported by the engineer in charge of the work and be approved by the respective boards which shall, as soon as paid, charge the amount to said the district in favor of the general fund of the counties, as their interest interests may appear, as soon as the said district is established. If said the district shall is not be established, the said amounts shall be collected upon the bond or bonds of the petitioners.

Sec. 186. Section 460.7, Code 1983, is amended to read as follows:

460.7 ADVANCED PAYMENTS. The board on construction of such the improvement may advance out of the secondary road construction fund or the secondary road maintenance fund, or out of both of said funds that portion to be collected by special assessment, the amount so advanced to be replaced in said road funds as the first special assessments are collected. The board may in lieu of making such advancements, issue warrants to be known as "Drainage Warrants", said the warrants to bear interest at a rate not exceeding that permitted by chapter 74A payable annually from the date of issue and to be paid out of the special assessments levied therefor, when the same they are collected.

Sec. 187. Section 460.8, subsection 2, Code 1983, is amended to read as follows:

2. On account of the secondary road system, may be is payable from the secondary road construction fund, or from the secondary road maintenance fund, or from both of said county funds.

Sec. 188. NEW SECTION. 467B.9 TAX LEVY. The county board of supervisors may annually levy a tax not to exceed six and three-fourths cents per thousand dollars of assessed value of all agricultural lands in the county, to be used for flood and erosion control, including acquisition of land or interests in land, and repair, alteration, maintenance, and operation of works of improvement on lands under the control or jurisdiction of the county as provided in this chapter.

Sec. 189. Section 533.24, unnumbered paragraph 2, Code 1983, is amended to read as follows:

The moneys and credits tax on credit unions is hereby imposed at a rate of five mills on each dollar of the legal and special reserves which are required to be maintained by the credit union under section 533.17, and shall be levied by the board of supervisors, and placed upon the tax list and collected by the county treasurer, except that an exemption shall be given to each credit union in the amount of forty thousand dollars. The amount collected in each taxing district within a city shall be apportioned twenty percent to the county general fund, thirty percent to the city general fund, and fifty percent to the general fund of the state, and the amount collected in each taxing district outside of cities shall be apportioned fifty percent to the county general fund and fifty percent to the general fund of the state. The moneys and credits tax shall be collected at the location of the credit union as shown in its articles of incorporation.

Sec. 190. Section 556B.1, subsection 2, Code 1983, is amended to read as follows:

2. The real property owner or possessor shall notify the sheriff of the county where the real property is located of the removal of the motor vehicle or other personal property. If the owner of the motor vehicle or other personal property can be determined, he the owner shall be notified of the removal by the sheriff by certified mail, return receipt requested. If such the owner cannot be identified, notice by one publication in one newspaper of general circulation in the area where the personal property was parked or placed shall be is sufficient to meet all notice requirements under this section. If the personal property has not been reclaimed by the owner within six months after notice has been effected, it may be sold by the sheriff at public or private sale. The net proceeds after deducting the cost of the sale shall be applied to the cost of removal and storage of the property, and the remainder, if any, shall be paid to the county treasurer for the use and benefit of the county general fund.

Sec. 191. Section 566.16, unnumbered paragraph 1, Code 1983, is amended to read as follows:

Before any part of the principal may be so invested or used, the county, city, board of trustees of cities a city to whom the management of a municipal cemeteries cemetery has been transferred by ordinance, or civil township shall, by resolution, accept the donation or bequest, and that portion of cemetery lot sales or permanent charges made against cemetery lots which is to be used for perpetual care of cemetery lots, and, by resolution, shall provide for the payment of interest annually to the appropriate fund specified in section 331.426, subsection 8, or to the cemetery association, or to the person having charge of the cemetery, to be used in caring for or maintaining the individual property of the donor in the cemetery, or lots which have been sold if provision was made for perpetual care, all in accordance with the terms of the donation or bequest, or the terms of the sale or purchase of a cemetery lot.

Sec. 192. Section 567.10, Code 1983, is amended to read as follows:

567.10 ESCHEAT. If the court finds that the land in question has been acquired in violation of this chapter or that the land has not been converted to the purpose other than farming within five years as provided for in this chapter, the court shall declare the land escheated to the state. When escheat is decreed by the court, the clerk of court shall notify the governor that the title to the real estate is vested in the state by decree of the court. Any real estate, the title to which is acquired by the state under ~~the provisions~~ of this chapter, shall be sold in the manner provided by law for the foreclosure of a mortgage on real estate for default of payment, the proceeds of the sale shall be used to pay court costs, and the remaining funds, if any, shall be paid to the person divested of the property but only in an amount not exceeding the actual cost paid by the person for that property. Proceeds remaining after the payment of court costs and the payment to the person divested of the property shall become a part of the ~~general fund~~ funds of the county or counties in which the land is located, in proportion to the part of the land in each county.

Sec. 193. Section 583.6, Code 1983, is amended to read as follows:

583.6 DUTY OF COUNTY TREASURER—RIGHT OF GUEST. The balance received by the county treasurer under section 583.5 shall be credited by ~~him~~ to the ~~general fund~~ of the county, subject to a right of the guest, or ~~his~~ the guest's representative, to reclaim ~~the same~~ it at any time within three years from the date of deposit with the county treasurer.

Sec. 194. Section 598.16, unnumbered paragraph 5, Code 1983, is amended to read as follows:

The costs of ~~any such~~ conciliation procedures shall be paid in full or in part by the parties and taxed as court costs; however, if the court determines that ~~such~~ the parties will be unable to pay the costs without prejudicing their financial ability to provide themselves and any minor children with economic necessities, ~~such~~ the costs may be paid in full or in part ~~from the court expense fund by the county~~.

Sec. 195. Section 602.34, unnumbered paragraph 1, Code 1983, is amended to read as follows:

The individuals who were municipal court clerks and bailiffs on June 30, 1973, and who were municipal court deputy clerks and deputy bailiffs on that date, may as deputies of the district court clerks and sheriffs be suspended, demoted, or discharged by the district court clerks and sheriffs only for neglect of duty, disobedience of orders, misconduct, or failure to properly perform duties, by pursuing the procedure provided by sections 400.19 to 400.26 and in these cases the district court clerk or sheriff shall be deemed to be the person having the appointing power, the county auditor shall perform the functions of the mayor or city manager, the board of supervisors shall perform the functions of the civil service commission, and the county attorney shall perform the functions of the city attorney or solicitor. A municipal court bailiff or

deputy bailiff who on June 30, 1973, is a member of the retirement system provided by chapter 411 shall continue to be such a member thereafter; and that chapter shall continue to apply to them that person notwithstanding this chapter, with the appropriate county deducting from his the person's compensation his the person's contributions to the retirement fund and the county contributing the public's portion to such the fund out of the court expense fund notwithstanding any other provision of law.

Sec. 196. Section 602.42, subsection 3, Code 1983, is amended to read as follows:

3. A member of a judicial magistrate nominating commission shall be reimbursed for actual and necessary expenses reasonably incurred in the performance of official duties. Reimbursements shall be payable out of the court expense fund of by the county in which the member serves, upon certification of such the expenses to the county auditor by the district court clerk. Each judicial district may make rules under R.C.P. 372 to provide for the administration of this subsection.

Sec. 197. Section 602.55, Code 1983, is amended to read as follows:

602.55 FUNDS, REPORTS. Each month each judicial magistrate and district associate judge shall file with the clerk of the district court of the proper county a sworn, itemized statement of all cases disposed of and all funds received and disbursed per case, and at least monthly shall remit to the clerk all funds received. The clerk shall provide adequate clerical assistance to judicial magistrates and district associate judges to carry out this section. The clerk shall remit ninety percent of all fines and forfeited bail received from a magistrate or district associate judge to the city that was the plaintiff in any action, shall remit to the city ninety percent of all fines and forfeited bail received for improper use of handicapped parking spaces in violation of section 601E.6, subsection 2, when the violations occurred within the city, shall remit all fines and forfeited bail received from a magistrate or district associate judge for violation of a county ordinance except an ordinance relating to vehicle speed or weight restrictions, to the county treasurer of the county that was the plaintiff in any action for deposit in the general fund of the county, and shall provide that city or county with a statement showing the total number of the cases, the total of all fines and forfeited bail collected and the total of all cases dismissed. However, if a county ordinance provides a penalty for a violation which is also penalized under state law, all fines and forfeited bail collected for the violation of that ordinance shall be deposited in the school fund. The clerk shall remit the remaining ten percent of city fines and forfeited bail to the county treasurer for deposit in the county general fund. The clerk shall remit to the treasurer of the county, for the benefit of the school fund, all other fines and forfeited bail received from a magistrate. All fees and costs for the filing of a complaint or information or upon forfeiture of bail received from a magistrate shall be remitted monthly by the clerk as follows:

1. One-half to the treasurer of state to be credited to the general fund of the state.
2. One-third to the county treasurer to be credited to the general fund of the county.
3. One-sixth to the treasurer of state to be credited to the judicial retirement fund created in section 605A.4.

Sec. 198. Section 622.93, Code 1983, is amended to read as follows:

622.93 APPLICABILITY IN POLK COUNTY CERTAIN COUNTIES. Proof of the publication of the filing in the district court of the petitions as provided for in section 618.13 and a charge on the basis of one dollar for each petition shall be made once each month by the publisher, presented to the clerk of the district court for verification and approval, and filed with the county auditor to be presented to the board of supervisors, which shall order the claim for such the publications paid from the fund specified in section 331.426, subsection 9.

Sec. 199. Section 622B.7, Code 1983, is amended to read as follows:

622B.7 FEE. An interpreter appointed under this chapter is entitled to a reasonable fee and expenses as determined by the rules applying to that proceeding. This schedule shall be furnished to all courts and administrative agencies and maintained by them. If the interpreter is appointed by the court, the fee and expenses shall be paid out of the court expense fund by the county and if the interpreter is appointed by an administrative agency, the fee and expenses shall be paid out of funds available to the administrative agency. If a hearing impaired person is not a party to the action, the fees and expenses of an interpreter shall be charged to costs.

Sec. 200. Section 693.4, Code 1983, is amended to read as follows:

693.4 DUTY OF SUPERVISORS TO INSTALL—COSTS. ~~It shall then be the duty of the~~ The board of supervisors of each county ~~to shall~~ install in the office of the sheriff, ~~such~~ a radio receiving set, and a set in at least one motor vehicle used by the sheriff, for use in connection with ~~said~~ the state radio broadcasting system. The board of supervisors of ~~any~~ county may install as many additional ~~such~~ radio receiving sets as ~~may be deemed it~~ deems necessary. The cost of such radio receiving sets and the cost of installation thereof shall be paid from the general fund of the county.

Sec. 201. Section 805.6, subsection 3, Code 1983, is amended to read as follows:

3. Supplies of the uniform citation and complaint for municipal corporations and county agencies shall be paid for out of the court expense fund of by the county. Supplies of the uniform citation and complaint for all other agencies shall be paid for out of the budget of the agency concerned.

Sec. 202. Section 809.6, subsections 1 and 2, Code 1983, are amended to read as follows:

1. FORFEITURE. Unless otherwise specified by law, the magistrate shall order the immediate destruction of all forfeited property of an illegal nature or character. ~~When~~ If the forfeited property is not of an illegal nature or character, the magistrate shall order all ~~such~~ the property or the proceeds of its sale to be applied ~~delivered~~ to the court fund treasurer of the county.

2. NO CLAIMANT. ~~Where~~ If there is no claimant or ~~where~~ if the right to possession cannot be determined, nonperishable property shall be held for a period of six months from the date of filing of the return, pending claim. ~~Thereafter,~~ After six months the magistrate or other officer having the property in his or her custody shall, on payment of the necessary expenses incurred for its preservation, deliver it to the treasurer of the county, ~~to be credited to the court fund.~~

Sec. 203. Section 819.3, unnumbered paragraph 1, Code 1983, is amended to read as follows:

A witness named in an order described in section 819.2 shall be is entitled to ten cents per mile for each mile traveled by the most direct route to and from the proceedings the witness is required to attend, and shall is also be entitled to ten dollars per day for each day spent in such travel or in attending the proceedings as a witness. ~~Such amounts shall, upon proper claim being made, be paid from the court expense fund of the county.~~

Sec. 204. Section 906.17, Code 1983, is amended to read as follows:

906.17 ALLEGED PAROLE VIOLATORS—REIMBURSEMENT TO COUNTIES FOR TEMPORARY CONFINEMENT. The division of adult corrections shall reimburse a county for the temporary confinement of alleged parole violators. The amount to be reimbursed shall be determined by multiplying the number of days so confined by the average daily cost of confining a person in the county facility as negotiated by the department. Payment shall be made upon submission of a voucher executed by the sheriff and approved by the director of the division of adult corrections. The money shall be deposited in the county general fund to be credited to the jail account.

Sec. 205. Section 911.3, Code 1983, is amended to read as follows:

911.3 DISPOSITION OF SURCHARGE. When a court assesses a surcharge under section 911.2, the clerk of the district court shall transmit ninety percent of the surcharge collected to the treasurer of state by the fifteenth day of the following month. The treasurer of state shall deposit the money in the general fund of the state. The clerk of the district court shall transmit ten percent of the surcharge to the county treasurer ~~for deposit in the county court expense fund~~ or shall remit ten percent of the surcharge to the city that was the plaintiff in any action for deposit in the general fund of the city.

Sec. 206. Sections 11.22, 24.25, 164.28, 165.22, 165.23, 165.25, 165.30, 165.31, 165.34, 231.13, 331.421 through 331.429, 331.509, 333A.6, chapter 344, and sections 345.1, and 441.12, Code 1983, are repealed.

Sec. 207. Funds remaining in the county indemnification fund existing prior to the effective date of this Act are transferred to the county indemnification fund created under section 331.404.

Sec. 208. Notwithstanding sections 108 and 116 of this Act, in the first year following the effective date of this Act the county and the treasurer of state shall compare the amounts raised under section 331.425, subsection 7, paragraph a, subparagraphs (1), (3), and (4) of the 1983 Code with the amounts which could have been raised under section 331.422, subsections 12 and 13 of the 1983 Code, in determining expenditures or allotments of funds.

Sec. 209. Counties shall prepare budgets and adopt accounting procedures in accordance with this Act for the fiscal year beginning July 1, 1984. During the fiscal year beginning July 1, 1983, counties shall continue to follow the budgeting and accounting procedures in effect immediately prior to July 1, 1983, to the extent necessary to implement their budgets for that year, but are otherwise subject to this Act.

Sec. 210. LEGISLATIVE REVIEW. The county finance committee shall, on or before December 31, 1986, present to the general assembly, a detailed report regarding the effects of the provisions of this Act on county finances and administration. The report shall include but not be limited to a comparison of property tax collections since adoption of this Act with the three years prior to adoption, an analysis of the cost effects resulting from the consolidation of funds, and recommendations regarding any changes in this Act deemed necessary by the committee.

Approved May 13, 1983

**CHAPTER 124**  
**REAL PROPERTY LOANS AND MORTGAGES**  
*S.F. 223*

**AN ACT** relating to real property loans by increasing the principal amount of the bonds and notes which may be issued by the Iowa housing finance authority under the Iowa small business loan program, creating residential mortgage marketing and interest reduction programs, and authorizing loan processing fees, and payment reduction fees.

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

Section 1. Section 220.1, subsection 28, Code 1983, is amended by adding the following new unnumbered paragraph:

**NEW UNNUMBERED PARAGRAPH.** The authority may, by resolution, waive any or all of the requirements of paragraph b in connection with a loan to a small business, as defined under applicable federal law and regulations that have been enacted or adopted by April 1, 1983, in which federal assistance, insurance or guaranties are sought.

Sec. 2. Section 220.1, Code 1983, is amended by adding the following new subsections:

**NEW SUBSECTION. 29.** "Mortgage-backed security" means a security issued by the authority which is secured by residential mortgage loans owned by the authority.

**NEW SUBSECTION. 30.** "Residential mortgage interest reduction program" means the program for buying-down interest rates on residential mortgage loans pursuant to sections 220.81 through 220.84.

**NEW SUBSECTION. 31.** "Residential mortgage loan" means a financial obligation secured by a mortgage on a single-family or two-family home.

**NEW SUBSECTION. 32.** "Residential mortgage marketing program" means the program for buying and selling residential mortgage loans and the selling of mortgage-backed securities pursuant to sections 220.71 through 220.73.

Sec. 3. Section 220.10, subsection 1, Code 1983, is amended to read as follows:

1. All moneys declared by the authority to be surplus moneys which are not required to service bonds and notes issued by the authority, to pay administrative expenses of the authority, or to accumulate necessary operating or loss reserves, shall be used by the authority to pay administrative expenses of or provide loans to the Iowa family farm development authority in connection with the programs authorized in the Iowa family farm development Act, or to provide grants, subsidies, and services to lower income families and very low income families through any of the programs authorized in this chapter, or to provide funds for the residential mortgage interest reduction program established pursuant to section 220.81.

Sec. 4. Section 220.26, subsection 1, Code 1983, is amended to read as follows:

1. The authority may issue its negotiable bonds and notes in principal amounts as, in the opinion of the authority, are necessary to provide sufficient funds for achievement of its corporate purposes, the payment of interest on its bonds and notes, the establishment of reserves to secure its bonds and notes, and all other expenditures of the authority incident to and necessary or convenient to carry out its purposes and powers. However, the authority may not have a total principal amount of bonds and notes outstanding at any time in excess of five hundred million dollars plus a total of fifty million dollars for property improvement loans to

finance solar and other renewable energy systems in housing as authorized by section 220.37 and to finance loans to provide solar and other renewable energy systems for and to increase the energy efficiency of small businesses under the Iowa small business loan program. Fifty One hundred million dollars of the total principal amount of bonds and notes may be issued pursuant to the small business loan program established under sections 220.61 to 220.65. The bonds and notes shall be deemed to be investment securities and negotiable instruments within the meaning of and for all purposes of the uniform commercial code.

Sec. 5. Section 220.51, subsection 4, Code 1983, is amended to read as follows:

4. The powers granted the authority under this section are in addition to other powers contained in this chapter. All other provisions of this chapter, except section 175.17, subsection 9 and section 175.19 220.28, subsection 4, apply to bonds or notes issued pursuant to and powers granted to the authority under this section except to the extent that they are inconsistent with this section.

Sec. 6. Section 220.62, subsection 1, Code 1983, is amended to read as follows:

1. The authority shall initiate a program to assist the development and expansion of small business in Iowa. The authority may issue bonds and notes the proceeds of which shall be used to make program loans. The principal amount of bonds and notes are that may be issued pursuant to the loan program and the principal amount of the bonds and notes issued which shall be counted as a portion of the total principal amount of bonds and notes of the authority which may be outstanding at any time pursuant to are as provided in section 220.26, subsection 1. The principal amount of bonds and notes issued pursuant to the loan program shall not exceed fifty million dollars. Bonds and notes issued under this section are subject to all provisions of this chapter relating to the issuance of bonds.

Sec. 7. NEW SECTION. 220.71 RESIDENTIAL MORTGAGE MARKETING PROGRAM. The authority shall establish a program to assist lenders to sell residential mortgage loans in the organized and unorganized secondary mortgage market. The authority may issue taxable and tax-exempt bonds and notes. The proceeds of the bonds shall be used to purchase residential mortgage loans from lenders. The bonds and notes are a portion of the total principal amount of bonds and notes of the authority which may be outstanding at any time pursuant to section 220.26, subsection 1. Bonds and notes issued under this section are subject to all provisions of this chapter relating to the issuance of bonds.

Sec. 8. NEW SECTION. 220.72 POWERS.

1. The authority may purchase, and make advance commitments to purchase, residential mortgage loans from mortgage lenders at prices and upon terms and conditions it determines subject to this section. However, the total purchase price for all residential mortgage loans which the authority commits to purchase from a mortgage lender at any one time shall not exceed the total of the unpaid principal balances of the residential mortgage loans purchased. Mortgage lenders are authorized to sell residential mortgage loans to the authority in accordance with this section and the rules of the authority. The authority may charge a mortgage lender a commitment fee or other fees as set by rule as a condition for the authority purchasing residential mortgage loans.

2. The authority may sell or make advanced commitments to sell residential mortgage loans in the organized or unorganized secondary mortgage market. The authority may issue and sell securities that are secured by residential mortgage loans held by the authority. The authority may aggregate the residential mortgage loans sold in the secondary market or used as security on the mortgage-backed securities. The amount of mortgage-backed securities sold shall not exceed principal of the mortgages retained by the authority as security.

3. The authority may require as a condition of purchase of a residential mortgage loan from a mortgage lender that the mortgage lender represent and warrant to the authority that:

a. The unpaid principal balance of the residential mortgage loan and the interest rate on it have been accurately stated to the authority.

b. The amount of the unpaid principal balance is justly due and owing.

c. The mortgage lender has no notice of the existence of a counterclaim, offset, or defense asserted by the mortgagor or the mortgagor's successor in interest.

d. The residential mortgage loan is evidenced by a bond or promissory note and a mortgage which has been properly recorded with the appropriate public official.

e. The mortgage constitutes a valid first lien on the real property described in the mortgage to the authority subject only to real property taxes not yet due, installments of assessments not yet due, and easements and restrictions of record which do not adversely affect, to a material degree, the use or value of the real property or improvements on it.

f. The mortgagor is not now in default in the payment of an installment of principal or interest, escrow funds, real property taxes, or otherwise in the performance of obligations under the mortgage documents and has not to the knowledge of the mortgage lender been in default in the performance of an obligation under the mortgage for a period of longer than sixty days during the life of the mortgage.

g. The improvements to the mortgaged real property are covered by a valid and subsisting policy of insurance issued by a company authorized to issue policies in this state and providing fire and extended coverage in amounts as the authority prescribes by rule.

h. The residential mortgage loan meets the prevailing investment quality standards for residential mortgage loans in this state.

Sec. 9. NEW SECTION. 220.73 RULES. The authority shall adopt rules pursuant to chapter 17A relating to the purchase and sale of residential mortgage loans and the sale of mortgage-backed securities. The rules shall provide at least for the following:

1. Procedures for the submission by mortgage lenders to the authority of offers to sell mortgage loans.

2. Standards for allocating bond proceeds among mortgage lenders offering to sell mortgage loans to the authority.

3. Standards for determining the aggregate principal amount of mortgage loans to be purchased from each mortgage lender and the purchase price.

4. Schedules of fees and charges to be imposed by the authority.

5. Procedures for issuing mortgage-backed securities.

Sec. 10. NEW SECTION. 220.81 RESIDENTIAL MORTGAGE INTEREST REDUCTION PROGRAM.

1. The authority shall initiate a residential mortgage interest reduction program to reduce the interest costs on groups of mortgage loans. The authority shall use the money specially appropriated to operate this program, and the authority may use moneys declared to be surplus as provided in section 220.10, subsection 1, or moneys obtained from grants, gifts, bequests, contributions, and other uncommitted funds to operate this program.

2. Each mortgage loan included in this program shall be for the purpose of acquiring a single-family dwelling to be occupied by the owner of that dwelling, or a two-family dwelling where the owner will occupy one of the units. The authority shall adopt rules establishing the maximum purchase prices for both single-family dwellings and two-family dwellings in order to be included in a particular group of mortgages. These maximum purchase prices shall not exceed the maximum prices established by section 103A, Internal Revenue Code of 1954. These rules shall only apply to mortgages financed from the sale of tax-exempt bonds.

3. The interest reduction established by the authority for a group of loans shall meet the requirements of this subsection. The interest rate of a loan shall be reduced for a period not to exceed five years. The interest rate of a loan during the first year shall be reduced by not less than three percent and not more than five percent. The amount of the reduction in the interest rate of the loan in each subsequent year of the reduction period, if there are any subsequent years, shall be equal to the percent reduction in the first year multiplied times a fraction which has as its denominator the total number of years of the interest reduction period and has as its numerator the number of years remaining in the interest reduction period at the beginning of the subsequent year. For purposes of this subsection the first year of the interest reduction period starts on the date the loan is closed and ends eleven months after the date of the first monthly payment.

4. The authority shall implement this program by allocating a specified amount of money to reduce the interest rate on some or all of the mortgage loans purchased. The authority shall pay for the interest reduction on a group of loans to mortgage lenders, mortgage purchasers, or investors at the same time that it purchases that group of loans. For each bond issue using this program the authority shall establish the interest rate reductions it will purchase, the amount the authority will pay for the interest rate reductions, and the method of determining which of the eligible loans will be reduced.

Sec. 11. NEW SECTION. 220.82 LIEN. The authority shall file a lien on the property for which an interest reduction payment is made in the amount of the payment. The lien shall be filed in the recorder's office of the county in which the property is located.

Sec. 12. NEW SECTION. 220.83 RECAPTURE OF INTEREST REDUCTION PAYMENT.

1. A mortgagor shall repay the authority the lesser of the amount of interest reduction payment actually paid by the authority on behalf of the mortgagor or fifty percent of the net appreciation of the property. The term "net appreciation of the property" as used in this section means an increase in the value of the property over the purchase price less the reasonable costs of sale and the reasonable costs of improvements made to the property.

2. Repayment shall be made when any of the following occur:

a. The mortgagor sells or otherwise transfers the property. However, repayment is not required if the transfer is to the surviving spouse of the mortgagor upon the mortgagor's death.

b. The mortgagor rents the property for more than twelve months.

c. The mortgagor requests the authority to release the lien on the property.

d. The mortgage lender files a court action to foreclose on the mortgage. However, the authority may abate payment pending the outcome of the foreclosure action.

Sec. 13. NEW SECTION. 220.84 RULES. The authority shall adopt rules pursuant to chapter 17A for the administration of the residential mortgage interest reduction program. The rules shall include, but are not limited to, the following:

1. Standards for eligibility of a mortgagor including a minimum down payment or interest in the property.

2. Standards for the eligibility of the property.

3. Procedures for application to participate in the program.

4. Procedures for payment of the interest reduction payment to the mortgage lender or mortgage investor.

5. Standards for determining the amount of interest reduction that will be approved.

6. Schedules of fees and charges to be imposed by the authority.

Sec. 14. Section 524.901, subsection 2, paragraph a, Code 1983, is amended to read as follows:

a. The total amount of the bonds or securities of any one issuer or obligor, other than revenue or improvement bonds issued by a municipality, the Iowa housing finance authority, or the Iowa family farm development authority and subjected to separate investment limits under paragraphs "b", "c", "d", or "f", or "g" of this subsection, shall not exceed twenty percent of the capital and surplus of the state bank.

Sec. 15. Section 524.901, subsection 2, Code 1983, is amended by adding the following new lettered paragraph:

NEW LETTERED PARAGRAPH. g. The total amount of bonds or notes issued by the Iowa housing finance authority pursuant to chapter 220 which have been issued on behalf of any one small business as defined in section 220.1, subsection 28, or any one group home referred to in section 220.1, subsection 11, paragraph a, and the proceeds of which have been loaned to that small business or group home shall not exceed twenty percent of the capital and surplus of the bank.

Sec. 16. Section 524.905, Code 1983, is amended by adding the following new subsection as subsection 5:

NEW SUBSECTION. 5. If the bank obtains a report or opinion by an attorney or from another mortgage lender relating to defects in or liens or encumbrances on the title of real property, the unmarketability of the title to real property, or the invalidity or unenforceability of liens or encumbrances upon real property, the bank shall provide a copy of the report or opinion to the mortgagor and the mortgagor's attorney.

Sec. 17. Section 533.16, subsection 4, Code 1983, is amended by adding the following new lettered paragraph:

NEW LETTERED PARAGRAPH. Section 524.905, subsection 5, applies to the credit union in the same manner as if the credit union is a bank within the meaning of that provision.

Sec. 18. Section 534.80, Code 1983, is amended by adding the following new subsection:

NEW SUBSECTION. Section 524.905, subsection 5, applies to the association in the same manner as if the association is a bank within the meaning of that provision.

Sec. 19. Section 535.8, subsection 2, paragraph a, Code 1983, is amended by striking the paragraph and inserting in lieu thereof the following:

a. A lender may collect, in connection with a loan made pursuant to a written agreement executed by the borrower on or after the effective date of this Act, or in connection with a loan made pursuant to a written commitment by the lender mailed or delivered to the borrower on or after that date, a loan processing fee which does not exceed two percent of an amount which is equal to the loan principal; except that to the extent of an assumption by a new borrower of the obligation to make payments under a prior loan, or to the extent that the loan principal is used to refinance a prior loan between the same borrower and the same lender, the lender may collect a loan processing fee which does not exceed an amount which is a reasonable estimate of the expenses of processing the loan assumption or refinancing but which does not exceed one percent of the unpaid balance of the loan that is assumed or refinanced. In addition, a lender may collect from a borrower, a seller of property, another lender, or any other person, or from any combination of these persons, in contemplation of or in connection with a loan, a commitment fee, closing fee, or both, that is agreed to in writing by the lender and the persons from whom the charges are to be collected. A loan fee collected under this paragraph is compensation to the lender solely for the use of money, notwithstanding any provision of the agreement to the contrary. However, a loan fee collected under this paragraph shall be disregarded for purposes of determining the maximum charge permitted by section 535.2 or 535.9, subsection 2. The collection in connection with a loan of a loan origination fee, closing fee, commitment fee, or similar charge is prohibited other than expressly authorized by this paragraph or a payment reduction fee authorized by subsection 6.

Sec. 20. Section 535.8, Code 1983, is amended by adding the following new subsection:

**NEW SUBSECTION. 6.** A lender who offers to make a loan with only those fees authorized by subsection 2 may also offer in exchange for the payment of an interest reduction fee to make a loan on all of the same terms except at a lower interest rate and with the lower payments resulting from the lower interest rate. Prior to accepting an application for a loan which includes a payment reduction fee, the lender shall provide the potential borrower with a written disclosure describing in plain language the specific terms which the loan would have both with the payment reduction fee and without it. This disclosure shall include a good faith example showing the amount of the payment reduction fee and the reduction in payments which would result from the payment of this fee in a typical loan transaction. A payment reduction fee which complies with this subsection may be collected in connection with a loan in addition to the fees authorized by subsection 2.

Sec. 21. Section 536A.20, Code 1983, is amended to read as follows:

**536A.20 REAL ESTATE LOANS.**

1. A licensed industrial loan company may make permanent loans, construction loans, or combined construction and permanent loans, secured by liens on real property, as authorized by rules adopted by the auditor under chapter 17A. These rules shall contain provisions as necessary to insure the safety and soundness of these loans, and to insure full and fair disclosure to borrowers of the effects of provisions in agreements for these loans, including provisions permitting change or adjustment of any terms of a loan, provisions permitting, requiring, or prohibiting repayment of a loan on a basis other than of equal periodic installments of interest plus principal over a fixed term, provisions imposing penalties for the borrower's noncompliance with requirements of a loan agreement, or provisions allowing or requiring a borrower to choose from alternative courses of action at any time during the effectiveness of a loan agreement.

2. A licensed industrial loan company may include in the loan documents signed by the borrower a provision requiring the borrower to pay the company each month in addition to interest and principal under the note an amount equal to one-twelfth of the estimated annual real estate taxes, special assessments, hazard insurance premium, mortgage insurance premium, or any other payment agreed to by the borrower and the company in order to better secure the loan require and establish escrow accounts in connection with subsection 3. The company shall be deemed to be acting in a fiduciary capacity with respect to these funds. A company receiving funds in escrow pursuant to an escrow agreement executed on or after July 1, 1982 in connection with a loan as defined in section 535.8, subsection 1, shall pay interest to the borrower on those funds, calculated on a daily basis, at the lowest rate the company pays to holders of thrift certificates issued by the company. If the company does not issue thrift certificates as defined in section 536B.2, the company shall pay an interest rate which represents the average of the lowest rates paid on thrift certificates by companies required to be members of the industrial loan thrift guaranty corporation under chapter 536B. This rate shall be determined by the auditor of state as of December 31 and June 30 of each year, and the auditor of state shall cause the rate to be published in the Iowa administrative bulletin within twenty days following the date of determination. The rate so determined shall apply from the date of publication of the rate and until a different rate is published. A company which maintains an escrow account in connection with a loan authorized by this section, whether or not the mortgage has been assigned to a third person, shall each year deliver to the mortgagor a written annual accounting of all transactions made with respect to the loan and escrow account.

Sec. 22. Section 536A.20, Code 1983, is amended by adding the following new subsection as subsection 3:

**NEW SUBSECTION.** 3. A licensed industrial loan company may act as an escrow agent with respect to real property that is mortgaged to the licensed industrial loan company, and may receive funds and make disbursements from escrowed funds in that capacity. The licensed industrial loan company shall be deemed to be acting in a fiduciary capacity with respect to these funds. A licensed industrial loan company which maintains such an escrow account, whether or not the mortgage has been assigned to a third person, shall deliver to the mortgagor a written summary of all transactions made with respect to the loan and escrow accounts during each calendar year. However, the mortgagor and mortgagee may, by mutual agreement, select a fiscal year reporting period other than the calendar year.

The summary shall be delivered or mailed not later than thirty days following the year to which the disclosure relates. The summary shall contain all of the following information:

1. The name and address of the mortgagee.
2. The name and address of the mortgagor.
3. A summary of escrow account activity during the year as follows:
  - a. The balance of the escrow account at the beginning of the year.
  - b. The aggregate amount of deposits to the escrow account during the year.
  - c. The aggregate amount of withdrawals from the escrow account for each of the following categories:
    - (1) Payments against loan principal.
    - (2) Payments against interest.
    - (3) Payments against real estate taxes.
    - (4) Payments for real property insurance premiums.
    - (5) All other withdrawals.
  - d. The balance of the escrow account at the end of the year.
4. A summary of loan principal for the year as follows:
  - a. The amount of principal outstanding at the beginning of the year.
  - b. The aggregate amount of payments against principal during the year.
  - c. The amount of principal outstanding at the end of the year.

Sec. 23. Section 536A.20, Code 1983, is amended by adding the following new subsection:

**NEW SUBSECTION.** Section 524.905, subsection 5, applies to the licensed industrial loan company in the same manner as if the licensed industrial loan company is a bank within the meaning of that provision.

Sec. 24. Section 537.1301, subsection 14, paragraph a, subparagraph (5), Code 1983, is amended to read as follows:

(5) ~~Either the~~ The amount financed does not exceed twenty-five thousand dollars, ~~or the debt is secured by an interest in land.~~

Sec. 25. Section 537.1302, Code 1983, is amended by adding the following new subsection:

**NEW SUBSECTION.** "Mortgage lender" means a domestic or foreign corporation authorized in this state to make loans secured by mortgages or deeds of trust.

Sec. 26. Section 537.2401, subsection 1, Code 1983, is amended to read as follows:

1. Except as provided with respect to a finance charge for loans pursuant to open end credit under section 537.2402, a lender may contract for and receive a finance charge not exceeding the maximum charge permitted by the laws of this state or of the United States for similar lenders, and, in addition, with respect to a consumer loan, a supervised financial organization or a mortgage lender may contract for and receive a finance charge, calculated according to the actuarial method, not exceeding twenty-one percent per year on the unpaid balance of the

amount financed. This subsection does not prohibit a lender from contracting for and receiving a finance charge exceeding twenty-one percent per year on the unpaid balance of the amount financed on consumer loans if authorized by other provisions of the law.

Approved May 13, 1983

## CHAPTER 125

### MOTOR VEHICLE CODE AMENDMENTS

*S.F. 493*

**AN ACT** relating to the motor vehicle code by providing a rebuttable presumption of residency, by increasing the penalty for improper use of a registration card, registration plate, special plate, or permit, by requiring a motor vehicle overtaking another vehicle on the left to return to the right-hand portion of the roadway before coming within three hundred feet of an approaching vehicle, by prohibiting the operation of motor vehicles with excessively dark windshields or windows, by clarifying certain language and eliminating certain inconsistent language in the motor vehicle code, by increasing the ability of an officer to issue a uniform citation and complaint, and providing a penalty.

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

Section 1. **NEW SECTION. 321.1A PRESUMPTION OF RESIDENCY.** For purposes of this chapter there is a rebuttable presumption that a natural person is a resident of this state if any of the following elements exist:

1. The person has filed for a homestead tax exemption on property in this state.
2. The person is a veteran who has filed for a military tax exemption on property in this state.
3. The person is registered to vote in this state.
4. The person enrolls the person's child to be educated in a public elementary or secondary school in this state.
5. The person is receiving public assistance from this state.
6. The person resides or has continuously remained in this state for a period exceeding thirty days except for infrequent or brief absences.
7. The person has accepted employment or engages in any trade, profession, or occupation within this state, except as provided in section 321.55.

"Resident" does not include a person who is attending a college or university in this state, if the person has a domicile in another state and has a valid operator's license and vehicle registration issued by the state of domicile. "Resident" also does not include members of the armed forces that are stationed in Iowa, providing that their vehicles are properly registered in their state of residency.

A corporation, association, partnership, company, firm, or other aggregation of individuals whose principal place of business is located within this state is a resident of this state.

Sec. 2. Section 321.99, Code 1983, is amended to read as follows:

**321.99 IMPROPER FRAUDULENT USE OF REGISTRATION.** ~~No~~ A person shall not knowingly lend to another any a registration card, registration plate, special plate, or permit issued to him the person if the other person desiring to borrow the same card, plate, or permit would not be entitled to the use thereof, nor shall any of it. A person shall not knowingly permit the use of any of the same a registration card, registration plate, special plate, or permit issued to the person by one not entitled thereto to it, nor shall any a person knowingly display upon a vehicle any a registration card, registration plate or permit not issued for such that vehicle or not otherwise lawfully used thereon under this chapter. Any A violation of this section is a simple serious misdemeanor.

Sec. 3. Section 321.209, subsection 3, Code 1983, is amended to read as follows:

3. Any A felony in if during the commission of which the felony a motor vehicle is used.

Sec. 4. Section 321.303, Code 1983, is amended to read as follows:

**321.303 LIMITATIONS ON OVERTAKING ON THE LEFT.** ~~No~~ A vehicle shall not be driven to the left side of the center of the roadway in overtaking and passing another vehicle proceeding in the same direction unless such the left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such the overtaking and passing to be completely made without interfering with the safe operation of any a vehicle approaching from the opposite direction or any a vehicle overtaken. In every event the The overtaking vehicle must shall return to the right-hand side of the roadway before coming within one three hundred feet of any a vehicle approaching from the opposite direction when traveling on a roadway having a legal speed limit in excess of thirty miles per hour, and the overtaking vehicle shall return to the right-hand side of the roadway before coming within one hundred feet of a vehicle approaching from the opposite direction when traveling on a roadway having a legal speed limit of thirty miles per hour or less.

Sec. 5. Section 321.438, Code 1983, is amended to read as follows:

**321.438 WINDSHIELDS AND WINDOWS.**

1. ~~No~~ A person shall not drive any a motor vehicle equipped with a windshield, sidewings, or side or rear windows which do not permit clear vision.

2. A person shall not operate on the highway a motor vehicle equipped with a front windshield, a side window to the immediate right or left of the driver, or a sidewing forward of and to the left or right of the driver which is excessively dark or reflective so that it is difficult for a person outside the motor vehicle to see into the motor vehicle through the windshield, window, or sidewing. The department shall adopt rules establishing a minimum measurable standard of transparency which shall apply to violations of this subsection.

3. Every motor vehicle except a motorcycle, or a vehicle included in the provisions of section 321.383 or section 321.115 shall be equipped with a windshield in accordance with section 321.444.

Sec. 6. Section 805.8, subsection 2, paragraph c, Code 1983, is amended to read as follows:

c. For improperly used or nonused, or defective or improper equipment, other than brakes, driving lights and brakelights, under sections 321.317, 321.387, 321.388, 321.389, 321.390, 321.391, 321.392, 321.393, 321.422, 321.432, 321.436, 321.437, 321.438, subsection 1 or 3, 321.439, 321.440, 321.441, 321.442, 321.444, 321.445 and 321.447, the scheduled fine is ten dollars.

Sec. 7. Section 805.8, subsection 2, Code 1983, is amended by adding the following new paragraph following paragraph c and by relettering the following paragraphs:

**NEW PARAGRAPH.** d. For improper equipment under section 321.438, subsection 2, the scheduled fine is fifteen dollars.

Sec. 8. Section 805.8, subsection 2, paragraph n, unnumbered paragraph 1, Code 1983, is amended to read as follows:

For violation of registration provisions under section 321.17; violation of intrastate hauling on foreign registration under sections 321.54 and 321.55; ~~use of registration under section 321.99;~~ and display of registration or plates under section 321.98, the scheduled fine is twenty dollars.

Sec. 9. Section 805.10, subsections 2 and 4, Code 1983, are amended by striking the subsections.

Approved May 16, 1983

## CHAPTER 126

### IOWA DEPARTMENT OF PUBLIC BROADCASTING

*S.F. 356*

**AN ACT** creating the Iowa department of public broadcasting and prescribing its powers and duties.

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

Section 1. Section 18.1, subsection 6, Code 1983, is amended by striking the subsection.

Sec. 2. Section 18.3, subsection 5, Code 1983, is amended to read as follows:

5. Administering the provisions of sections 18.132 to ~~18.152~~ 18.143.

Sec. 3. Section 18.132, Code 1983, is amended to read as follows:

18.132 PURPOSE. It is the intent of the general assembly in providing for state communications, that an educational radio and television facility, including provision for closed circuit television, be established to serve the entire state, and that communications of state government be co-ordinated to effect maximum practical consolidation and joint use of communications services.

Sec. 4. Section 18.133, subsection 1, Code 1983, is amended to read as follows:

1. "State communications" means a system to serve communications needs of state departments and agencies but does not include communications activities exempt under section 18.135, subsection 3 and radio and television facilities under the Iowa department of public broadcasting.

Sec. 5. Section 18.133, subsections 4 and 5, Code 1983, are amended by striking the subsections.

Sec. 6. Section 18.135, Code 1983, is amended to read as follows:

18.135 RULES.

1. The director shall promulgate adopt rules relating to state communications in accordance with the provisions of this chapter. The director shall also adopt and provide for standard communications procedures and policies to be used by all departments and state agencies of state government.

2. Communications activities of departments of state government which agencies that affect the overall operation of state communications shall fall within the administrative jurisdiction of the director for review and action upon request from any department of a state government agency.

3. Communications activities which are operational and the responsibility of a particular department of state government shall continue to fall within the administrative jurisdiction of that department of the state government agency and be financed through its appropriations.

The director and the state educational radio and television facility board shall co-ordinate their activities to achieve the maximum possible co-operation and effective use of the available facilities.

Sec. 7. Section 18.136, subsection 7, Code 1983, is amended to read as follows:

7. The chairman president of the state educational radio and television facility board board of public broadcasting.

Sec. 8. Section 18.141, Code 1983, is amended to read as follows:

18.141 OFFICERS. The council ~~and board~~ shall each elect from their respective memberships its membership a chairman chairperson and vice chairman chairperson who shall each serve for one year and who may be re-elected. Membership on the council ~~or board~~ shall does not constitute holding a public office and members ~~shall are~~ not be required to take and file oaths of office before serving. ~~No A~~ member shall not be disqualified from holding any a public office or employment by reason of his appointment or membership on either the council ~~or the board~~ nor shall any a member forfeit any such the office or employment by reason of his an appointment to the council ~~or board~~, notwithstanding the provisions of any general, special or local law, ordinance or city charter.

Sec. 9. Section 18.142, Code 1983, is amended to read as follows:

18.142 COMPENSATION AND EXPENSES. The members of ~~both~~ the council ~~and the board~~ shall ~~be paid~~ receive a forty-dollar per diem and be reimbursed for travel and actual and necessary expenses involved in attending meetings and in the performance of their duties. ~~All per~~ Per diem and expense moneys paid to the members shall be paid from funds appropriated to the department of general services.

Sec. 10. Section 18.143, Code 1983, is amended to read as follows:

18.143 MEETINGS. ~~Both the~~ The council ~~and the board~~ shall meet ~~separately~~ at least four times each year and shall hold special meetings when called by the appropriate chairman chairperson or in the absence of the chairman chairperson by the vice chairman chairperson or by the chairman chairperson upon written request of four members. ~~Both the~~ The council ~~and the board~~ shall establish procedures and requirements with respect to quorum, place and conduct of meetings.

Sec. 11. NEW SECTION. 18B.1 DEFINITIONS. As used in this chapter unless the context otherwise requires:

1. "Board" means the Iowa public broadcasting board created in section 18B.3.
2. "Executive director" means the executive director of the Iowa department of public broadcasting.
3. "Radio and television facility" means transmitters, towers, studios, and all necessary associated equipment for broadcasting, including closed circuit television.

Sec. 12. NEW SECTION. 18B.2 DEPARTMENT CREATED. The Iowa department of public broadcasting is created. The board shall appoint an executive director who shall be the chief administrative officer for the department. The board shall fix the executive director's compensation unless otherwise provided by law.

Sec. 13. NEW SECTION. 18B.3 BOARD.

1. The Iowa public broadcasting board is created to plan, establish, and operate an educational radio and television facility and other educational communications services as necessary to aid in accomplishing the educational objectives of the state. Educational programming shall be the highest priority of the board. Nine members shall compose the board selected in the following manner:

- a. Three members shall be appointed by the state board of public instruction from its own membership or from the personnel of the state department of public instruction.

b. Three members shall be appointed by the state board of regents from its own membership or from among its employees or employees of institutions under the jurisdiction of the board.

c. Three members shall be appointed by the governor, at least one of whom shall be from a regionally accredited private four-year college or university.

2. Board members shall serve a three-year term commencing on July 1 of the year of appointment. A vacancy shall be filled in the same manner as the original appointment for the remainder of the term.

Membership on the board does not constitute holding a public office and members shall not be required to take and file oaths of office before serving. A member shall not be disqualified from holding any public office or employment by reason of appointment to the board nor shall a member forfeit an office or employment by reason of appointment to the board.

Sec. 14. NEW SECTION. 18B.4 MEETINGS.

1. The board shall elect from among its members a president and a vice president to serve a one-year term. The board shall meet at least four times annually and shall hold special meetings at the call of the president or in the absence of the president by the vice president or by the president upon written request of four members. The board shall establish procedures and requirements relating to quorum, place, and conduct of meetings.

2. Board members shall receive forty dollars per diem and actual and necessary expenses incurred in performing their official duties.

Sec. 15. NEW SECTION. 18B.5 ADVISORY COMMITTEES. The board shall appoint at least two advisory committees as follows:

1. Advisory committee on general operations and policy.
2. Advisory committee on curricula and educational matters.

Duties of the advisory committees, and of additional advisory committees as the board may from time to time appoint, shall be specified in rules of internal management adopted by the board.

Sec. 16. NEW SECTION. 18B.6 FACILITIES AND PERMITS.

1. The board may purchase, lease, and improve property, equipment, and services for proper educational communications uses, and may dispose of property and equipment when not necessary for its purposes. The board and the executive director may arrange for joint use of available services and facilities.

2. The board shall apply for channels, frequencies, licenses, and permits as are required for broadcasting.

Sec. 17. NEW SECTION. 18B.7 EXISTING FACILITIES. This chapter does not prohibit institutions under the state board of regents and merged area schools under the department of public instruction from owning, operating, improving and maintaining educational radio and television stations and transmitters now in existence and operation. The institutions and schools may enter into agreements with the board for the lease or purchase of equipment and facilities.

Sec. 18. NEW SECTION. 18B.8 COMPETITION WITH PRIVATE SECTOR. It is the intent of the general assembly that the board shall not compete with the private sector by actively seeking revenue from its operations. It is not the intent of the general assembly to prohibit the receipt of charitable contributions as defined by section 170 of the Internal Revenue Code. The board, the governor, or the executive director may apply for and accept federal or nonfederal gifts, loans, or grants of funds and may use the funds for projects under this chapter.

Sec. 19. NEW SECTION. 18B.9 LOCATION OF FACILITIES. The board may locate its administrative offices and production facilities outside the city of Des Moines, Iowa.

Sec. 20. NEW SECTION. 18B.10 ANNUITY CONTRACTS. At the request of an employee through contractual agreement the board may arrange for the purchase of group or individual annuity contracts for any of its employees from any company the employee chooses that is authorized to do business in this state and through an Iowa-licensed insurance agent that the employee selects, for retirement or other purposes and may make payroll deductions in accordance with the arrangements for the purpose of paying the entire premium due and to become due under the contract. The deductions shall be made in the manner which will qualify the annuity premiums for the benefits afforded under section 403b of the Internal Revenue Code of 1954 as amended to the effective date of this Act. The employee's rights under the annuity contract are nonforfeitable except for the failure to pay premiums.

Whenever an existing tax-sheltered annuity contract is to be replaced by a new contract the agent or representative of the company shall send a letter of intent by registered mail at least thirty days prior to any action to the company being replaced, to the insurance commissioner of the state of Iowa, and to the agent's own company. The letter of intent shall contain the policy number and description of the contract being replaced and a description of the replacement contract.

Sec. 21. NEW SECTION. 18B.11 CAPITAL EQUIPMENT REPLACEMENT REVOLVING FUND.

1. The board may provide noncommercial production or reproduction services for other public agencies, nonprofit corporations or associations organized under state law, or other nonprofit organizations and may collect the costs of providing the services from the public agency, nonprofit corporation, association, or organization plus a separate equipment usage fee in an amount determined by the board and based upon the equipment used. The costs shall be deposited to the credit of the board. The separate equipment usage fee shall be deposited in the capital equipment replacement revolving fund.

2. The board may establish a capital equipment replacement revolving fund into which shall be deposited equipment usage fees collected under subsection 1 and funds from other sources designated for deposit in the capital equipment replacement revolving fund. The board may expend moneys from the capital equipment replacement revolving fund to purchase technical equipment for operating the educational radio and television facility.

Sec. 22. NEW SECTION. 18B.12 TRUSTS. Notwithstanding section 633.63, the board may accept and administer trusts and may authorize nonprofit foundations acting solely for the support of the educational radio and television facility to accept and administer trusts deemed by the board to be beneficial to the operation of the educational radio and television facility. The board and the foundations may act as trustees in such instances.

Sec. 23. Section 19A.3, subsection 16, Code 1983, is amended by striking the subsection and inserting in lieu thereof the following:

16. The executive director, the executive director's secretary, the division directors and their principal assistants, and programming, production, educational, and engineering personnel under the jurisdiction of the Iowa public broadcasting board.

Sec. 24. Section 19A.3, unnumbered paragraph 5, Code 1983, is amended to read as follows:

The state board of regents and the educational radio and television facility board shall adopt rules for their employees, which rules shall be not be inconsistent with the objectives of this chapter, and which shall be are subject to approval of the Iowa merit employment commission. If at any time the director determines that the board of regents merit system or the educational radio and television facility boards merit system does not comply with the intent of this chapter, he the director, subject to the approval of the commission, shall have

~~authority to direct correction thereof and the may direct the board to correct the rules.~~ The rules of the board shall are not be in compliance until the corrections are made.

Sec. 25. 1981 Iowa Acts, chapter 9, section 7, subsection 6, is amended to read as follows:

6. The following are range four positions: superintendent of banking, director of the Iowa beer and liquor control department, chairperson and members of the Iowa state commerce commission, director of the state conservation commission, director of the Iowa development commission, ~~executive director of the educational radio and television facility board Iowa~~ department of public broadcasting, director of the Iowa department of job service, director of the department of general services, commissioner of health, director of the office for planning and programming, and commissioner of public safety.

Sec. 26. Members of the state educational radio and television facility board on the effective date of this Act shall continue to serve the unexpired portion of their term as members of the state educational radio and television facility board as members of the Iowa public broadcasting board. The state comptroller shall transfer funds and accounts of the state educational radio and television facility board to the Iowa department of public broadcasting on the effective date of this Act. Property and records of the state educational radio and television facility board become the property and records of the Iowa department of public broadcasting on the effective date of this Act and shall be transferred accordingly.

Sec. 27. Sections 18.134, 18.138 through 18.140 and 18.144 through 18.155, Code 1983, are repealed.

Approved May 16, 1983

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**CHAPTER 127**  
**PUBLIC UTILITY REGULATION**  
*H.F. 312*

**AN ACT** relating to public utilities and providing civil penalties.

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

Section 1. Section 13.7, Code 1983, is amended to read as follows:

13.7 SPECIAL COUNSEL. ~~No compensation~~ Compensation shall not be allowed to any person for services as an attorney or counselor to ~~any an~~ an executive department of the state government, or the head thereof, or to ~~any a~~ a state board or commission, ~~but.~~ However, the executive council may employ legal assistance, at a reasonable compensation, in ~~any~~ a pending action or proceeding to protect the interests of the state, but only upon a sufficient showing, in writing, made by the attorney general, that the department of justice cannot for reasons stated by the attorney general perform ~~said the~~ the service, which reasons and action of the council shall be entered upon its records. When the attorney general determines that the department of justice cannot perform legal service in an action or proceeding, the executive council shall request the department involved in the action or proceeding to recommend legal counsel to represent the department. If the attorney general concurs with the department that the

person recommended is qualified and suitable to represent the department, the person recommended shall be employed. If the attorney general does not concur in the recommendation, the department shall submit a new recommendation. This section ~~shall~~ does not affect the ~~office of the commerce general counsel for the Iowa state commerce commission, the transportation regulation authority counsel, or the legal counsel of the Iowa department of job service or the office of consumer advocate.~~

Sec. 2. Section 17A.2, subsection 1, Code 1983, is amended to read as follows:

1. "Agency" means each board, commission, department, officer or other administrative office or unit of the state. "Agency" does not mean the general assembly, the courts, ~~the office of consumer advocate, the governor or a political subdivision of the state or its offices and units.~~ Unless provided otherwise by statute, no less than two-thirds of the members eligible to vote of a multimember agency shall constitute a quorum authorized to act in the name of the agency.

Sec. 3. Section 18.98, subsection 7, Code 1983, is amended to read as follows:

7. To the office of governor, secretary of state, auditor of state, treasurer of state, commissioner of insurance, general counsel for the Iowa state commerce commission, and ~~commerce counsel~~ consumer advocate, each . . . . . 1 copy

Sec. 4. Section 28F.1, unnumbered paragraph 1, Code 1983, is amended to read as follows:

This chapter is ~~intended to provide~~ provides a means for the joint financing by public agencies of works or facilities useful and necessary for the collection, treatment, purification, and disposal in a sanitary manner of liquid and solid waste, sewage, and industrial waste, also electric power facilities constructed within the state of Iowa ~~except that hydroelectric power facilities may also be located in the waters and on the dams of or on land adjacent to either side of the Mississippi or Missouri river bordering the state of Iowa,~~ water supply systems, swimming pools or golf courses. ~~The provisions of this~~ This chapter apply applies to the acquisition, construction, reconstruction, ownership, operation, repair, extension, or improvement of such works or facilities, by a separate administrative or legal entity created pursuant to chapter 28E. When the legal entity created under this chapter is comprised solely of cities, counties, and sanitary districts established under chapter 358, or any combination thereof or any combination of the foregoing with other public agencies, the entity shall be both a corporation and a political subdivision with the name under which it was organized. The legal entity may sue and be sued, contract, acquire and hold real and personal property necessary for corporate purposes, adopt a corporate seal and alter the ~~same~~ seal at pleasure, and execute all the powers conferred in this chapter.

Sec. 5. Section 364.2, subsection 4, Code 1983, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. If a city franchise fee is assessed to customers of a franchise, the fee shall not be assessed to the city as a customer.

Sec. 6. Section 474.1, unnumbered paragraph 3, Code 1983, is amended to read as follows:

As used in this section and ~~sections 474.2 to 474.9~~ chapter and chapter 475A, the words "commission" and "commerce commission" mean the Iowa state commerce commission.

Sec. 7. NEW SECTION. 474.10 GENERAL COUNSEL. The commission shall employ competent attorneys as the general counsel and assistants to the general counsel as it finds necessary for the full and efficient discharge of its duties. The general counsel shall be the attorney for, and legal advisor of, the commission and shall be exempt from chapter 19A. Assistants to the general counsel shall be subject to chapter 19A. The general counsel or assistant to the general counsel shall provide the necessary legal advice to the commission in all matters and represent the commission in all actions instituted in a state or federal court challenging the validity of any rule, regulation, or order of the commission. The general

counsel shall also represent the grain warehouse division in all administrative proceedings before the commission brought under chapters 542, 542A, and 543. The existence of a fact which disqualifies a person from election or acting as state commerce commissioner disqualifies the person from employment as general counsel or assistant general counsel. The general counsel shall devote the counsel's entire time of employment to the duties of the office; and during employment the counsel shall not be a member of a political committee, contribute to a political campaign fund other than through the income tax checkoff for contributions to the Iowa election campaign fund and the presidential election campaign fund, participate in a political campaign, or be a candidate for a political office.

**Sec. 8. NEW SECTION. 475A.1 CONSUMER ADVOCATE.**

1. **APPOINTMENT.** After the general assembly convenes in 1983, and every four years thereafter, the governor shall appoint a competent attorney to the office of consumer advocate, subject to confirmation by the senate, in accordance with section 2.32. The advocate's term of office is for four years. The term begins and ends as provided in section 69.19.

2. **VACANCY.** If a vacancy occurs in the office of consumer advocate, the vacancy shall be filled for the unexpired term in the same manner as an original appointment under the procedures of section 2.32.

3. **DISQUALIFICATION.** The existence of a fact which disqualifies a person from election or acting as state commerce commissioner under section 474.2 disqualifies the person from appointment or acting as consumer advocate.

4. **POLITICAL ACTIVITY PROHIBITED.** The consumer advocate shall devote the advocate's entire time to the duties of the office; and during the advocate's term of office the advocate shall not be a member of a political committee or contribute to a political campaign fund other than through the income tax checkoff for contributions to the Iowa election campaign fund and the presidential election campaign fund or take part in political campaigns or be a candidate for a political office.

5. **REMOVAL.** The governor may remove the consumer advocate for malfeasance or nonfeasance in office, or for any cause which renders the advocate ineligible for appointment, or incapable or unfit to discharge the duties of the advocate's office; and the advocate's removal, when so made, is final.

**Sec. 9. NEW SECTION. 475A.2 DUTIES.** The consumer advocate shall:

1. Investigate the legality of all rates, charges, rules, regulations, and practices of all persons under the jurisdiction of the Iowa state commerce commission, and institute civil proceedings before the commission or any court to correct any illegality on the part of any such person. In any such investigation, the person acting for the office of the consumer advocate shall have the power to ask the commission to issue subpoenas, compel the attendance and testimony of witnesses, and the production of papers, books, and documents, at the discretion of the commission.

2. Act as attorney for and represent all consumers generally and the public generally in all proceedings before the Iowa state commerce commission.

3. Institute as a party judicial review of any decision of the Iowa state commerce commission, if the consumer advocate deems judicial review to be in the public interest.

4. Appear for all consumers generally and the public generally in all actions instituted in any state or federal court which involve the validity of a rule, regulation, or order of the Iowa state commerce commission.

5. Act as attorney for and represent all consumers generally and the public generally in proceedings before federal and state agencies and related judicial review proceedings and appeals, at the discretion of the consumer advocate.

6. Appear and participate as a party in the name of the office of consumer advocate in the performance of the duties of the office.

**Sec. 10. NEW SECTION. 475A.3 OFFICE—EMPLOYEES—EXPENSES.**

1. **OFFICE.** The office of consumer advocate is at the seat of the government at the same location as the Iowa state commerce commission.

2. **EMPLOYEES.** The consumer advocate may employ attorneys, legal assistants, secretaries, clerks, and other employees the consumer advocate finds necessary for the full and efficient discharge of the duties and responsibilities of the office. The consumer advocate may employ consultants as expert witnesses or technical advisors pursuant to contract in any proceeding in which the consumer advocate is a party.

3. **SALARIES, EXPENSES, AND APPROPRIATION.** The salary of the consumer advocate shall be fixed by the general assembly. The salaries of employees of the consumer advocate and the reimbursement of expenses for the employees and the consumer advocate are as provided by law. The appropriation for the office of consumer advocate shall be a separate line item contained in the appropriation for the Iowa state commerce commission.

In establishing salaries and benefits for employees the consumer advocate shall provide for an affirmative action plan which shall be based upon guidelines provided by the Iowa state civil rights commission. In addition, when establishing salaries and benefits the consumer advocate shall not discriminate in the employment or pay between employees on the basis of gender by paying wages to employees at a rate less than the rate at which wages are paid to employees of the opposite gender for work of comparable worth. As used in this section "comparable worth" means the value of work as measured by the composite of the skill, effort, responsibility, and working conditions normally required in the performance of work.

The consumer advocate shall make a report to the legislative council which shall contain a copy of the affirmative action plan adopted and details regarding the manner in which compliance is made for establishing salaries and benefits based on comparable worth. The report shall be made to the legislative council as soon as possible after the effective date of this Act but not later than August 1, 1983, unless the legislative council shall extend the date for making the report.

**Sec. 11. NEW SECTION. 475A.4 COMMERCE COMMISSION RECORDS AND EMPLOYEES.**

1. The consumer advocate has free access to all the files, records, and documents in the office of the Iowa state commerce commission except:

- a. Personal information in confidential personnel records of the commerce commission.
- b. Records which represent and constitute the work product of the general counsel of the commerce commission, and records of confidential communications between commerce commissioners and their general counsel, where the records relate to a proceeding before the commerce commission in which the consumer advocate is a party or a proceeding in any state or federal court in which both the commerce commission and the consumer advocate are parties.
- c. Customer information of a confidential nature which could jeopardize the customer's competitive status and is provided by the utility to the commission. Such information shall be provided to the consumer advocate by the commission, if the commission determines it to be in the public interest.

d. Financial statements which are confidential under section 542.16 or 543.24.

2. The consumer advocate may utilize employees of the commerce commission as expert witnesses or technical advisors in any proceeding in which the consumer advocate is a party. The consumer advocate may utilize employees of the commerce commission to assist in investigations and studies related to rates and services of utilities, as deemed appropriate by the commission. However, any commerce commission employee utilized by the consumer advocate shall not participate on behalf of the commission in its decision.

Sec. 12. NEW SECTION. 475A.5 SERVICE. The consumer advocate is entitled to service of all documents required by statute or rule to be served on parties in proceedings before the Iowa state commerce commission and all notices, petitions, applications, complaints, answers, motions, and other pleadings filed pursuant to statute or rule with the commerce commission.

Sec. 13. NEW SECTION. 475A.6 CERTIFICATION OF EXPENSES TO COMMERCE COMMISSION. The consumer advocate shall determine the advocate's expenses, including a reasonable allocation of general office expenses, directly attributable to participation in proceedings involving specific utilities, and shall certify the expenses to the Iowa state commerce commission not less than quarterly. The expenses shall then be includable in the expenses of the commerce commission 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 generally, and shall certify the expenses to the commerce commission. The expenses shall then be includable in the expenses of the commission subject to remainder assessment under section 476.10.

The consumer advocate is entitled to notice and opportunity to be heard in any commerce commission 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 office of consumer advocate.

Sec. 14. NEW SECTION. 475A.7 CONSUMER ADVISORY PANEL. The governor shall appoint nine members to a consumer advisory panel to meet at the request of the consumer advocate for consultation regarding public utility regulation. A member shall be appointed from each congressional district with the appointee residing within the congressional district at the time of appointment. The remaining appointees shall be members at large. No more than five members shall belong to the same political party as provided in section 69.16. The members shall serve four-year terms at the pleasure of the governor and their appointments are not subject to confirmation. The governor shall fill a vacancy in the same manner as the original appointment for the unexpired portion of the member's term. Members of the consumer advisory panel shall serve without compensation, but shall be reimbursed for actual expenses from funds appropriated to the office of consumer advocate.

Sec. 15. Section 476.1, Code 1983, is amended by adding the following new-unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The jurisdiction of the commission as to the regulation of communications services is not applicable to a service or facility provided by a telephone utility that is or becomes subject to competition, as determined by the commission. In determining whether a service or facility is or becomes subject to competition, the commission shall consider whether a comparable service or facility is available from a supplier other than the telephone utility. When a service or facility provided by a telephone utility becomes subject to competition, the commission shall, within a reasonable period of time, deregulate that service or facility. Upon deregulation, all investment, revenues, and expenses associated with the service or facility shall be removed from the telephone utility's regulated operations and shall not be considered by the commission in setting rates for the telephone utility unless they continue to affect the company's regulated operations. In the event that the commission considers investment, revenues, and expenses associated with unregulated services or facilities in setting rates for the telephone utility, the commission shall not use any profits or costs from such unregulated services or facilities to determine the rates for regulated services or facilities. Nothing in this section shall preclude the commission from

considering the investment, revenues and expenses associated with the sale of classified directory advertising by a telephone utility in determining rates for the telephone utility.

Sec. 16. Section 476.1, Code 1983, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. As used in this chapter, "commission" or "commerce commission" means the Iowa state commerce commission.

Sec. 17. Section 476.3, subsection 1, Code 1983, is amended to read as follows:

1. ~~Every~~ A public utility shall furnish reasonably adequate service at rates and charges in accordance with tariffs filed with the commission. When there is filed with the commission by any person or body politic, or filed by the commission upon its own motion, a written complaint requesting the commission to determine the reasonableness of the rates, charges, schedules, service, regulations, or anything done or omitted to be done by ~~any~~ a public utility subject to this chapter in contravention of the provisions of this chapter, the written complaint shall be forwarded by the commission to the public utility, which shall be called upon to satisfy the complaint or to answer it in writing within a reasonable time to be specified by the commission. Copies of the written complaint forwarded by the commission to the public utility and copies of all correspondence from the public utility in response to the complaint shall be provided by the commission in an expeditious manner to the consumer advocate. If the public utility does not satisfy the commission with respect to the complaint within the time specified determines the public utility's response is inadequate and there appears to be any reasonable ground for investigating the complaint, the commission shall promptly initiate a formal proceeding. If the consumer advocate determines the public utility's response to the complaint is inadequate, the consumer advocate may file a petition with the commission which shall promptly initiate a formal proceeding if the commission determines that there is any reasonable ground for investigating the complaint. The formal proceeding may be initiated at any time by the commission on its own motion. If a proceeding is initiated upon ~~application or petition~~ filed by the consumer advocate or upon the commission's own motion, the commission shall set the case for hearing and give notice as it deems appropriate. When the commission, after a hearing held after reasonable notice, finds ~~any~~ a public utility's rates, charges, schedules, service, or regulations are unjust, unreasonable, discriminatory, or otherwise in violation of any provision of law, the commission shall determine just, reasonable, and nondiscriminatory rates, charges, schedules, service, or regulations to be observed and enforced.

Sec. 18. Section 476.3, subsection 2, Code 1983, is amended to read as follows:

2. If, as a result of ~~either~~ a review procedure conducted under section 476.31, ~~or~~ a review conducted under section 476.32, a special audit, an investigation by commission staff, or an investigation by the consumer advocate, a complaint is filed by commission staff, or a petition is filed with the commission by the consumer advocate, alleging that a utility's rates are excessive, the disputed amount shall be specified in the complaint or petition. The public utility shall, within the time prescribed by the commission, file a bond or undertaking approved by the commission conditioned upon the refund in a manner prescribed by the commission of amounts collected after the date of filing of the complaint or petition in excess of rates or charges finally determined by the commission to be lawful. If upon hearing the commission finds that the utility's rates are unlawful, the commission shall order a refund, with interest, of amounts collected after the date of filing of the complaint or petition that are determined to be in excess of the amounts which would have been collected under the rates finally approved, provided that. However, the commission shall not order a refund that is greater than the amount specified in the complaint or petition, plus interest, and provided that if the commission fails to render a decision within ~~one hundred eighty days~~ ten months following the date of filing of the complaint or petition, the commission shall not order a refund of any excess

amounts that are collected after the expiration of that ~~one hundred eighty-day~~ ten-month period and prior to the date the decision is rendered.

Sec. 19. Section 476.6, subsections 1 and 5, Code 1983, are amended to read as follows:

1. **FILING WITH COMMISSION.** A public utility subject to rate regulation shall not make effective ~~any a~~ a new or changed rate, charge, schedule or regulation ~~except by filing it with the commission at least thirty days prior to its effective date until the rate, charge, schedule, or regulation has been approved by the commission, except as provided in subsections 11 and 13. The commission, for good cause shown, may allow changes in rates, charges, schedules or regulations to become effective on less than thirty days' notice.~~

**PARAGRAPH DIVIDED.** Any A subscriber of a telephone exchange or service, who is declared to be legally blind under section 422.12, subsection 1, paragraph "e", is exempt from any charges for telephone directory assistance that may be approved by the commerce commission.

5. **WRITTEN NOTICE OF INCREASE.** All public utilities, ~~including~~ except those exempted from rate regulation by the provisions of section 476.1, shall give written notice of ~~any a~~ a proposed increase of any rate or charge to all affected customers served by the public utility ~~at least thirty days prior to the effective date thereof no more than sixty-two days prior to and prior to the time the application for the increase is filed with the commission. Public utilities exempted from rate regulation by section 476.1 shall give written notice of a proposed increase of any rate or charge to all affected customers served by the public utility at least thirty days prior to the effective date of the increase.~~ If the public utility is subject to rate regulation, the notice to affected customers shall also state that the customer has a right to file a written objection to ~~such~~ the rate increase and that ~~he~~ the affected customers may request the commission to hold a public hearing to determine if ~~such~~ the rate increase should be allowed. The commission shall prescribe the manner and method that the written notice to each affected customer of the public utility shall be served.

Sec. 20. Section 476.6, subsections 6, 7, 8, 9, and 10, Code 1983, are amended by striking the subsections and inserting in lieu thereof the following:

6. **FACTS AND ARGUMENTS SUBMITTED.** At the time a public utility subject to rate regulation files with the commission an application for any new or changed rates, charges, schedules, or regulations, the public utility also shall submit factual evidence and written argument offered in support of the filing. If the filing is an application for a general rate increase, the utility shall also file affidavits containing testimonial evidence to be offered in support of the filing, although this requirement does not apply if the public utility is a rural electric cooperative.

7. **HEARING SET.** After the filing of an application for new or changed rates, charges, schedules, or regulations by a public utility subject to rate regulation, the commission, prior to the expiration of thirty days after the filing date, shall docket the case as a formal proceeding and set the case for hearing unless the new or changed rates, charges, schedules, or regulations are approved by the commission. In the case of a rural electric cooperative, the commission may docket the case as a formal proceeding and set the case for hearing prior to the proposed effective date of the tariff. The commission shall give notice of formal proceedings as it deems appropriate. The docketing of a case as a formal proceeding suspends the effective date of the new or changed rates, charges, schedules, or regulations until the rates, charges, schedules, or regulations are approved by the commission, except as provided in subsection 13.

8. **UTILITY HEARING EXPENSES REPORTED.** When a case has been docketed as a formal proceeding under subsection 7, the public utility, within a reasonable time thereafter, shall file with the commission a report outlining the utility's expected expenses for litigating the case through the time period allowed by the commission in rendering a decision. At the

conclusion of the utility's presentation of comments, testimony, exhibits, or briefs the utility shall submit to the commission a listing of the utility's actual litigation expenses in the proceeding. As part of the findings of the commission under subsection 9, the commission shall allow recovery of costs of the litigation expenses over a reasonable period of time to the extent the commission deems the expenses reasonable and just.

9. **FINDING BY COMMISSION.** If, after hearing and decision on all issues presented for determination in the rate proceeding, the commission finds the proposed rates, charges, schedules, or regulations of the utility to be unlawful, the commission shall by order authorize and direct the utility to file new or changed rates, charges, schedules, or regulations which, when approved by the commission and placed in effect, will satisfy the requirements of this chapter. The rates, charges, schedules, or regulations so approved are lawful and effective upon their approval.

10. **LIMITATION ON FILINGS.** A public utility shall not make a subsequent filing of an application for a new or changed rate, charge, schedule, or regulation which relates to services for which a rate filing is pending within twelve months following the date the prior application was filed or until the commission has issued a final order on the prior application, whichever date is earlier, unless the public utility applies to the commission for authority and receives authority to make a subsequent filing at an earlier date.

Sec. 21. Section 476.6, Code 1983, is amended by adding the following new subsection:

**NEW SUBSECTION. 11. AUTOMATIC ADJUSTMENTS PERMITTED.** This chapter does not prohibit a public utility from making provision for the automatic adjustment of rates and charges for public utility service provided that a schedule showing the automatic adjustment of rates and charges is first filed with the commission.

If an automatic adjustment is used, the adjustment must be reduced to zero at least once in every twelve-month period, and all appropriate charges collected by the automatic adjustment shall be incorporated in the utility's other rates at that time.

Sec. 22. Section 476.6, Code 1983, is amended by adding the following new subsection:

**NEW SUBSECTION. 12. RATE LEVELS FOR TELEPHONE UTILITIES.** The commission may approve a schedule of rate levels for any regulated service provided by a utility providing communication services.

Sec. 23. Section 476.6, Code 1983, is amended by adding the following new subsection:

**NEW SUBSECTION. 13. TEMPORARY AUTHORITY.** Upon the request of a public utility, the commission shall, when required by this subsection, grant the public utility temporary authority to place in effect any or all of the suspended rates, charges, schedules or regulations by filing with the commission a bond or other undertaking approved by the commission conditioned upon the refund in a manner to be prescribed by the commission of any amounts collected in excess of the amounts which would have been collected under rates, charges, schedules or regulations finally approved by the commission. In determining that portion of the new or changed rates, charges, schedules or regulations to be placed in effect prior to a final decision, the commission shall apply previously established regulatory principles and shall, at a minimum, permit rates and charges which will allow the utility the opportunity to earn a return on common stock equity equal to that which the commission held reasonable and just in the most recent rate case involving the same utility or the same type of utility service, provided that if the most recent final decision of the commission in an applicable rate case was rendered more than twelve months prior to the date of filing of the request for temporary rates, the commission shall in addition consider financial market data that is filed or that is otherwise available to the commission and shall adjust the rate of return on common stock equity that was approved in that decision upward or downward as necessary to reflect current conditions. The commission shall render a decision on a request for temporary authority

within ninety days after the date of filing of the request. The decision shall be effective immediately. If the commission has not rendered a final decision with respect to suspended rates, charges, schedules or regulations upon the expiration of ten months after the filing date, plus the length of any delay that necessarily results either from the failure of the public utility to exercise due diligence in connection with the proceedings or from intervening judicial proceedings, plus the length of any extension permitted by section 476.33, subsection 3, then those portions that were approved by the commission on a temporary basis shall be deemed finally approved by the commission and the utility may place them into effect on a permanent basis, and the utility also may place into effect subject to refund and until the final decision of the commission any portion of the suspended rates, charges, schedules or regulations not previously approved on a temporary basis by filing with the commission a bond or other undertaking approved by the commission.

If the commission finds that an extension of the ten-month period is necessary to permit the accumulation of necessary data with respect to the operation of a newly constructed electric generating facility that has a capacity of one hundred megawatts or more of electricity and that is proposed to be included in the rate base for the first time, the commission may extend the ten-month period up to a maximum extension of six months, but only with respect to that portion of the suspended rates, charges, schedules or regulations that are necessarily connected with the inclusion of the generating facility in the rate base. If a utility is proposing to include in its rate base for the first time a newly constructed electric generating facility that has a capacity of one hundred megawatts or more of electricity, the filing date of new or changed rates, charges, schedules or regulations shall, for purposes of computing the ninety-day and ten-month limitations stated above, be the date as determined by the commission that the new plant went into service, but only with respect to that portion of the suspended rates, charges, schedules or regulations that are necessarily connected with the inclusion of the generating facility in the rate base.

The commission shall determine the rate of interest to be paid by a public utility to persons receiving refunds. The interest rate to be applied to refunds of moneys collected subject to refund under this subsection is two percent per annum plus the average quarterly interest rate at commercial banks for twenty-four-month loans for personal expenditures, as determined by the commission, compounded annually. The commission shall consider federal reserve statistical release G.19 or its equivalent when determining interest to be paid under this subsection.

Sec. 24. Section 476.6, Code 1983, is amended by adding the following new subsection:

**NEW SUBSECTION. 14. REFUNDS PASSED ON TO CUSTOMERS.** If pursuant to federal law or rule a rate-regulated public utility furnishing gas to customers in the state receives a refund or credit for past gas purchases, the savings shall be passed on to the customers in a manner approved by the commission. Similarly, if pursuant to federal law or rule a rate-regulated public utility furnishing gas to customers in the state receives a rate for future gas purchases which is lower than the price included in the public utility's approved rate application, the savings shall be passed on to the customers in a manner approved by the commission.

Sec. 25. Section 476.6, Code 1983, is amended by adding the following new subsection:

**NEW SUBSECTION. 15. NATURAL GAS SUPPLY AND COST REVIEW.** The commerce commission shall periodically, but not less than annually, conduct a proceeding for the purpose of evaluating the reasonableness and prudence of a rate-regulated public utility's natural gas procurement and contracting practices. The natural gas supply and cost review shall be conducted as a contested case pursuant to chapter 17A.

Under procedures established by the commerce commission, each rate-regulated public utility furnishing gas shall periodically file a complete natural gas procurement plan describing the expected sources and volumes of its gas supply and changes in the cost of gas anticipated over a future twelve-month period specified by the commission. The plan shall describe all major contracts and gas supply arrangements entered into by the utility for obtaining gas during the specified twelve-month period. The description of the major contracts and arrangements shall include the price of gas, the duration of the contract or arrangement, and an explanation or description of any other term or provision as required by the commission. The plan shall also include the utility's evaluation of the reasonableness and prudence of its decisions to obtain gas in the manner described in the plan, an explanation of the legal and regulatory actions taken by the utility to minimize the cost of gas purchased by the utility, and such other information as the commission may require.

Contemporaneously with the natural gas procurement plan, the public utility shall file with the commission a five-year forecast of the gas requirement of its customers, its anticipated sources of supply, and projections of gas costs. The forecast shall include a description of all relevant major contracts and gas supply arrangements entered into or contemplated between the gas utility and its suppliers, a description of all major gas supply arrangements which the gas utility knows have been, or expects will be, entered into between the utility's principal pipeline suppliers and their major sources of gas, and such other information as the commission may require.

During the natural gas supply and cost review, the commission shall evaluate the reasonableness and prudence of the gas procurement plan. In evaluating the gas procurement plan, the commission shall consider the volume, cost, and reliability of the major alternative gas supplies available to the utility; the cost of alternative fuels available to the utility's customers; the availability of gas in storage; the appropriate legal and regulatory actions which the utility could take to minimize the cost of purchased gas; the gas procurement practices of the utility; and other relevant factors. If a utility is not taking all reasonable actions to minimize its purchase gas costs, consistent with assuring an adequate long-term supply of natural gas, the commission shall not allow the utility to recover from its customers purchase gas costs in excess of those costs that would be incurred under reasonable and prudent policies and practices.

The commission shall also evaluate the five-year forecast filed by the public utility. The commission may indicate any cost items in the five-year forecast that on the basis of present evidence in the record the commission would be unlikely to permit the utility to recover from its customers in rates, charges or purchased gas clauses established in the future. Nothing in this section prohibits the commission from disallowing the recovery of other related or unrelated costs on the basis of evidence received in a later contested case proceeding.

The commission shall adopt rules pursuant to chapter 17A to implement the provisions of this section prior to January 1, 1984.

Sec. 26. Section 476.6, Code 1983, is amended by adding the following new subsection:

**NEW SUBSECTION. 16. ANNUAL ELECTRIC ENERGY SUPPLY AND COST REVIEW.** The commerce commission shall conduct an annual proceeding for the purpose of evaluating the reasonableness and prudence of a rate-regulated public utility's procurement and contracting practices related to the acquisition of fuel for use in generating electricity. The proceeding shall be conducted as a contested case pursuant to chapter 17A. Under procedures established by the commerce commission, the utility shall file information as the commission deems appropriate. If a utility is not taking all reasonable actions to minimize its fuel costs, the commission shall not allow the utility to recover from its customers fuel costs in excess of those costs that would be incurred under reasonable and prudent policies and practices.

Contemporaneously with the annual review proceeding, the commission shall analyze the electric generating capacity needs for the next decade by the public utility's customers, under procedures established by the commission. The utility shall file information regarding future capacity needs of its customers as deemed appropriate by the commission.

Sec. 27. Section 476.8, unnumbered paragraph 1, Code 1983, is amended to read as follows:

Every public utility is required to furnish reasonably adequate service and facilities. "Reasonably adequate service and facilities" for public utilities furnishing gas or electricity includes programs for customers to encourage the use of energy conservation and renewable energy sources. The charge made by any public utility for any heat, light, gas, energy conservation and renewable energy programs, water or power produced, transmitted, delivered or furnished, or communications services, or for any service rendered or to be rendered in connection therewith shall be reasonable and just, and every unjust or unreasonable charge for such service is prohibited and declared unlawful. In determining reasonable and just rates, the commission shall consider all factors relating to value and shall not be bound by rate base decisions or rulings made prior to the adoption of this chapter.

Sec. 28. Section 476.10, unnumbered paragraphs 1 and 2, Code 1983, are amended to read as follows:

~~Whenever~~ When the commission ~~shall deem~~ deems it necessary in order to carry out the duties imposed upon it by this chapter for the purpose of determining rate matters to investigate the books, accounts, practices, and activities of, or make appraisals of the property of any public utility, or to render any engineering or accounting services to any public utility, ~~such~~ or to review the operations or annual reports of the public utility under section 476.31 or 476.32, the public utility shall pay the expense reasonably attributable to such the investigation, appraisal, or service, or review. The commission shall ascertain ~~such~~ the expenses including certified expenses incurred by the office of consumer advocate directly chargeable to the public utility under section 475A.6, and shall render a bill therefor, by certified mail, to the public utility, either at the conclusion of the investigation, appraisal, or services, or review, or from time to time during its progress, which bill shall constitute is notice of said the assessment and shall demand payment thereof. The total amount of such expense in any one calendar year, for which any public utility shall become liable, shall not exceed two-tenths of one percent of its gross operating revenues derived from intrastate public utility operations in the last preceding calendar year.

The commission shall ascertain the total of its expenditures during each year which are reasonably attributable to the performance of its duties under this chapter ~~and~~. The commission shall add to this total the certified expenses of the consumer advocate as provided under section 475A.6 and shall deduct therefrom all amounts chargeable directly to any specific utility under any law. The remainder shall be assessed by the commission to the several public utilities in proportion to their respective gross operating revenues during the last calendar year derived from intrastate public utility operations and shall be assessed within ninety days of the close of the calendar year based upon an estimate of the commission expenditures for the first half of the commission's fiscal year and again within ninety days of the close of the fiscal year as necessary to conform the amount of the assessment to the requirements of this section. Public utilities exempt from rate regulation under this chapter shall not be assessed for remainder expenses incurred during review of rate-regulated public utilities under section 476.31 or 476.32, but such remainder expenses shall be assessed proportionally as provided in this section among only the rate-regulated public utilities. The total amount which may be assessed to the public utilities under authority of this paragraph shall not exceed ~~one-tenth~~ two-tenths of one percent of the total gross operating revenues of ~~such~~ the public utilities during such the calendar year derived from intrastate public utility operations. However, the

total amount which may be assessed in any one calendar year to a public utility under this section shall not exceed three-tenths of one percent of the utility's total gross operating revenues derived from intrastate public utility operation in the last preceding year. For public utilities exempted from rate regulation under this chapter, the assessments under this paragraph shall be computed at one-half the rate used in computing the assessment for other utilities.

Sec. 29. Section 476.13, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

**476.13 JUDICIAL REVIEW.**

1. Notwithstanding the Iowa administrative procedure Act, the district court for Polk county or for the county in which a public utility maintains its principal place of business has exclusive venue for the judicial review under chapter 17A of actions of the commission pursuant to rate-regulatory powers over that public utility.

2. Upon the filing of a petition for judicial review in an action referred to in subsection 1, the clerk of the district court shall notify the chief justice of the supreme court for purposes of assignment of a district judge under section 602.23. The judicial review proceeding shall be heard by the district judge appointed by the supreme court under section 602.23, but in the county of venue under subsection 1.

3. Notwithstanding the Iowa administrative procedure Act, if a public utility seeks judicial review of an order approving rates for the public utility, the level of rates that may be collected, under bond and subject to refund, while the appeal is pending shall be limited to the level of the temporary rates set by the commission, or the level of the final rates set by the commission, whichever is greater. During the period the judicial review proceeding is pending, the commission shall retain jurisdiction to determine the rate of interest to be paid on any refunds eventually required on rates collected during judicial review.

**Sec. 30. NEW SECTION. 476.18 IMPERMISSIBLE CHARGES.**

1. Public utilities subject to rate regulation are prohibited from including either directly or indirectly in their charges or rates to customers the costs of lobbying.

2. Legal costs and attorney fees incurred by a public utility subject to rate regulation in an appeal in state or federal court involving the validity of any action of the commission shall not be included either directly or indirectly in the public utility's charges or rates to customers except to the extent that recovery of legal costs and attorney fees is allowed by the commission. The commission shall allow a public utility to recover reasonable legal costs and attorney fees incurred in the appeal. The commission may consider the degree of success of the legal arguments of the public utility in determining the reasonable legal costs and attorney fees to be allowed.

3. Public utilities subject to rate regulation are prohibited from including either directly or indirectly in their charges or rates to customers the costs of advertising other than advertising which is required by the commerce commission or by other state or federal regulation. However, this subsection does not apply to a utility's advertising which is deemed by the commission to be necessary for the utility's customers and which is approved by the commission.

4. This section does not apply to a rural electric cooperative.

Sec. 31. Section 476.20, Code 1983, is amended to read as follows:

**476.20 CUSTOMER PAYMENTS, ABANDONMENT AND TERMINATION OF SERVICE—DEPOSITS.**

1. ~~No~~ A utility shall not, except in cases of emergency, discontinue, reduce, or impair service to a community, or a part of a community, except for nonpayment of account or violation of rules and regulations, unless and until ~~there shall have been first permission to do so is obtained from the commission~~ permission to do so.

2. The commerce commission shall establish rules requiring a regulated public utility furnishing gas or electricity to include in the utility's notice of pending disconnection of service a written statement advising the customer that the customer may be eligible to participate in the low income home energy assistance program or weatherization assistance program administered by the energy policy council. The written statement shall also state that the customer is advised to contact the public utility to settle any of the customer's complaints with the public utility, but if a complaint is not settled to the customer's satisfaction, the customer may file the complaint with the commerce commission. The written statement shall include the address and phone number of the commerce commission. The commerce commission shall establish rules requiring that the written notice contain such additional information as it deems necessary and appropriate.

3. The commerce commission shall establish rules which shall be uniform with respect to all public utilities furnishing gas or electricity relating to disconnection of service.

4. A public utility which violates a provision of this section relating to the disconnection of service or which violates a rule of the commerce commission relating to disconnection of service is subject to civil penalties imposed by the commission under section 476.35.

5. The commerce commission shall establish rules which shall be uniform with respect to all public utilities furnishing gas or electricity relating to deposits which may be required by the public utility for the initiation or reinstatement of service. The deposit for a residence which has previously received service shall not be greater than the highest billing of service for one month to the residence in the previous twelve-month period. This subsection does not prohibit a public utility from requiring payment of a customer's past due account with the utility prior to reinstatement of service.

Sec. 32. Section 476.33, subsection 1, Code 1983, is amended to read as follows:

1. The commission shall adopt rules pursuant to chapter 17A to provide for the completion of proceedings under section 476.3 within ~~one hundred eighty days~~ ten months after the date of the filing of a complaint or petition under section 476.3, subsection 2, and to provide for the completion of proceedings under section 476.6 within ten months after the date of filing of the new or changed rates, charges, schedules or regulations under that section. These rules shall include reasonable time limitations for the submission or completion of comments and testimony, and exhibits, briefs and hearings, and may provide for the granting of additional time upon the request of a party to the proceeding or commission staff for good cause shown.

Sec. 33. Section 476.33, subsection 3, Code 1983, is amended to read as follows:

3. If in a proceeding under section 476.6 additional time is granted to a party or commission staff under subsection 1, the commission may extend the ten-month period during which a utility is prohibited from placing its entire rate increase request into effect under section 476.6, but an extension shall not exceed ~~one-half~~ of the aggregate amount of all additional time granted under subsection 1.

Sec. 34. NEW SECTION. 476.35 CIVIL PENALTY. A public utility which willfully violates a provision of this chapter, a rule adopted by the commission, or a provision of an order lawfully issued by the commission, is subject to a civil penalty, which may be levied by the commission, of not more than one hundred dollars per violation or one thousand dollars per day of a continuing violation, whichever is greater. Civil penalties collected pursuant to this section shall be forwarded by the executive secretary of the commission to the treasurer of state to be credited to the energy research and development fund and to be used only for the low income home energy assistance program and the weatherization assistance program administered by the energy policy council. Penalties paid by a rate-regulated public utility pursuant to this section shall be excluded from the utility's costs when determining the utility's revenue requirement, and shall not be included either directly or indirectly in the utility's rates or charges to customers.

Sec. 35. **NEW SECTION. 476.36 MANAGEMENT EFFICIENCY.** It is the policy of this state that a public utility shall operate in an efficient manner. If the commission determines in the course of a proceeding conducted under section 476.3 or 476.6 that a utility is operating in an inefficient manner, or is not exercising ordinary, prudent management, or in comparison with other utilities in the state the commission determines that the utility is performing in a less beneficial manner than other utilities, the commission may reduce the level of profit or adjust the revenue requirement for the utility to the extent the commission believes appropriate to provide incentives to the utility to correct its inefficient operation. If the commission determines in the course of a proceeding conducted under section 476.3 or 476.6 that a utility is operating in such an extraordinarily efficient manner that tangible financial benefits result to the ratepayer, the commission may increase the level of profit or adjust the revenue requirement for the utility. The commission shall adopt rules for determining the level of profit or the revenue requirement adjustment that would be appropriate.

The commission shall also adopt rules establishing a methodology for an analysis of a utility's management efficiency.

Sec. 36. **NEW SECTION. 476.37 EXCESS CAPACITY.** It is the intent of the general assembly of the state of Iowa to provide for the development of a fair resolution concerning the allocation of costs associated with excess electric generating capacity. It is the policy of this state that it is in the public interest that public utilities subject to rate regulation, at a minimum, be prohibited from including either directly or indirectly in their charges or rates to customers the return on common equity associated with excess electric generating capacity, however this shall not apply to rural electric cooperatives. The commerce commission shall not allow a return on common equity on that portion of a public utility's electric generating capacity which is determined to be excess electric generating capacity. Excess electric generating capacity is that portion of the public utility's electric generating capacity which exceeds the amount reasonably necessary to provide adequate and reliable service as determined by the commission.

Electric generating capacity sold pursuant to the terms of contracts entered into between June 28, 1978 and June 30, 1978 for power delivered on or before May 1, 1983 to May 1, 1993, shall not be included in the determination of excess electric generating capacity.

Electric generating capacity purchased from qualifying cogeneration and small power production facilities shall not be included in the determination of excess electric generating capacity.

Sec. 37. **NEW SECTION. 476.38 DELAYED PAYMENT CHARGES.** A public utility shall not apply delayed payment charges on a customer's account if the scheduled payment was made by the customer within twenty days from the date the billing was sent to the customer. Delayed payment charges on a customer's account shall not exceed one and one-half percent per month of the past-due amount.

Sec. 38. **NEW SECTION. 476.39 COMPLAINT OF ANTITRUST ACTIVITIES.** An application for new or changed rates, charges, schedules or regulations filed under this chapter, or an application for a certificate or an amendment to a certificate submitted under chapter 476A, by an electric transmission line utility or a gas pipeline utility or a subsidiary of either shall not be approved by the commerce commission if, upon complaint by an Iowa electric or gas utility, the commission finds activities which create or maintain a situation inconsistent with antitrust laws and the policies which underlie them. The commission may grant the rate or facility certification request once it determines that those activities which led to the antitrust complaint have been eliminated. However, this subsection does not apply to an application for new or changed rates, charges, schedules or regulations after the expiration of the ten-month limitation and applicable extensions.

Sec. 39. Section 476A.6, Code 1983, is amended to read as follows:

476A.6 DECISION – CRITERIA. The commission shall render a decision on the application in an expeditious manner. A certificate shall be issued to the applicant if the commission finds ~~that~~ all of the following:

1. The services and operations resulting from the construction of the facility are required by the present or future public convenience, use and necessity; ~~and,~~

2. The applicant is willing to perform such services and construct, maintain, and operate the facility pursuant to the provisions of the certificate and this chapter; ~~and,~~

3. The construction, maintenance, and operation of the facility will cause minimum adverse land use, environmental, and aesthetic impact and are consonant with reasonable utilization of air, land and water resources for beneficial purposes considering available technology and the economics of available alternatives.

4. The applicant has in effect a comprehensive energy management program designed to reduce peak loads and to increase efficiency of use of energy by all classes of customers of the utility, and the facility in the application is necessary notwithstanding the existence of the comprehensive energy management program. As used in this subsection, a "comprehensive energy management program" includes at a minimum the following:

a. Establishment of load management and interruptible service programs, where cost effective.

b. Development of wheeling agreements and other energy sharing agreements, where cost effective with utilities that have available capacity.

c. Establishment of cost-effective energy conservation and renewable energy services and programs.

d. Compliance with commission rules on energy management procedures.

5. The applicant has considered all feasible alternatives to the proposed facility including nongeneration alternatives; has ranked those alternatives by cost; has implemented the least-cost alternatives first; and the facility in the application is necessary notwithstanding the implementation of these alternatives.

Sec. 40. NEW SECTION. 476A.15 ENERGY SHARING AGREEMENTS. Before a certificate is issued under section 476A.6, the public utility shall demonstrate to the commission that the utility has considered sources for long term electric supply from either purchase of electricity or investment in facilities owned by other utilities.

Sec. 41. Section 478.7, Code 1983, is amended to read as follows:

478.7 FORM OF FRANCHISE. ~~The commerce general counsel for the Iowa state commerce commission shall prepare a blank form of franchise for such purposes, which shall provide space for a general description of the improvement authorized thereby, the name and address of the person or corporation to whom granted, the general terms and conditions upon which it the franchise is granted, and such other things as may be necessary. This blank form shall be filled out and signed by the chairman chairperson of the commission which grants the franchise, and the official seal shall be attached. Such The franchise shall be is subject to such regulations and restrictions as the general assembly from time to time may prescribe prescribes, and to such rules, not inconsistent with statutes, as the Iowa state commerce commission may establish from time to time.~~

Sec. 42. Section 478.29, Code 1983, is amended to read as follows:

478.29 PENALTY – ENFORCEMENT. ~~Any A person or corporation who shall string strings or maintain any maintains wire across any a railroad track in this state at a different height or in a different manner from that prescribed by the Iowa state commerce commission shall forfeit and pay to the state the sum of one hundred dollars for each separate period of ten days during which such the wire is so maintained. Such The forfeiture shall be recovered in a~~

civil action in the name of the state by the ~~commerce~~ general counsel for the Iowa state commerce commission, or by the county attorney of the county in which ~~such~~ the wire is situated, at the request of the state commerce commission.

Sec. 43. Chapter 602, Code 1983, is amended by adding the following new section as section 602.23:

NEW SECTION. 602.23 PUBLIC UTILITY RATE CASES.

1. The supreme court shall designate at least one district judge in each judicial district in the state who shall be subject to assignment by the chief justice to preside as necessary in this state in judicial review proceedings referred to in section 476.13, subsection 1. Designations shall be made on the basis of qualifications and experience, and shall be for the purpose of developing a pool of district judges who will have the knowledge and experience needed to expedite judicial review proceedings in those cases.

2. Upon receipt of notice from a district court clerk under section 476.13, subsection 2, the chief justice of the supreme court shall assign one of the district judges selected under subsection 1 to preside at the judicial review proceeding under section 476.13.

Sec. 44. 1981 Iowa Acts, chapter 9, section 7, subsections 6 and 7, are amended to read as follows:

6. The following are range four positions: superintendent of banking, director of the Iowa beer and liquor control department, ~~chairperson and members of the Iowa state commerce commission~~, director of the state conservation commission, director of the Iowa development commission, director of the educational radio and television facility board, director of the Iowa department of job service, director of the department of general services, commissioner of health, director of the office for planning and programming, and commissioner of public safety.

7. The following are range five positions: state comptroller, superintendent of public instruction, executive secretary of the state board of regents, ~~chairperson and members of the Iowa state commerce commission~~, consumer advocate, director of the department of revenue, commissioner of social services, and director of the department of transportation.

Sec. 45. The legislative council shall authorize an interim study by a joint subcommittee composed of members of the senate committee on commerce and the house committee on small business and commerce to study the areas of utility rate regulation affected by the passage of House File 312. The study committee shall report its findings and recommendations with legislative bill drafts required to implement its recommendations, to the respective standing committees, the legislative council, and the general assembly.

Sec. 46. In order to implement sections of this Act creating the office of consumer advocate and the general counsel for the Iowa state commerce commission, the commerce counsel appointed by the Iowa state commerce commission in 1983 and approved by the senate is the consumer advocate commencing July 1, 1983 and the consumer advocate's term shall expire on April 30, 1985. If a vacancy occurs in the office of the consumer advocate after July 1, 1983, the governor shall appoint the consumer advocate to serve the remaining unexpired term subject to sections 475.1 and 475.2. The commerce counsel's assistants employed by the counsel on June 30, 1983, are the assistants to the consumer advocate commencing July 1, 1983. The office space, supplies, equipment and support staff provided to the office of commerce counsel on June 30, 1983, are the same space, supplies, equipment and support staff provided to the office of consumer advocate on July 1, 1983.

Sec. 47. In order to implement section 475A.7 created under this Act, the governor shall appoint four members to the consumer advisory panel whose terms shall commence upon appointment and shall expire April 30, 1985. The governor shall also appoint five members to the consumer advisory panel whose terms shall commence upon appointment and shall expire April 30, 1987.

Sec. 48. On July 1, 1983, the participation of the office of commerce counsel in proceedings pending before the commission shall end and the office of consumer advocate shall continue to participate in place of the office of commerce counsel. All rights of participation of the office of commerce counsel shall be transferred to the office of consumer advocate.

Sec. 49. On July 1, 1983, for all pending proceedings before the commission, the general counsel of the commission shall assume the duties of rendering legal advice to the commission. The general counsel shall represent the commission in all court appeals pending July 1, 1983, with assistance from the consumer advocate if requested.

Sec. 50. On or after the effective date of this Act, the Iowa state commerce commission shall not approve an application for a new or changed rate, charge, schedule, or regulation filed with the commerce commission by a public utility furnishing electricity which includes as part of the rate base the costs of an electrical generating facility which does not go on line until after the effective date of this Act, unless the new or changed rate, charge, schedule, or regulation complies with section 476.37 created under this Act.

Sec. 51. Except as provided under section 50 of this Act, this Act applies to complaints or petitions filed with the Iowa state commerce commission under section 476.3, and to applications for new or changed rates, charges, schedules, or regulations filed with the Iowa state commerce commission under section 476.6, which are filed on or after the effective date of this Act.

Sec. 52. Chapter 475, Code 1983, is repealed.

Approved May 17, 1983

**CHAPTER 128**  
**EARTHWORK NEAR PIPELINES**  
*S.F. 177*

**AN ACT** relating to the obligation of a pipeline company to stake and mark its pipelines when subsequent earthwork or excavation occurs.

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

Section 1. Section 479.47, unnumbered paragraph 2, Code 1983, is amended by striking the paragraph and inserting in lieu thereof the following:

Before performing earthwork, tiling, or excavation within three hundred feet of an existing pipeline, a landowner, tenant, contractor, or the representative of any one of them shall notify the pipeline company or its representative by calling the pipeline company telephone number listed on the roadside right-of-way marker. The pipeline company shall mark the location of the existing pipeline within forty-eight hours of notification with appropriate marker flags or stakes on the land surface directly above the pipeline for a distance of one hundred fifty feet either side of the proposed work site. Markers shall be placed at twenty-five foot intervals, where physically possible, along the pipeline route indicating the diameter of the pipeline. The pipeline company shall not charge the landowner, tenant, or contractor for the placement of the markers. Excavation, earthwork, or tiling shall not be commenced in that area until the markers are in place and the pipeline company representative is present and has notified the contractor of the depth at the site of crossing. The pipeline company representative shall be present during all the excavation, earthwork, or tiling within the marked area when that area is any one of the following:

- (1) Land located outside the corporate limits of a city.
- (2) Agricultural land within the corporate limits of a city.
- (3) Nonagricultural land within the corporate limits of a city when the pipeline facility is operated at a pressure in excess of one hundred fifty pounds per square inch.

As used in this paragraph agricultural land means land of one or more acres suitable for cultivation for the production of crops, fruit or other horticultural purposes or for the grazing or production of livestock.

Sec. 2. This Act, being deemed of immediate importance, takes effect from and after its publication in the Storm Lake Register, a newspaper published in Storm Lake, Iowa, and in The Cedar Valley Times, a newspaper published in Vinton, Iowa.

Approved May 12, 1983

I hereby certify that the foregoing Act, Senate File 177 was published in the Storm Lake Register, Storm Lake, Iowa on May 21, 1983 and in The Cedar Valley Times, Vinton, Iowa on May 17, 1983.

MARY JANE ODELL, *Secretary of State*

**CHAPTER 129**  
**SALES TAX ON CERTAIN PRINTERS**  
*S.F. 314*

**AN ACT** relating to an exemption from the state sales, services, and use taxes for sales by trade shops to printers of lithographic-offset plates, photoengraved plates, engravings, negatives, color separations, typesetting, the end products of image modulation or any base materials used as carriers for light-sensitive emulsions, limiting the amount of refunds allowable under this Act, and making it retroactive.

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

Section 1. Section 422.45, Code 1983, is amended by adding the following new subsection:

**NEW SUBSECTION.** The gross receipts from the sales by a trade shop to a printer of lithographic-offset plates, photoengraved plates, engravings, negatives, color separations, typesetting, the end products of image modulation, or any base material used as a carrier for light-sensitive emulsions to be used by the printer to complete a finished product for sale at retail. For purposes of this subsection, "trade shop" means a business which is not normally engaged in printing and which sells supplies to printers, including but not limited to, those supplies enumerated in this subsection.

Sec. 2. Claims for refunds as a result of this Act for sales, services, and use taxes paid on transactions occurring between July 1, 1971 and July 1, 1983 involving the printing process shall be filed between July 1, 1983 and September 1, 1983. Notwithstanding any other provision of law, the total amount of refunds that shall be paid pursuant to this section shall not exceed the sum of fifty thousand dollars. If the total dollar amount of the allowable claims for refunds exceeds fifty thousand dollars the director of revenue shall prorate the fifty thousand dollars among the claimants of the allowable claims by paying each claimant a percent of the amount of the claimant's allowable claim equal to the percent that fifty thousand dollars is of the total amount of all the allowable claims.

Sec. 3. This Act is retroactive to July 1, 1971.

Approved May 18, 1983

**CHAPTER 130**  
**PUNITIVE DAMAGES AGAINST GOVERNMENTAL PERSONNEL**  
*S.F. 370*

**AN ACT** relating to awards for punitive damages against officers and employees of governmental subdivisions.

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

Section 1. Section 613A.8, unnumbered paragraph 1, Code 1983, is amended to read as follows:

The governing body shall defend ~~any~~ of its officers and employees, whether elected or appointed and shall save harmless and indemnify ~~sueh~~ the officers and employees against any tort claim or demand, whether groundless or otherwise, arising out of an alleged act or omission occurring within the scope of their employment or duties. However, the duty to save harmless and indemnify ~~shall~~ does not apply to awards for punitive damages. The exception for punitive damages does not prohibit a governing body from purchasing insurance to protect its officers and employees from punitive damages. The duty to save harmless and indemnify ~~shall~~ does not apply and the municipality ~~shall be~~ is entitled to restitution by an officer or employee if, in an action commenced by the municipality against the officer or employee, it is determined that the conduct of the officer or employee upon which the tort claim or demand was based constituted a willful and wanton act or omission. Any independent or autonomous board or commission of a municipality having authority to disburse funds for a particular municipal function without approval of the governing body shall similarly defend, save harmless and indemnify its officers and employees against ~~sueh~~ tort claims or demands.

Sec. 2. Section 613A.12, Code 1983, is amended to read as follows:

**613A.12 OFFICERS AND EMPLOYEES—PERSONAL LIABILITY.** All officers and employees of municipalities are not personally liable for any claim which is exempted under section 613A.4, except a claim for punitive damages, and actions permitted under section 85.20. An officer or employee of a municipality is not liable for punitive damages as a result of acts in the performance of a law enforcement or emergency duty, unless actual malice or recklessness willful, wanton and reckless misconduct is proven.

Approved May 19, 1983

**CHAPTER 131**  
**PERMITS FOR CERTAIN RUBBISH VEHICLES**

*H.F. 636*

**AN ACT** to allow the state department of transportation to issue until June 30, 1986, annual special permits for the operation of compacted rubbish vehicles and vehicles which transport compacted rubbish from the point of collection to a landfill area, which vehicles have a rear axle gross weight for two-axle vehicles not exceeding twenty-two thousand pounds.

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

Section 1. Section 321.473, unnumbered paragraph 2, Code 1983, is amended to read as follows:

The department may issue annual special permits for the operation of compacted rubbish vehicles and vehicles which transport compacted rubbish from a rubbish collection point to a landfill area, exceeding the weight limitation of section 321.463, but not exceeding a rear axle gross weight for ~~two axle~~ two-axle vehicles of twenty-two thousand pounds for the period commencing July 1, 1978 and ending June 30, ~~1983~~ 1986 and twenty thousand pounds commencing July 1, ~~1983~~ 1986 and thereafter, and for tandem axle vehicles or transferable auxiliary axle vehicles not exceeding a gross weight on the rear axles of thirty-six thousand pounds. Annual special permits for the operation on secondary roads shall be approved by the county engineer. Annual special permits for a particular vehicle shall not be issued by the department unless prior approval is given by the county engineer of the county in which the vehicle will be operated. Annual special permits for operation on primary roads shall be approved by the state department of transportation. Compacted rubbish vehicles and vehicles which transport compacted rubbish from a rubbish collection point to a landfill area operated pursuant to an annual special permit shall be operated only over routes designated by the local authority. Annual special permits for a particular vehicle shall not be issued by the department unless approved by the local authority responsible for the roads over which the vehicle will be operated. Annual special permits approved by the issuing authority shall be issued upon payment of an annual fee, in addition to other registration fees imposed, of one hundred dollars to be paid to the department for all nongovernmental vehicles.

Approved May 24, 1983

**CHAPTER 132**  
**NOTICES FOR TERMINATION OF TENANCIES**  
*S.F. 325*

**AN ACT** relating to the service of notices terminating real estate tenancies.

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

Section 1. Section 562.2, Code 1983, is amended to read as follows:

562.2 **DOUBLE RENTAL VALUE — LIABILITY.** A tenant ~~giving~~ giving notice of his intention to quit leased premises at a time named, and holding over after ~~such~~ the time, and a tenant or ~~his~~ the tenant's assignee willfully holding over after the term, and after notice to quit, shall pay double the rental value ~~thereof of the leased premises~~ during the time he the tenant holds over to the person entitled thereto to the rent.

Sec. 2. Section 562.4, Code 1983, is amended to read as follows:

562.4 **TENANT AT WILL — NOTICE TO TERMINATE.** ~~Any~~ A person in the possession of real estate, with the assent of the owner, is presumed to be a tenant at will until the contrary is shown, and thirty days' notice in writing must be ~~given by~~ served upon either party ~~or a successor of the party before he can terminate such a termination of the tenancy; but when in any case.~~ However, if a rent is reserved payable at intervals of less than thirty days, the length of notice need not be greater than such the interval.

Sec. 3. Section 562.6, Code 1983, is amended to read as follows:

562.6 **AGREEMENT FOR TERMINATION.** ~~Where~~ If an agreement is made fixing the time of the termination of the tenancy, whether in writing or not, ~~it~~ the tenancy shall cease at the time agreed upon, without notice. In the case of farm tenants, except mere croppers, occupying and cultivating an acreage of forty acres or more, the tenancy shall continue beyond the agreed term for the following crop year and otherwise upon the same terms and conditions as the original lease unless written notice for termination is ~~given by~~ served upon either party ~~to the other or a successor of the party in the manner provided in section 562.7, whereupon the tenancy shall terminate March 1 following; provided further.~~ However, the tenancy shall not continue because of absence of notice in case if there be is default in the performance of the existing rental agreement.

Sec. 4. Section 562.7, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

562.7 **NOTICE — HOW AND WHEN SERVED.** Written notice shall be served upon either party or a successor of the party by using one of the following methods:

1. By delivery of the notice, on or before September 1, with acceptance of service to be signed by the party to the lease or a successor of the party, receiving the notice.
2. By serving the notice, on or before September 1, personally, or if personal service has been tried and cannot be achieved, by publication, on the same conditions, and in the same manner as is provided for the service of original notices, except that when the notice is served by publication no affidavit is required. Service by publication is completed on the day of the last publication.
3. By mailing the notice before September 1 by certified mail. Notice served by certified mail is made and completed when the notice is enclosed in a sealed envelope, with the proper

postage on the envelope, addressed to the party or a successor of the party at the last known mailing address and deposited in a mail receptacle provided by the United States postal service.

Sec. 5. Section 562.8, Code 1983, is amended to read as follows:

562.8 TERMINATION OF LIFE ESTATE—FARM TENANCY. Upon the termination of a life estate, a farm tenancy granted by the life tenant shall continue until the following March 1 except that if the life estate terminates between September 1 and the following March 1 inclusively, then the farm tenancy shall continue for that year as provided by section 562.6 and continue until notice of termination is given by the holder of the successor the holder of the successor interest serves notice of termination of the interest in the manner provided by section 562.7. However, if the lease is binding upon the holder of the successor interest by the provision of a trust or by specific commitment of the holder of the successor interest, the lease shall terminate as provided by that provision or commitment. This section ~~shall~~ does not be ~~construed to~~ abrogate the common law doctrine of emblements.

Approved May 26, 1983

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## CHAPTER 133

### APPLICATION FOR POLLUTION CONTROL EQUIPMENT EXEMPTION

*H.F. 574*

**AN ACT** relating to filing of an application for an exemption from the property tax for pollution-control equipment.

*Be It Enacted by the General Assembly of the State of Iowa.*

Section 1. Section 427.1, subsection 32, unnumbered paragraphs 4 and 5, Code 1983, are amended to read as follows:

Application for this exemption shall be filed with the assessing authority not later than the first of February of the first year for which the exemption is requested, on forms provided by the department of revenue. The application shall describe and locate the specific pollution-control property to be exempted.

The ~~first annual~~ application for ~~any~~ a specific pollution-control property shall be accompanied by a certificate of the executive director of the department of water, air and waste management certifying that the primary use of the pollution-control property is to control or abate pollution of any air or water of this state or to enhance the quality of any air or water of this state.

Sec. 2. A person claiming the exemption for pollution-control equipment under section 427.1, subsection 32 on the effective date of this Act whose eligibility does not terminate on December 31 of that year must apply for the exemption for the following year but thereafter section 1 of this Act applies.

Approved May 24, 1983

**CHAPTER 134****PENALTY FOR THEFT OF A MOTOR VEHICLE***H.F. 581*

**AN ACT** relating to the penalties for the crime of theft.

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

Section 1. Section 714.2, subsection 2, Code 1983, is amended to read as follows:

2. The theft by any person of property exceeding five hundred dollars but not exceeding five thousand dollars in value or theft of a motor vehicle as defined in chapter 321, ~~irrespective of not exceeding five thousand dollars in value~~, is theft in the second degree. Theft in the second degree is a class "D" felony. However, for purposes of this subsection, "motor vehicle" does not include a motorized bicycle as defined in section 321.1, subsection 3, paragraph b.

Approved May 24, 1983

**CHAPTER 135****DOCUMENTARY STAMPS FOR THE REAL ESTATE TRANSFER TAX***S.F. 354*

**AN ACT** to eliminate the use of documentary stamps as evidence that the real estate transfer tax has been paid.

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

Section 1. Section 428A.4, unnumbered paragraph 1, Code 1983, is amended to read as follows:

The county recorder shall refuse to record any deed, instrument, or writing, taxable under the provisions of section 428A.1 ~~on for~~ which documentary stamps in the amount evidencing payment of the tax determined on the full amount of the consideration in the transaction have has not been affixed paid. However, if the deed, instrument, or writing, is ~~subject to an exception provided for in exempt under~~ section 428A.2, the county recorder shall not refuse to record the document if there is filed with or endorsed on it a statement signed by either the grantor or grantee or ~~his an~~ an authorized agent, that the instrument or writing is excepted from the tax under section 428A.2. The validity of the effectiveness of an instrument as between the parties ~~thereto~~, and as to any person who would otherwise be bound ~~thereby by the instrument~~, shall is not be affected by the failure to comply herewith; nor if with this section. If an

instrument is accepted for recording or filing contrary to the provision hereof, shall this section the failure to comply herewith does not destroy or impair the record thereof as notice.

Sec. 2. Section 428A.5, Code 1983, is amended to read as follows:

428A.5 STAMPS AFFIXED EVIDENCE OF PAYMENT. The amount of tax imposed by this chapter shall be paid by the affixing of a documentary stamp or stamps in the amount of the tax to the county recorder and the amount received and the initials of the county recorder shall appear on the face of the document or instrument with respect to which the tax is paid and stamps in excess of the amount of the tax shall not be affixed to the document or instrument. The department of revenue shall provide each county recorder with a device to be used by the recorder to evidence this information on the document or instrument.

Sec. 3. Section 428A.7, Code 1983, is amended to read as follows:

428A.7 STAMPS FURNISHED FORMS PROVIDED BY DIRECTOR OF REVENUE. The director of revenue shall cause documentary stamps to be printed and shall furnish such stamps as may be necessary to the county recorders of the state without charge. Documentary stamps may be purchased from any county recorder and may be used in payment of the tax imposed by this chapter or may be resold by the owner at any time.

The director of revenue shall prescribe the form of the declaration of value and shall include an appropriate place for the inclusion of special facts and circumstances relating to the actual sales price in real estate transfers. The director shall provide an adequate number of the declaration of value forms to each county recorder in the state.

Sec. 4. Section 428A.8, Code 1983, is amended to read as follows:

428A.8 REMITTANCE TO STATE TREASURER—PORTION RETAINED IN COUNTY. On or before the tenth day of each month the county recorder shall determine and pay to the treasurer of state seventy-five percent of the receipts from the sale of documentary stamps real estate transfer tax collected during the preceding month and the treasurer of state shall deposit such the receipts in the state treasury to the credit of the general fund of the state.

The county recorder shall deposit the remaining twenty-five percent of the receipts to the credit of in the county general fund.

The county recorder shall keep such records and make such reports with respect to the documentary stamps entrusted to his custody and with respect to the sale of such stamps real estate transfer tax as the director of revenue shall prescribe prescribes.

Sec. 5. Section 428A.10, Code 1983, is amended to read as follows:

428A.10 PENALTY. Any person, firm or corporation liable for the tax imposed by this chapter who knowingly fails to comply with the provisions of sections 428A.5 and 428A.6 this chapter relating to the attachment or cancellation of documentary stamps, shall be payment of the real estate transfer tax is guilty of a simple misdemeanor.

Sec. 6. Sections 428A.6, 428A.9, and 428A.12, Code 1983, are repealed.

Approved May 24, 1983

**CHAPTER 136****DEPARTMENT OF WATER, AIR AND WASTE MANAGEMENT PERMITS***S.F. 355*

**AN ACT** relating to procedures, forms, and fees for permits and conditional permits issued by the department of water, air and waste management.

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

Section 1. Section 455B.105, Code 1983, is amended by adding the following new subsection:

**NEW SUBSECTION.** a. Adopt, by rule, procedures and forms necessary to implement the provisions of this chapter relating to permits or conditional permits. The commission may also adopt, by rule, a schedule of fees for permit and conditional permit applications and a schedule of fees which may be periodically assessed for administration of permits and conditional permits. In determining the fee schedules, the commission shall consider:

(1) The state's reasonable cost of reviewing applications, issuing permits and conditional permits, and checking compliance with the terms of the permits.

(2) The relative benefits to the applicant and to the public of permit and conditional permit review, issuance, and monitoring compliance.

It is the intention of the legislature that permit fees shall not cover any costs connected with correcting violation of the terms of any permit and shall not impose unreasonable costs on any municipality.

(3) The typical costs of the particular types of projects or activities for which permits or conditional permits are required, provided that in no circumstances shall fees be in excess of the actual costs to the department.

b. The fees collected by the department under this subsection shall be remitted to the treasurer of state and credited to the general fund of the state.

Sec. 2. Section 455B.173, subsection 5, Code 1983, is amended by striking the subsection.

Sec. 3. Section 455B.278, subsection 1, Code 1983, is amended to read as follows:

1. The commission shall adopt, modify, or repeal rules establishing procedures by which permits required under this part shall be issued, suspended, revoked, modified, or denied. The procedures shall include provisions for application, ~~an application fee sufficient to pay the administrative costs of the permit process,~~ public notice and opportunity for public hearing, and contested cases.

Sec. 4. Section 455B.305, Code 1983, is amended to read as follows:

**455B.305 CERTIFICATION OF PLANS BY DIRECTOR.** The executive director shall certify if ~~disposal projects operated or planned to be operated by or for cities, counties and those operated by private agencies meet the standards provided for by this part 1 of division IV and the rules of the commission, by issuing a permit for existing disposal projects which fully comply, and for planned sanitary disposal projects whose plans fully comply, with all provisions of said part and rules issued pursuant thereto. Permits shall be issued for existing disposal sites which have not met all the provisions of said part and rules issued pursuant thereto, if a comprehensive plan for compliance within the time limitations required by said~~

part is developed by a city, county or private agency and is approved by the executive director. Every city or county of this state and every private agency involved in the final disposal of solid waste shall qualify for a permit by the first of July 1975 or be subject to such legal actions authorized by section 455B.307 issue, revoke, suspend, modify, or deny permits for the construction and operation of sanitary disposal projects.

Permits A permit shall be issued without fee by the executive director or at his or her the executive director's direction, by a local board of health, for each sanitary disposal project operated in this state. Such permits The permit shall be issued in the name of the city or county or, where applicable, in the name of the public or private agency operating such the project. Each sanitary disposal project shall be inspected annually by the department or a local board of health. The permits issued pursuant to this section shall be in addition to any other licenses, permits or variances authorized or required by law, including, but not limited to, the provisions of chapter 358A. A permit may be suspended or revoked by the executive director if a sanitary disposal project is found not to meet the requirements of the provisions of part 1 of this division or rules issued under part 1 of this division. The suspension or revocation of a permit may be appealed to the commission.

Sec. 5. Section 455B.334, Code 1983, is amended to read as follows:

455B.334 WASTE DISPOSAL SITE. The commission may approve or prohibit the establishment and operation of a nuclear waste disposal site in this state by a private person. In determining whether to grant or deny a license permit to establish and operate a nuclear waste disposal site, the commission shall consider the need for a nuclear waste disposal site and the existing physical conditions, topography, soils and geology, climate, transportation, and land use at the proposed site. If the commission decides to issue a license permit to establish and operate a nuclear waste disposal site, it shall establish, by rule, standards and procedures for the safe operation and maintenance of the proposed site. The commission shall also require the licensee permittee to provide a sufficient surety bond or other financial commitment to insure the perpetual maintenance and monitoring of the nuclear waste disposal site.

Sec. 6. Section 455B.335, subsections 1 and 2, Code 1983, are amended to read as follows:

1. Shall enforce any rules adopted under the provisions of this part 2 of division IV and furnish a copy of such the rules to each applicant for any license a permit required under said this part.

2. May license issue a permit to any person transporting, handling, or storing any radioactive material under rules adopted by the commission.

Sec. 7. Section 455B.415, subsection 1, Code 1983, is amended to read as follows:

1. Except as provided in subsections 2 and 4, a person shall not construct or operate a facility for the treatment, storage or disposal of a hazardous waste listed under section 455B.412, subsection 2 unless the owner or operator has obtained a permit for the facility from the executive director.

Sec. 8. Section 455B.148, Code 1983, is repealed.

Approved May 24, 1983

**CHAPTER 137****DEPARTMENT OF WATER, AIR AND WASTE MANAGEMENT AUTHORITY***S.F. 368*

**AN ACT** relating to the powers and duties of the department of water, air and waste management.

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

Section 1. Section 455B.105, subsection 3, Code 1983, is amended to read as follows:

3. Adopt, modify, or repeal rules necessary to implement the provisions of this chapter and the rules deemed necessary for the effective administration of the department. A rule adopted under this chapter to carry out a federal regulation shall not become effective if the rule is more restrictive than required by the federal regulation unless the rule is approved by enactment of the general assembly. When the commission proposes or adopts rules to implement a specific federal environmental program and the rules impose requirements more restrictive than the federal program being implemented requires, the commission shall identify in its notice of intended action or adopted rule preamble each rule that is more restrictive than the federal program requires and shall state the reasons for proposing or adopting the more restrictive requirement. In addition, the commission shall include with its reasoning a financial impact statement detailing the general impact upon the affected parties. It is the intent of the general assembly that the commission exercise strict oversight of the operations of the department. The rules shall include departmental policy relating to the disclosure of information on a violation or alleged violation of the rules, standards, permits or orders issued by the department and keeping of confidential information obtained by the department in the administration and enforcement of the provisions of this chapter. Rules adopted by the executive committee before January 1, 1981 shall remain effective until modified or rescinded by action of the commission.

Sec. 2. Section 455B.171, subsections 19, 21, and 22, Code 1983, are amended to read as follows:

19. "Public water supply system" means a system for the provision to the public of piped water for human consumption, if the system has at least twenty fifteen service connections or regularly serves at least one hundred twenty-five individuals. The term includes any source of water and any collection, treatment, storage, and distribution facilities under control of the operator of the system and used primarily in connection with the system, and any collection or pretreatment storage facilities not under such control which are used primarily in connection with the system.

21. "Private water supply" means any water supply for human consumption which has less than twenty fifteen service connections ~~or~~ and regularly serves less than one hundred twenty-five individuals.

22. "Private sewage disposal system" means a system which provides for the treatment or disposal of domestic sewage from four or fewer dwelling units or the equivalent of less than sixteen individuals on a continuing basis, which does not discharge into the waters of the state.

Sec. 3. Section 455B.172, subsection 2, Code 1983, is amended to read as follows:

2. The department is the state agency designated to carry out the state responsibilities related to private water supplies and private sewage disposal systems for the protection of

the health of the citizens of this state. The commission shall adopt guidelines minimum standards and provide model standards for private water supplies and private sewage disposal facilities for use of the local boards of health. Each local board of health is the agency to regulate private water supplies and private sewage disposal systems. Each local board of health shall adopt standards relating to the design and construction of private water supplies and private sewage disposal facilities, which standards shall not be lower than the minimum standards adopted by the commission.

Sec. 4. Section 455B.174, subsection 4, unnumbered paragraph 1, Code 1983, is amended to read as follows:

Approve or disapprove the plans and specifications for the construction of disposal systems or public water supply ~~distribution~~ systems except for those sewer extensions and water supply distribution system extensions which are reviewed by a city or county public works department as set forth in section 455B.183. The executive director shall issue, revoke, suspend, modify or deny permits for the operation, installation, construction, addition to or modification of any disposal system or public water supply ~~distribution~~ system except for sewer extensions and water supply distribution system extensions which are reviewed by a city or county public works department as set forth in section 455B.183. The executive director shall also issue, revoke, suspend, modify or deny permits for the discharge of any pollutant. The permits shall contain conditions and schedules of compliance as necessary to meet the requirements of this part of this division and the federal Water Pollution Control Act. A permit shall not be issued to operate or discharge from any disposal system unless the conditions of the permit assure that any discharge from the disposal system meets or will meet all applicable state and federal water quality standards and effluent standards and the issuance of the permit is not otherwise prohibited by the federal Water Pollution Control Act. All applications for discharge permits are subject to public notice and opportunity for public participation including public hearing as the commission may by rule require. The executive director shall promptly notify the applicant in writing of the executive director's action and, if the permit is denied, state the reasons for denial. The applicant may appeal to the commission from the denial of a permit or from any condition in any permit if the applicant files notice of appeal with the executive director within thirty days of the notice of denial or issuance of the permit. The executive director shall notify the applicant within thirty days of the time and place of the hearing.

Sec. 5. Section 455B.175, unnumbered paragraph 1, Code 1983, is amended to read as follows:

If there is conclusive substantial evidence that any person has violated or is violating any provision of this part of this division, or of any rule or standard established or permit issued pursuant thereto; then:

Sec. 6. Section 455B.183, Code 1983, is amended to read as follows:

455B.183 WRITTEN PERMITS REQUIRED. It ~~shall be~~ is unlawful to carry on any of the following activities without first securing a written permit from the executive director, or from a city or county public works department if ~~such local~~ the public works department reviews the activity under this section, as required by the commission:

1. The construction, installation or modification of any disposal system or public water supply ~~distribution~~ system or part thereof or any extension or addition thereto except those sewer extensions and water supply distribution system extensions that are subject to review and approval by a city or county public works department pursuant to this section and private sewage disposal systems. A permit shall be issued for the construction, installation or modification of a public water supply distribution system or part of a system if a qualified, registered engineer certifies to the commission that the plans for the system or part of the

system meet the requirements of state and federal law or regulations. The permit shall state that approval is based only upon the engineer's certification that the system's design meets the requirements of all applicable state and federal laws and regulations.

2. The construction or use of any new point source for the discharge of any pollutant into any water of the state.

3. The operation of any waste disposal system or public water supply distribution system or any part of or extension or addition to such system. This provision ~~shall~~ does not apply to any pretreatment system the effluent of which is to be discharged directly to another disposal system for final treatment and disposal or any private sewage disposal system.

Upon adoption of standards by the commission pursuant to section 455B.173, subsections 6 to 9, plans and specifications for sewer extensions and water supply distribution system extensions covered by this section shall be submitted to the city or county public works department for approval if the local public works department employs a qualified, registered engineer who reviews the plans and specifications using the specific state standards known as the Iowa Standards for Sewer Systems and the Iowa Standards for Water Supply Distribution Systems that have been formulated and adopted by the commission pursuant to section 455B.173, subsections 6 to 9. ~~The reviewing engineer shall be a full-time employee of the governmental subdivision and the qualifications of that engineer shall be submitted to the executive director or his designee for approval prior to issuing written permits.~~ The local agency shall issue a written permit to construct if all of the following apply:

a. The submitted plans and specifications are in substantial compliance with departmental rules and the Iowa Standards for Sewer Systems and the Iowa Standards for Water Supply Distribution Systems.

b. The extensions primarily serve residential consumers and will not result in an increase greater than five percent of the capacity of the treatment works or serve more than two hundred fifty dwelling units or, in the case of an extension to a water supply distribution system, ~~such~~ the extension will have a capacity of less than five percent of ~~such~~ the system or will serve fewer than two hundred fifty dwelling units; ~~and~~.

c. The proposed sewer extension will not exceed the capacity of any treatment works which received a state or federal monetary grant after 1972; ~~and~~.

d. The proposed water supply distribution system extension will not exceed the production capacity of any public water supply distribution system constructed after 1972.

After issuing a permit, the city or county public works department shall notify the executive director of such issuance by forwarding a copy of the permit to the executive director. In addition, the local agency shall submit quarterly reports to the executive director including such information as capacity of local treatment plants and production capacity of public water supply distribution systems as well as other necessary information requested by the executive director for the purpose of implementing this chapter.

Plans and specifications for all other waste disposal systems and public water supply distribution systems, including sewer extensions and water supply distribution system extensions not reviewed by a city or county public works department under this section, shall be submitted to the department before a written permit may be issued. The construction of any such waste disposal system or public water supply distribution system shall be in accordance with standards formulated and adopted by the commission pursuant to section 455B.173, subsections 6 to 9, or otherwise approved by the department. If it is necessary or desirable to make material changes in ~~such~~ the plans or specifications, revised plans or specifications together with reasons for the proposed changes must be submitted to the department for a supplemental written permit.

Prior to the adoption of statewide standards, the department may delegate the authority to review plans and specifications to those governmental subdivisions if in addition to compliance with subsection 3 ~~that the governmental subdivision agrees~~ subdivisions agree to comply with all state and federal regulations and ~~submits a plan~~ submit plans for the review of plans and specifications including a complete set of local standard specifications for such improvements.

The executive director may suspend or revoke delegation of review and permit authority after notice and hearing as set forth in chapter 17A if the executive director determines that a city or county public works department has approved extensions which do not comply with design criteria, which exceed the capacity of waste treatment plants or the production capacity of public water supply ~~distribution~~ systems or which otherwise violate state or federal requirements.

The department shall exempt any public water supply system from any requirement respecting a maximum contaminant level or any treatment technique requirement of an applicable national drinking water regulation ~~insofar as~~ if these regulations apply to contaminants which the commission determines are harmless or beneficial to the health of consumers, ~~when and if~~ the owner of a public water supply system determines that funds are not reasonably available to provide for controlling amounts of those contaminants which are harmless or beneficial to the health of consumers.

Sec. 7. Section 455B.261, subsections 1, 10, and 11, Code 1983, are amended to read as follows:

1. "Flood plains" means the area adjoining a river or stream which has been or is may be covered by flood water.

10. "Permit" means a written authorization issued by the department to a permittee which is authorizes diversion, storage, or withdrawal of water limited as to quantity, time, place, and rate of diversion, storage, or withdrawal in accordance with the policies and principles of beneficial use as specified in this part or authorizes construction, use, or maintenance of a structure, dam, obstruction, deposit, or excavation in a floodway or flood plain in accordance with the principles and policies of protecting life and property from floods as specified in this part.

11. "Permittee" means a person who obtains a permit from the department authorizing the person to take possession by diversion or otherwise and to use and apply an allotted quantity of water for a designated beneficial use, and who makes actual use of the water for that purpose or a person who obtains a permit from the department authorizing construction, use, or maintenance of a structure, dam, obstruction, deposit, or excavation in a floodway or flood plain for a designated purpose.

Sec. 8. Section 455B.261, subsection 16, Code 1983, is amended by striking the subsection.

Sec. 9. Section 455B.262, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

#### 455B.262 DECLARATION OF POLICY AND PLANNING REQUIREMENTS.

1. It is recognized that the protection of life and property from floods, the prevention of damage to lands from floods, and the orderly development, wise use, protection, and conservation of the water resources of the state by their considered and proper use is of paramount importance to the welfare and prosperity of the people of the state, and to realize these objectives, it is the policy of the state to correlate and vest the powers of the state in a single agency, the department, with the duty and authority to assess the water needs of all water users at five-year intervals for the twenty years beginning January 1, 1985, and ending December 31, 2004, utilizing a data base developed and managed by the Iowa geological survey, and prepare a general plan of water allocation in this state considering the quantity and quality of water resources available in this state designed to meet the specific needs of the

water users. The department shall also develop and the commission shall adopt no later than January 1, 1985, a plan for delineation of flood plain and floodway boundaries for selected stream reaches in the various river basins of the state. Selection of the stream reaches and assignment of priorities for mapping of the selected reaches shall be based on consideration of flooding characteristics, the type and extent of existing and anticipated flood plain development in particular stream reaches, and the needs of local governmental bodies for assistance in delineating flood plain and floodway boundaries. The plan of flood plain mapping shall be for the period from January 1, 1985, to December 31, 2004. After the commission adopts a plan of flood plain mapping, the department shall submit a progress report and proposed implementation schedule to the general assembly biennially. The commission may modify the flood plain mapping plan as needed in response to changing circumstances.

2. The general welfare of the people of the state requires that the water resources of the state be put to beneficial use to the fullest extent possible, and that the waste or unreasonable use, or unreasonable methods of use of water be prevented, and that the conservation of water resources be encouraged with the view to their reasonable and beneficial use in the interest of the people, and that the public and private funds for the promotion and expansion of the beneficial use of water resources be invested to the end that the best interests and welfare of the people are served.

3. Water occurring in a basin or watercourse, or other natural body of water of the state, is public water and public wealth of the people of the state and subject to use in accordance with this chapter, and the control and development and use of water for all beneficial purposes is vested in the state, which shall take measures to encourage full utilization and protection of the water resources of the state.

Sec. 10. Section 455B.263, subsections 1 and 7, Code 1983, are amended to read as follows:

1. a. Not later than January 15, 1985, the commission shall deliver to the secretary of the senate and the chief clerk of the house identical ~~joint resolutions enacting bills embodying~~ a general plan of water allocation priorities for this state, considering the types of water resources available in the state, the principles and policies of beneficial use, and the water needs of all types of water users in this state, with a recommendation on the most effective means of implementation of the plan. It is the intent of this subsection that the general assembly shall bring the ~~joint resolution bill~~ to a vote in either chamber under a procedure or rule permitting no amendments except those of a purely corrective nature. If by the end of the fourth week of the 1985 regular session, the ~~joint resolution bill~~ embodying the plan is not approved by a constitutional majority in both chambers, the commission shall, by the end of the sixth week of the 1985 regular session, prepare and deliver to the secretary of the senate and the chief clerk of the house identical ~~joint resolutions bills~~ embodying a second plan, taking into account the reasons cited by either the secretary of the senate or chief clerk of the house for the failure of the first plan.

b. If, proceeding under a procedure or rule permitting amendments in the same manner as other ~~joint resolutions bills~~, the ~~joint resolution bill~~ embodying the second plan is not adopted by a constitutional majority in both chambers by the end of the tenth week of the 1985 regular session, the commission shall, by the end of the eleventh week of the 1985 regular session, prepare and deliver to the secretary of the senate and the chief clerk of the house identical ~~joint resolutions bills~~ embodying a third plan, taking into account the reasons cited by either the secretary of the senate or chief clerk of the house for failure of the second plan. It is the intent of this subsection that the third ~~joint resolution bill~~ be subject to amendment in the same manner as other ~~joint resolutions bills~~, and be ~~adopted enacted~~ by the end of the 1985 Session, including any extraordinary sessions of the general assembly.

7. The commission shall procure flood control works and water resources projects from or by cooperation with any agency of the United States, by cooperation with the cities and other subdivisions of the state under the laws of the state relating to flood control and use of water resources, and by cooperation with the action of landowners in areas affected by the works or projects when the ~~commissioner~~ commission deems the projects to be necessary for the achievement of the policies of this state.

Sec. 11. Section 455B.264, Code 1983, is amended to read as follows:

**455B.264 JURISDICTION — ~~DIVERSION OF WATER AND FLOOD PLAINS.~~**

1. The commission has jurisdiction over the public and private waters in the state and the lands adjacent to the waters necessary for the purposes of carrying out this part. The commission may construct flood control works or any part of the works. In the construction of the works, in making surveys and investigations, or in formulating plans and programs relating to the water resources of the state, the commission may cooperate with an agency of another state or the United States, or with any other person.

2. Upon application by any person for permission to divert, pump, or otherwise take waters from any watercourse, underground basin or watercourse, drainage ditch, or settling basin within this state for any purpose other than a nonregulated use, the executive director shall investigate the effect of the use upon the natural flow of the watercourse, the effect of the use upon the owners of any land which might be affected by the use, and whether the use is consistent with the plan of water allocation priorities for this state, ~~and shall hold a hearing.~~

3. Upon application by any person for approval of the construction or maintenance of any structure, dam, obstruction, deposit, or excavation to be erected, used, or maintained in or on the flood plains of any river or stream, the department shall investigate the effect of the construction or maintenance project on the efficiency and capacity of the floodway ~~and on the plan of water allocation priorities for this state.~~ In determining the effect of the proposal the department shall consider fully its effect on flooding of or flood control for any proposed works and adjacent lands and property, on the wise use and protection of water resources, on the quality of water, on fish, wildlife, and recreational facilities or uses, and on all other public rights and requirements.

Sec. 12. Section 455B.265, Code 1983, is amended to read as follows:

**455B.265 PERMITS FOR DIVERSION, STORAGE, AND WITHDRAWAL.** If the department determines after due investigation that the diversion, storage, or withdrawal of water will not be detrimental to the public interests, including drainage and levee districts, or to the interests of property owners with prior or superior rights who may be affected, the department shall grant a permit for the diversion, storage, or withdrawal. Permits ~~may shall~~ be granted for any a period of time not exceeding ten years except permits for withdrawal of water which may be granted for less than ten years if geological data on the capacity of the aquifer and the rate of its recharge are indeterminate and permits for the storage of water which may be granted for the life of the structure unless revoked by the commission. All existing storage permits are extended for the life of the structure unless withdrawn for good cause. Permits may be granted which provide for less diversion, storage, or withdrawal of waters than set forth in the application. A permit granted shall remain as an appurtenance of the land described in the permit through the date specified in the permit and any extension of the permit or until an earlier date if when the permit or any extension of the permit is modified or canceled under section 455B.271. Upon application for a permit prior to the termination date specified in the permit, a permit may be renewed by the department for any a period of time not to exceed ten years.

Sec. 13. Section 455B.266, Code 1983, is amended to read as follows:

455B.266 PRIORITY OF PERMITS FOR DIVERSION, STORAGE, AND WITHDRAWAL. In the consideration of applications for permits, priority in processing shall be given to persons in the order that the applications are received, except that this processing priority shall not affect the substantive priorities established under the plan of water allocation priorities for this state and except where the application of this priority system prevents the prompt approval of routine applications or where the public health, safety or welfare will be threatened by delay. The executive director or the commission on appeal shall determine the duration and frequency of withdrawal and the quantity of water for which a permit may be granted. Any person with an existing irrigation system in use prior to May 16, 1957, shall be issued a permit to continue unless its use damages some other riparian user. ~~In the consideration of applications for permits by regulated users, the plan of water allocation priorities for this state as adopted by the general assembly establishes standards for the determination of the disposition of the applications for permits.~~ If there is competition for water, the use of water for irrigation has a lower priority than other beneficial uses of water subject to conditions which the commission may establish by rule. Except as otherwise provided in this section, until the plan of water allocation priorities is enacted as provided in section 455B.263, subsection 1, the principles and policies of beneficial use shall establish the standards for the determination of the disposition of permit applications. After it is enacted as provided in section 455B.263, subsection 1, the plan of water allocation priorities shall establish the standards for determination of the disposition of permit applications. This part does not impair the vested right of any person.

Sec. 14. Section 455B.269, Code 1983, is amended to read as follows:

455B.269 TAKING WATER PROHIBITED. A person shall not take water from a natural watercourse, underground basin or watercourse, drainage ditch, or settling basin within this state for any purpose other than a nonregulated use except in compliance with the sections of this part which relate to the withdrawal, diversion, or storage of water. However, existing uses may be continued during the period of the pendency of an application for a permit.

Sec. 15. Section 455B.270, Code 1983, is amended to read as follows:

455B.270 RIGHTS PRESERVED. ~~This part does~~ The sections of this part which relate to the withdrawal, diversion, or storage of water do not deprive any person of the right to use diffused waters, to drain land by use of tile, open ditch, or surface drainage, or to construct an impoundment on the person's property or across a stream that originates on the person's property if provision is made for safe construction and for a continued established average minimum flow when the flow is required to protect the rights of water users below.

Sec. 16. Section 455B.271, unnumbered paragraph 1, Code 1983, is amended to read as follows:

Each permit issued under ~~this part~~ section 455B.265 is irrevocable for its term and for any extension of its term except as follows:

Sec. 17. Section 455B.272, Code 1983, is amended to read as follows:

455B.272 TERMINATION OF PERMIT. The right of the permittee and the permittee's successors to the use of water shall terminate when the permittee or the permittee's successors fail for three consecutive years to use it for the specific beneficial purpose authorized in the permit and, after notification by the department of intent to cancel the permit for nonuse, the permittee or the permittee's successors fail to demonstrate adequate plans to use water within a reasonable time. However, nonuse of water due to adequate rainfall does not constitute grounds for cancellation of a permit to use water for irrigation.

Sec. 18. Section 455B.275, subsections 1 and 4, Code 1983, are amended to read as follows:

1. A person shall not permit, erect, use or maintain a structure, dam, obstruction, deposit, or excavation in or on a floodway or flood plains, which will adversely affect the efficiency of or unduly restrict the capacity of the floodway, or adversely affect the control, development, protection, allocation, or utilization of the water resources of the state, and the same are declared to be public nuisances. However, this subsection does not apply to dams constructed and operated under the authority of chapter 469.

4. The department may maintain an action in equity to enjoin a person from erecting or making or permitting to be made a structure, dam, obstruction, deposit, or excavation other than a dam constructed and operated under the authority of chapter 469, for which a permit has not been granted. The department may also seek judicial abatement of any structure, dam, obstruction, deposit, or excavation erected or made without a permit required under this part. The abatement proceeding may be commenced to enforce an administrative determination of the department in a contested case proceeding that a public nuisance exists and should be abated. The costs of abatement shall be borne by the violator. Notwithstanding section 93A.11, a structure, dam, obstruction, deposit, or excavation on a floodway or flood plain in an agricultural area established under chapter 93A is not exempt from the sections of this part which relate to regulation of flood plains and floodways.

Sec. 19. Section 455B.276, unnumbered paragraph 1, Code 1983, is amended to read as follows:

The commission may establish and enforce rules for the orderly development and wise use of the flood plains of any river or stream within the state and alter, change, or revoke the rules. The commission shall determine the characteristics of floods which reasonably may be expected to occur and may establish by order encroachment limits, protection methods, and minimum protection levels appropriate to the flooding characteristics of the stream and to reasonable use of the flood plains. The order shall fix the length of flood plains to be regulated at any practical distance, the width of the zone between the encroachment limits so as to include portions of the flood plains adjoining the channel, which with the channel, are required to carry and discharge the flood waters or flood flow of the river or stream, and the design discharge and water surface elevations for which protection shall be provided for projects outside the encroachment limits but within the limits of inundation. Plans for the protection of projects proposed for areas subject to inundation shall be reviewed as plans for flood control works within the purview of section 455B.277. An order establishing encroachment limits shall not be issued until due notice of the proposed order is given and opportunity for public hearing given for the presentation of protests against the order. In establishing the limits, the commission shall avoid to the greatest possible degree the evacuation of persons residing in the area of a floodway, the removal of residential structures occupied by the persons in the area of a floodway, and the removal of structures erected or made prior to July 4, 1965, which are located on the flood plains of a river or stream but not within the area of a floodway.

Sec. 20. Section 455B.277, unnumbered paragraph 1, Code 1983, is amended to read as follows:

All flood control works in the state, which are established and constructed after ~~July 1, 1983~~ April 16, 1949, shall be coordinated in design, construction, and operation according to sound and accepted engineering practice so as to effect the best flood control obtainable throughout the state. A person shall not construct or install works of any nature for flood control until the proposed works and the plans and specifications for the works are approved by the ~~commission~~ department. ~~The commission~~ department shall consider all the pertinent facts relating to the proposed works which will affect flood control and water resources in the state and shall

determine whether the proposed works in the plans and specifications will be in aid of and acceptable as part of, or will adversely affect and interfere with flood control in the state, adversely affect the control, development, protection, allocation, or utilization of the water resources of the state, or adversely affect or interfere with the state comprehensive plan for water resources or an approved local water resources plan. In the event of disapproval, the commission department shall set forth the objectionable features so that the proposed works and the plans and specifications for the proposed works may be corrected or adjusted to obtain approval.

Sec. 21. Section 455B.278, subsection 1, Code 1983, is amended to read as follows:

1. The commission shall adopt, modify, or repeal rules establishing procedures by which permits required under this part shall be issued, suspended, revoked, modified, or denied. The ~~procedures~~ rules shall include provisions for application, an public notice and opportunity for public hearing, contested cases, and a schedule of application fee fees sufficient to pay all or part of the administrative costs of the permit process, public notice and opportunity for public hearing, and contested cases. Public notice of a decision by the executive director to issue a permit shall be given in a manner designed to inform persons who may be adversely affected by the permitted project or activity.

Sec. 22. Section 455B.279, subsection 1, Code 1983, is amended to read as follows:

1. The commission may issue any order necessary to secure compliance with or prevent a violation of this part or the rules adopted pursuant to this part. ~~The attorney general shall, on request of the department, institute any legal proceedings necessary in obtaining compliance with an order of the commission department may request legal services as required from the attorney general, including any legal proceeding necessary to obtain compliance with this part and rules and orders issued under this part.~~

Sec. 23. Section 455B.441, Code 1983, is amended to read as follows:

455B.441 PURPOSE AND GUIDELINES. The purpose of this part is to protect the public health and the environment by providing a procedure for establishing appropriate sites and properly designed facilities for the treatment, storage and disposal of hazardous waste. It is the intent of the general assembly that in the implementation of this part the department of ~~environmental quality water, air and waste management~~ shall emphasize alternatives to land burial of hazardous waste whenever possible with emphasis on the following management methods in the following order: source reduction, reuse, resource recovery, incineration, and detoxification.

Sec. 24. Section 455B.442, subsection 2, Code 1983, is amended to read as follows:

2. "Hazardous waste" means a hazardous waste as defined in section 455B.411, subsection 2 and listed by the ~~environmental quality~~ commission under section 455B.412, subsection 2.

Sec. 25. Section 455B.442, subsections 3 and 4, Code 1983, are amended by striking the subsections.

Sec. 26. Section 93A.4, subsection 4, Code 1983, is amended to read as follows:

4. The state department of agriculture, office for planning and programming, department of soil conservation, state conservation commission, ~~Iowa natural resources council~~, department of ~~environmental quality water, air and waste management~~, geological survey, state agricultural extension service, and the Iowa development commission shall, upon request, provide to each county commission any pertinent land use information available to assist in the compiling of the county land use inventories.

Sec. 27. Section 93A.11, subsection 2, Code 1983, is amended to read as follows:

2. WATER PRIORITY. In the application for a permit to divert, store, or withdraw water and in the allocation of available water resources under a water permit system, the ~~Iowa natural resources council~~ department of water, air and waste management shall give priority

to the use of water resources by a farm or farm operations, exclusive of irrigation, located in an agricultural area over all other uses except the competing uses of water for ordinary household purposes.

Sec. 28. Section 467D.6, subsection 1, Code 1983, is amended to read as follows:

1. Exercise supervision over the water resources of the conservancy district, including water in any basin, watercourse, or other body of water in the conservancy district, and have authority to adopt and repeal, with approval of the department, and enforce rules, except those rules relating to water resources under the authority of the department of environmental quality water, air and waste management, as necessary to achieve the objectives of this chapter as set forth in section 467D.1.

Sec. 29. 1982 Iowa Acts, chapter 1199, section 94, subsections 1, 2, and 4, are amended to read as follows:

1. A rule adopted, permit or order issued, or approval given under chapter 108, 109, 111, 112, 357A, 358A, 414, 427, 455A, 467A, 467C, or 467D, before the effective date of this Act and in force just prior to the effective date of this Act, by the Iowa natural resources council or its director remains effective until modified or rescinded by action of the department of environmental quality water, air and waste management or its executive director unless the rule, order, permit, or approval is inconsistent with or contrary to this Act.

2. A rule adopted, permit or order issued, or approval given by the state department of health or the commissioner of public health relating to private water supply systems, private sewage disposal systems, or water wells under chapter 135, before the effective date of this Act and in force just prior to the effective date of this Act remains effective until modified or rescinded by action of the department of environmental quality water, air and waste management or its executive director unless the rule, order, permit, or approval is inconsistent with or contrary to this Act.

4. A rule adopted, permit or order issued, or approval given by the environmental quality commission or the executive director of the department of environmental quality under chapter 455B, 455C, and section 427.1, subsection 32, before the effective date of this Act and in force just prior to the effective date of this Act remains effective until modified or rescinded by action of the water, air and waste management commission or its executive director unless the rule, order, permit, or approval is inconsistent with or contrary to this Act.

Sec. 30. 1982 Iowa Acts, chapter 1199, section 94, is amended by adding the following new subsection:

NEW SUBSECTION. The repeal of chapter 455A of the 1981 Code does not legalize a structure, dam, obstruction, deposit, or excavation erected or made while that chapter was in effect.

Approved May 24, 1983

**CHAPTER 138****DATE OF POLITICAL PARTY PRECINCT CAUCUSES***S.F. 552*

**AN ACT** relating to the date of precinct caucuses of the political parties.

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

Section 1. Section 43.4, unnumbered paragraph 1, Code 1983, is amended to read as follows:

Delegates to county conventions of political parties and party committee members shall be elected at precinct caucuses held not later than the ~~second~~ fourth Monday in February of each even-numbered year. ~~The state central committee of each political party shall set the date for said caucuses. In accordance therewith, the~~ The date shall be at least eight days earlier than the scheduled date for any meeting, caucus or primary which constitutes the first determining stage of the presidential nominating process in any other state, territory or any other group which has the authority to select delegates in the presidential nomination. The state central committees of the political parties shall set the date for their caucuses. The county chairperson of each political party shall issue the call for ~~said~~ the caucuses. The county chairperson shall file with the commissioner the meeting place of each precinct caucus at least seven days prior to the date of holding ~~such~~ the caucus.

Approved May 24, 1983

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**CHAPTER 139****CAMPAIGN FINANCE DISCLOSURE COMMISSION***S.F. 457*

**AN ACT** relating to the campaign finance disclosure commission.

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

Section 1. Section 49.51, Code 1983, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A sample ballot of any election held in the county shall be forwarded as soon as available to the campaign finance disclosure commission.

Sec. 2. Section 56.2, subsection 6, Code 1983, is amended to read as follows:

6. "Political committee" means a committee, but not a candidate's committee, which accepts contributions, makes expenditures, or incurs indebtedness in the aggregate of more than two hundred fifty dollars in any one calendar year for the purpose of supporting or opposing a can-

didate for public office or ballot issue, or an association, lodge, society, cooperative, union, fraternity, sorority, educational institution, civic organization, labor organization, religious organization, or professional organization which makes contributions in the aggregate of more than two hundred fifty dollars in any one calendar year for the purpose of supporting or opposing a candidate for public office or a ballot issue.

Sec. 3. Section 56.3, subsection 3, paragraph d, Code 1983, is amended to read as follows:

d. The name and mailing address of every person to whom any expenditure is made, the purpose of the expenditure, the date and amount of the expenditure and the name and address of, and office sought by each candidate, if any, on whose behalf the expenditure was made. Notwithstanding the provisions of this paragraph, the treasurer may keep a miscellaneous account for disbursements of less than five dollars which need only show the amount of the disbursement so long as the aggregate miscellaneous disbursements to any one person during a calendar year do not exceed one hundred dollars.

Sec. 4. Section 56.6, subsection 1, Code 1983, is amended to read as follows:

1. a. Each treasurer of a committee shall file with the commission or commissioner disclosure reports of contributions received and disbursed on forms prescribed by rules as provided by chapter 17A. The reports from all committees, except those committees for municipal and school elective offices and for local ballot issues, shall be filed on the ~~twenty-fifth~~ twentieth day or mailed bearing a United States postal service postmark dated on or before the ~~twenty-fourth~~ nineteenth day of January, May, July and October of each year. The January report shall be current to the end of the month preceding the filing. The May, July and October reports shall be current as of five days prior to the filing deadline. The January report shall be the annual report covering activity through December 31. A candidate's committee, other than for municipal and school elective offices, for a year in which the candidate is not standing for election is not required to file the May and July reports. Reports for committees for a ballot issue placed before the voters of the entire state shall be filed at the January, May, July, and October deadlines.

b. A candidate's committee of a candidate for statewide office or the general assembly shall file a supplementary report in a year in which a primary, general or special election for that office is held if the committee of a candidate for statewide office receives ten thousand dollars or more or the committee of a candidate for the general assembly receives two thousand dollars or more after the close of the period covered by the last report filed prior to that primary, general or special election. The amounts of contributions causing a supplementary report under this paragraph shall include the estimated fair market value of in kind contributions. The report shall be filed by the Friday immediately preceding the election and be current through the Tuesday immediately preceding the election.

c. A candidate's committee for a candidate for the general assembly at a special election shall file a report by the fourteenth day prior to the special election which is current through the nineteenth day prior to the special election.

d. Committees for municipal and school elective offices and local ballot issues shall file their first reports ~~thirty five~~ days prior to any election in which the name of the candidate or the local ballot issue which they support or oppose appears on the printed ballot and shall file their ~~second next~~ report thirty days 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 may file its first report on the date of its organization if it is after the date for the first report, but not later than five days prior to the election.~~ A committee supporting or opposing a candidate for a municipal or school elective office or a local ballot issue shall continue to file a disclosure statement every thirty days report on the first day of every month until it dissolves. These reports shall be current to five days prior to the filing deadline and are considered timely filed if mailed bearing a United States postal service postmark one or more calendar days preceding the due date.

e. A state statutory political committee and congressional district committees as authorized by the constitution of the state statutory political committee are not subject to this subsection if the state statutory political committee and congressional district political committees file copies of campaign disclosure reports as required by federal law with the commission at the times the reports are required to be filed under federal law, provided that the federal reports contain all information required by this chapter. A committee of a national political party is not required to file a disclosure report with the commission if it is required by federal law to file a campaign disclosure report with a federal agency.

Sec. 5. Section 56.6, subsection 3, paragraph b, subparagraphs (4) and (6), Code 1983, are amended to read as follows:

- |  |       |      |
|--|-------|------|
| (4) For any candidate for the general assembly ..... | \$ 50 | \$25 |
| (6) For any candidate for state-wide office .....    | \$100 | \$25 |

Sec. 6. Section 56.6, subsection 3, paragraph d, Code 1983, is amended to read as follows:

d. The name and mailing address of each person who has made one or more in kind contributions to the committee when the aggregate market value of the in kind contribution in a calendar year exceeds the amount specified in subsection 3, paragraph "b," of this section. In kind contributions shall be designated on a separate schedule from schedules showing contributions of money and shall identify the nature of the contribution and provide its estimated fair market value.

Sec. 7. Section 56.6, subsection 3, paragraph e, Code 1983, is amended to read as follows:

e. Each loan to any person or committee within the calendar year in an aggregate amount in excess of those amounts enumerated in the schedule in paragraph "b" of this subsection, together with the name and mailing address of the lender and endorsers, and the date and amount of such loans each loan received, and the date and amount of each loan repayment. Loans received and loan repayments shall be reported on the contributions section of the disclosure statement a separate schedule.

Sec. 8. Section 56.6, subsection 3, paragraph g, Code 1983, is amended to read as follows:

g. The name and mailing address of each person to whom disbursements or loan repayments have been made by the committee from contributions during the reporting period and the amount, purpose, and date of each disbursement except that disbursements of less than five dollars may be shown as miscellaneous disbursements so long as the aggregate miscellaneous disbursements to any one person during a calendar year do not exceed one hundred dollars.

Sec. 9. Section 56.6, subsection 5, Code 1983, is amended to read as follows:

5. A committee shall not dissolve until all loans, debts and obligations are paid, forgiven or transferred and the remaining money in the account is distributed according to the organization statement. If a loan is transferred or forgiven, the amount of the transferred or forgiven loan must be reported as an in kind contribution and deducted from the loans payable balance on the disclosure form. A statutory political committee is prohibited from dissolving, but may be placed in an inactive status upon the approval of the commission. Inactive status may be requested for a statutory political committee when no officers exist and the statutory political committee has ceased to function. The request shall be made by the previous treasurer or chairperson of the committee and by the appropriate state statutory political committee. A statutory political committee granted inactive status shall not solicit or expend funds in its name until the committee reorganizes and fulfills the requirements of a political committee under this chapter.

Sec. 10. Section 56.10, subsection 1, Code 1983, is amended to read as follows:

1. Review the contents of all disclosure reports and other statements filed with the commission and promptly advise each committee of errors found. The commission may verify information contained in the reports with other parties to assure accurate disclosure. The commission may, upon its own motion, initiate action and conduct a hearing under section 56.11,

subsections 1 and 2. The commission may require the county commissioner to file summary reports with it periodically.

Sec. 11. Section 56.10, subsection 4, Code 1983, is amended to read as follows:

4. Adopt rules pursuant to chapter 17A and levy civil penalties to carry out this chapter. The rules shall provide that the candidate, or the treasurer of a candidate's committee, or the chairperson or treasurer of a political committee, is responsible for filing disclosure reports as required by this chapter, and shall receive notice from the commission if the ~~candidate or committee~~ has failed to file a disclosure report at the time required by this chapter. A candidate, or treasurer of a candidate's committee, or chairperson or treasurer of a political committee, may be subject to a civil penalty for failure to file a disclosure report required by this chapter if the report has not been filed when required by section 56.6, subsection 1.

Sec. 12. Section 56.28, Code 1983, is amended to read as follows:

56.28 CANDIDATE'S COMMITTEE. Each candidate for public office shall organize one, and only one, candidate's committee if for a specific office sought when the candidate anticipates receiving receives contributions, making makes expenditures, or incurring incurs indebtedness in excess of two hundred fifty dollars in a calendar year.

Sec. 13. Section 56.29, subsections 1, 2, and 3, Code 1983, are amended to read as follows:

1. Except as provided in subsection 3, it is unlawful for ~~any an~~ insurance company, savings and loan association, bank, credit union, or corporation organized pursuant to the laws of this state or any other state, territory, or foreign country, whether for profit or not, or ~~any 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 ~~any a~~ committee, or for the purpose of influencing the vote of ~~any an~~ elector, except that such resources may be so expended in connection with a utility franchise election held pursuant to section 364.2, subsection 4, or a ballot issue, ~~however~~ all. All such expenditures are subject to the disclosure requirements of this chapter.

2. Except as provided in subsection 3, it is unlawful for ~~any a~~ member of ~~any a~~ committee, or its employee or representative ~~thereof~~, except a ballot issue committee, or for ~~any a~~ candidate for ~~any~~ office or the representative of the candidate, to solicit, request, or knowingly receive from ~~any an~~ insurance company, savings and loan association, bank, credit union, or corporation organized pursuant to the laws of this state or any other state, territory, or foreign country, whether for profit or not, or ~~any its~~ officer, agent, or representative ~~thereof~~, any money, property, or thing of value belonging to the insurance company, savings and loan association, bank, or corporation for campaign expenses, or for the purpose of influencing the vote of ~~any an~~ elector. This section does not restrain or abridge the freedom of the press or prohibit the consideration and discussion in the press of candidacies, nominations, public officers, or public questions.

3. It ~~shall be~~ is lawful for ~~any an~~ insurance company, savings and loan association, bank, credit union, and corporation organized pursuant to the laws of this state or any other state or territory, whether or not for profit, and for ~~the their~~ officers, agents and representatives ~~thereof~~, to use the money, property, labor, or any other thing of value of ~~any such~~ the entity for the purposes of soliciting its stockholders, administrative officers and members for contributions to a committee sponsored by that entity and of financing the administration of a committee sponsored by that entity. The entity's employees to whom the foregoing authority does not extend may voluntarily contribute to such a committee but shall not be solicited for contributions. All contributions made under ~~authority of~~ this subsection ~~shall be~~ are subject to the disclosure requirements of this chapter. A committee member, committee employee, committee representative, candidate or representative referred to in subsection 2 lawfully may solicit, request, and receive money, property and other things of value from a committee sponsored by an insurance company, savings and loan association, bank, credit union, or corporation as permitted by this subsection.

Sec. 14. This Act takes effect January 1 following enactment.

Approved May 24, 1983

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**CHAPTER 140**  
COUNTY ASSESSOR'S ANNUAL ABSTRACT OF PROPERTY  
*H.F. 621*

**AN ACT** removing the aggregate taxable values of real estate in a school district from a county assessor's annual abstract of real and personal property.

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

Section 1. Section 441.45, subsection 2, Code 1983, is amended to read as follows:

2. The aggregate taxable values of real estate by class in each ~~school district~~, township and city in the county, returned as corrected by the board of review.

Approved May 24, 1983

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**CHAPTER 141**  
REPORTING OF EXPOSURE TO CHEMICAL AGENTS  
*H.F. 617*

**AN ACT** relating to reporting and investigation of exposure to chemical defoliants, herbicides, or other causative agents, including but not limited to agent orange and making an appropriation.

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

Section 1. NEW SECTION. 139A.1 As used in this chapter unless the context otherwise provides:

1. "Agent orange" means the herbicide composed primarily of trichlorophenoxyacetic acid and dichlorophenoxyacetic acid.

2. "Veteran" means a person who was a resident of this state at the time of the person's induction into the armed forces of the United States or who is a resident of this state July 1, 1983 and served in Vietnam, Cambodia, or Laos during the Vietnam Conflict.

3. "Chemicals" means chemical defoliants, herbicides, or other causative agents, including but not limited to agent orange.

4. "Department" means the state department of health.

Sec. 2. NEW SECTION. 139A.2 CHEMICAL REPORT TO DEPARTMENT. A licensed physician pursuant to section 135.1, subsection 5, who treats a veteran the physician believes may have been exposed to chemicals while serving in the armed forces of the United States shall submit a report indicating that information to the department at the request of the veteran pursuant to section 139A.3.

Sec. 3. NEW SECTION. 139A.3 DUTIES OF THE DEPARTMENT. The department shall:

1. Provide the forms for the reports required in section 139A.2. The report shall require the doctor to provide all of the following:

- a. Symptoms of the veteran which may be related to exposure to chemicals.
- b. Diagnosis of the veteran.
- c. Methods of treatment prescribed.

2. Annually compile and evaluate the information submitted in the reports pursuant to subsection 1, in consultation and cooperation with a certified medical toxicologist selected by the department. The department shall submit the report to the governor, general assembly, United States veterans' administration, and the state department of veterans affairs. The report shall include current research data on the effects of exposure to chemicals, statistical information received from individual physicians' reports, and statistical information from the epidemiological investigations pursuant to subsection 3.

3. Conduct epidemiological investigations of veterans who have cancer or other medical problems or who have children born with birth defects associated with exposure to chemicals, in consultation and cooperation with a certified medical toxicologist selected by the department. The department shall obtain consent from a veteran before conducting the investigations.

The department shall cooperate with local and state agencies during the course of an investigation.

Sec. 4. NEW SECTION. 139A.4 CONFIDENTIALITY—LIABILITY PROVISIONS. The department shall not identify a veteran consenting to the epidemiological investigations pursuant to section 139A.3, subsection 3, unless the veteran consents to the release of identity. The statistical information compiled by the department pursuant to section 139A.3 is a public record.

A licensed physician complying with this chapter is not civilly or criminally liable for release of the required information.

Sec. 5. NEW SECTION. 139A.5 ATTORNEY GENERAL POWERS. The attorney general may represent veterans who may have been injured because of contact with chemicals, in an action for release of information relating to exposure to such causative agents during military service and release of the veterans' medical records.

Sec. 6. NEW SECTION. 139A.6 MEDICAL COOPERATIVE PROGRAM. The department and appropriate medical facilities at the state university of Iowa under the control of the state board of regents shall institute a cooperative program to:

1. Refer veterans to appropriate state and federal agencies to file claims to remedy medical and financial problems caused by the veterans' exposure to chemicals.
2. Provide veterans with fat tissue biopsies, genetic counseling, and genetic screening upon request of the licensed physician pursuant to section 139A.2, to determine if the veterans have suffered physical damage as a result of substantial exposure to chemicals.

Sec. 7. NEW SECTION. 139A.7 FEDERAL PROGRAM. If the commissioner of public

health or the general assembly determines that an agency of the federal government or the state of Iowa is providing the referral and genetic services pursuant to section 139A.6, the commissioner or the general assembly by specific action may discontinue all or part of the services or requirements provided in this chapter.

Sec. 8. NEW SECTION. 139A.8 RULES. The department shall adopt rules pursuant to chapter 17A to implement this chapter.

Sec. 9. NEW SECTION. 139A.9 APPROPRIATIONS. This chapter shall be implemented by the department each fiscal year that appropriations are made to the department for implementation of this chapter.

Sec. 10. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1983 and ending June 30, 1984, to the state department of health the sum of forty thousand (40,000) dollars, or so much thereof as is necessary, to be used for the implementation of chapter 139A.

Approved May 24, 1983

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## CHAPTER 142

### FISCAL IMPACT OF LEGISLATIVE AND ADMINISTRATIVE ACTIONS

S.F. 527

**AN ACT** relating to the impact of state legislative and administrative actions by requiring fiscal notes on bills, joint resolutions, and administrative rules, by providing for the payment of interest on unpaid claims against the state treasury, by requiring notice of proposed rules.

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

Section 1. NEW SECTION. 25B.1 TITLE. This chapter may be cited as the "State Mandates Act".

Sec. 2. NEW SECTION. 25B.2 FINDINGS AND PURPOSE.

1. The general assembly finds that preceding actions of state government in specifying the manner, standards, and conditions under which public services are rendered to citizens by the political subdivisions of this state in some cases have not resulted in equitable relationships between the state government and its political subdivisions. Some state actions have dealt in detail with the internal management of the political subdivisions; some have specified the establishment of new services and facilities without providing new revenue sources or financial participation by the state to meet the additional costs; and other actions have specified the adoption of higher service standards without a complete assessment of the impact on the expenditures and tax rates of the political subdivisions.

2. It is the purpose of this chapter to enunciate policies, criteria, and procedures to govern future state-initiated specification of local government services, standards, employment conditions, and retirement benefits that necessitates increased expenditures by political subdivisions or agencies and entities which contract with a political subdivision to provide services.

Sec. 3. NEW SECTION. 25B.3 DEFINITIONS. As used in this chapter, unless the context otherwise requires:

1. "Political subdivision" means a city, county, township, or school district.

2. "State mandate" means a statutory requirement enacted after January 1, 1984, which requires a political subdivision of the state to establish, expand, or modify its activities in a manner which necessitates additional expenditures of local revenue, excluding an order issued by a court of this state.

Sec. 4. NEW SECTION. 25B.4 STATE MANDATE INFORMATION. The state comptroller shall report at least biennially to the governor and the general assembly regarding the administration of this chapter including any proposed changes.

Sec. 5. NEW SECTION. 25B.5 ESTIMATION - PROCEDURES.

1. When a bill or joint resolution is requested, the legislative service bureau shall make an initial determination of whether the bill or joint resolution will impose a state mandate. If a state mandate is included, the fact shall be included in the explanation of the bill or joint resolution.

2. If a bill or joint resolution contains a state mandate, a copy of the prepared draft shall be sent to the legislative fiscal bureau which shall prepare an estimate of the amount of costs imposed.

Sec. 6. NEW SECTION. 25B.6 STATE RULES. A state administrative rule filed pursuant to chapter 17A which necessitates additional expenditures by political subdivisions or agencies and entities which contract with a political subdivision to provide services beyond that which are explicitly provided by state law shall be accompanied by a fiscal note outlining the costs.

Sec. 7. Sections 1 through 6 of this Act are created as a new chapter.

Sec. 8. Section 8.15, Code 1983, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The departments, the general assembly and the courts shall pay their claims in a timely manner. If a claim for services, supplies, materials or a contract which is payable from the state treasury remains unpaid after sixty days following the receipt of the claim or the satisfactory delivery, furnishing or performance of the services, supplies, materials, or contract, whichever date is later, the state shall pay interest at the rate of one percent per month on the unpaid amount of the claim. This paragraph does not apply to claims against the state under chapters 25 and 25A or to claims paid by federal funds. The interest shall be charged to the appropriation or fund to which the claim is certified. The state comptroller shall adopt rules under chapter 17A relating to the administration of this paragraph.

Sec. 9. Section 17A.4, subsection 1, Code 1983, is amended by adding the following new lettered paragraph:

NEW LETTERED PARAGRAPH. Mail the number of copies of the proposed rule as requested to the state office of a trade or occupational association which has registered its name and address with the agency. The trade or occupational association shall reimburse the agency for the actual cost incurred in providing the copies of the proposed rule under this paragraph. Failure to provide copies as provided in this paragraph shall not be grounds for the invalidation of a rule, unless that failure was deliberate on the part of that agency or the result of gross negligence.

Sec. 10. Section 8 of this Act shall become effective for claims received after January 1, 1984.

Approved May 25, 1983

**CHAPTER 143**  
**RULES ON INVOICES SUBMITTED TO STATE**  
*S.F. 471*

**AN ACT** requiring the comptroller to adopt rules specifying the form and contents for invoices submitted by vendors to the state.

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

Section 1. Section 8.15, Code 1983, is amended to read as follows:

8.15 VOUCHERS. Before a warrant or equivalent ~~shall be~~ is issued for ~~any~~ a claim payable from the state treasury, ~~there shall be filed the department shall file~~ an itemized voucher which shall show ~~showing~~ in detail the items of service, expense, thing furnished, or contract upon for which payment is sought. There shall be attached the The claimant's original invoice shall be attached to a department's approved voucher which shall indicate in detail the items of service, expense, thing furnished, or contract upon which payment is sought. The comptroller shall adopt rules specifying the form and contents for invoices submitted by a vendor to a department. The requirements apply to acceptance of an invoice by a department. A department, the general assembly, or the courts shall not impose additional or different requirements on submission of invoices than those contained in rules of the comptroller unless the comptroller exempts the department from the invoice requirements or a part of the requirements upon a finding that compliance would result in poor accounting or management practices.

Vouchers for postage, stamped envelopes, and postal cards may be audited as soon as an order therefor is entered.

Approved May 25, 1983

**CHAPTER 144**  
**BUSINESS ENTITY FILINGS AND FEES**  
*S.F. 435*

**AN ACT** regulating fees and filing requirements of business entities.

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

Section 1. Section 496A.7, subsection 3, unnumbered paragraph 1, Code 1983, is amended to read as follows:

Shall not be the same as, or deceptively similar to, the name of any domestic corporation or limited partnership existing under the laws of this state or any foreign corporation or limited partnership authorized to transact business in this state, or a name the exclusive right to which is, at the time, reserved in the manner provided in this chapter or chapter 545, or the name of a corporation which has in effect a registration of its corporate name as provided in this chapter, or an assumed name which has been adopted by a domestic or a foreign corporation for use in this state in the manner provided by this chapter except that this provision ~~shall~~ does not apply if the applicant files with the secretary of state either of the following:

Sec. 2. Section 496A.105, unnumbered paragraph 4, Code 1983, is amended to read as follows:

~~Such~~ An election shall be made by filing with the secretary of state an application executed by an officer of the corporation, setting forth ~~such~~ the assumed name and paying to the secretary of state a filing fee of ~~twenty forty~~ twenty dollars.

Sec. 3. Section 496A.105, unnumbered paragraphs 6 and 7, Code 1983, are amended to read as follows:

At the time annual license fees are payable under this chapter, a foreign corporation which has elected to adopt an assumed name shall pay to the secretary of state an annual fee of five ten dollars for ~~such~~ the assumed name. However, if the assumed name was filed and became effective in December of any year, the first annual fee of five ten dollars shall be paid at the time of filing of the annual report in the second year following ~~such~~ that December.

If ~~such~~ the corporation fails to pay the annual fee when due and payable, the secretary of state shall give notice to the corporation of ~~such~~ the nonpayment by registered or certified mail; and if ~~such~~ the fee together with a penalty of five ten dollars is not paid within sixty days after ~~such~~ the notice is mailed, the right to use ~~such~~ the assumed name shall cease.

Sec. 4. Section 496A.124, Code 1983, is amended by adding the following new subsection after subsection 16 and renumbering the remaining subsections:

NEW SUBSECTION. 17. Filing a copy of restated articles of incorporation of a foreign corporation holding a certificate of authority to transact business in this state, eighty dollars.

Sec. 5. Section 496C.21, unnumbered paragraph 3, Code 1983, is amended to read as follows:

~~Duplicate originals~~ The original of each annual report of a professional corporation or foreign professional corporation shall be delivered to the secretary of state for filing, ~~and the secretary of state shall promptly deliver one of the duplicate originals to the regulating board having jurisdiction of the profession or professions which the corporation is authorized to practice.~~ The provisions of the Iowa business corporation Act relating to annual license fee shall apply to professional corporations.

Sec. 6. Section 504A.6, subsection 2, Code 1983, is amended to read as follows:

2. Shall not be the same as, or deceptively similar to, the name of any corporation, whether for profit or not for profit, or any limited partnership existing under the laws of this state, or any foreign corporation, whether for profit or not for profit, or any limited partnership authorized to transact business or conduct affairs in this state, or a corporate name or limited partnership name reserved or registered as permitted by the laws of this state.

Sec. 7. Section 504A.6, Code 1983, is amended by adding the following new subsection:

**NEW SUBSECTION.** 4. A corporation may elect to adopt an assumed name if the name is not the same as or deceptively similar to the name of another domestic corporation existing under the laws of this state or of a foreign corporation authorized to transact business in this state, or the same as or deceptively similar to a name registered or reserved as permitted by the laws of this state.

The election shall be made by filing with the secretary of state an application executed by an officer of the corporation, setting forth the assumed name and paying to the secretary of state a filing fee of ten dollars.

If the assumed name complies with the provisions of this chapter the secretary of state shall issue a certificate authorizing the use of the name. However, the certificate shall not confer a right to the use of the name as against a person having a prior right to the use of the name.

At the time annual license fees are payable under this chapter, a corporation which has elected to adopt an assumed name shall pay to the secretary of state an annual fee of five dollars for the assumed name. However, if the assumed name was filed and became effective in December of any year, the first annual fee of five dollars shall be paid at the time of filing of the annual report in the second year following the December in which the assumed name was filed.

If the corporation fails to pay the annual fee when due and payable, the secretary of state shall give notice to the corporation of the nonpayment by registered or certified mail; and if the fee together with a penalty of five dollars is not paid within sixty days after the notice is mailed, the right to use the assumed name shall cease.

A separate application and annual fee shall be filed and paid for each assumed name adopted by the corporation.

Sec. 8. Section 504A.67, subsection 2, Code 1983, is amended by striking the subsection and inserting in lieu thereof the following:

2. Shall not be the same as, or deceptively similar to the name of a corporation, whether for profit or not for profit, existing under the laws of this state, or a foreign corporation, whether for profit or not for profit, authorized to transact business or conduct affairs in this state, or a corporate name reserved or registered as permitted by the laws of this state, or an assumed name which has been adopted by a domestic or a foreign corporation for use in this state in the manner permitted by the laws of this state. However, this provision shall not apply if the foreign corporation applying for a certificate of authority files with the secretary of state one of the following:

a. A resolution of its board of directors adopting an assumed name for use in transacting business in this state and the assumed name is not deceptively similar to the name of a domestic corporation or of a foreign corporation authorized to transact business in this state or to a name reserved or registered as permitted by the laws of this state.

b. The written consent of another corporation or holder of a reserved or registered name to use the same or deceptively similar name and one or more words are added to make the name distinguishable from the other name.

c. A certified copy of a final decree of a court of competent jurisdiction establishing the prior right of the foreign corporation to the use of the name in this state.

The corporate name of the foreign corporation is the name under which the corporation shall transact its business in this state unless the corporation also elects to adopt one or more assumed names as provided in this chapter.

A foreign corporation authorized to transact business in this state may elect to adopt an assumed name if the name is not the same as or deceptively similar to the name of a domestic corporation existing under the laws of this state or of another foreign corporation authorized to transact business in this state, or the same as or deceptively similar to a name registered or reserved as permitted by the laws of this state.

The election shall be made by filing with the secretary of state an application executed by an officer of the corporation, setting forth the assumed name and paying to the secretary of state a filing fee of ten dollars.

If the assumed name complies with the provisions of this chapter, the secretary of state shall issue a certificate authorizing the use of the name. However, the certificate shall not confer a right to the use of the name as against a person having a prior right to the use of the name.

At the time annual license fees are payable under this chapter, a foreign corporation which has elected to adopt an assumed name shall pay to the secretary of state an annual fee of five dollars for the assumed name. However, if the assumed name was filed and became effective in December of any year, the first annual fee of five dollars shall be paid at the time of filing of the annual report in the second year following the December in which the assumed name was filed.

If the corporation fails to pay the annual fee when due and payable, the secretary of state shall give notice to the corporation of the nonpayment by registered or certified mail; and if the fee together with a penalty of five dollars is not paid within sixty days after the notice is mailed, the right to use the assumed name shall cease.

A separate application and annual fee shall be filed and paid for each assumed name adopted by a foreign corporation.

Sec. 9. Section 545.102, subsection 1, Code 1983, is amended to read as follows:

1. Shall contain ~~without abbreviation~~ the words "limited partnership" or the abbreviation "L.P.".

Sec. 10. Section 545.1105, Code 1983, is amended by adding the following new subsections:

NEW SUBSECTION. 6. An application to reserve a limited partnership name, ten dollars.

NEW SUBSECTION. 7. For furnishing a certified copy of any document, instrument, or paper relating to a limited partnership, one dollar per page and five dollars for the certificate and affixing the seal thereto; and for furnishing an uncertified copy, one dollar per page.

Sec. 11. Section 545.1106, Code 1983, is amended to read as follows:

545.1106 **CERTIFICATES FILED WITH THE COUNTY RECORDER.** After July 1, 1983, county recorders shall promptly send to the secretary of state copies of all limited partnership certificates and amendments to the certificates which are in effect on that date and which were filed ~~prior~~ from July 1, 1982 to July 1, 1982.

Sec. 12. The secretary of state shall direct any limited partnership existing prior to July 1, 1982, to amend its name as necessary so that it is not the same as or deceptively similar to the name of a corporation or another limited partnership by July 1, 1984.

Any limited partnership existing prior to July 1, 1982, whose name does not contain the words "limited partnership" or the abbreviation "L.P." shall file an amendment to the limited partnership certificate to add the words "limited partnership" or the abbreviation "L.P." to its name by July 1, 1984.

Each limited partnership existing prior to July 1, 1982, shall file an amendment to the

limited partnership certificate setting forth the office and agent required in section 545.105, subsection 1, by July 1, 1984.

Failure of a limited partnership to comply with this section shall have no effect on the liability of the partners or the partnership. The secretary of state may decline to file any document received from a limited partnership if the limited partnership fails to comply with this section.

Approved May 25, 1983

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## CHAPTER 145

### CRIMINAL AND JUVENILE JUSTICE PLANNING AGENCY

S.F. 399

**AN ACT** relating to the status of the criminal and juvenile justice planning agency and its reporting procedures.

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

Section 1. Section 80C.1, Code 1983, is amended to read as follows:

80C.1 CRIMINAL AND JUVENILE JUSTICE PLANNING AGENCY CREATED. The criminal and juvenile justice planning agency is a separate independent agency created in the office of the governor. The agency is responsible for coordinating criminal and juvenile justice activities in the state including planning, research, program implementation, and the administration of grants and other funds. The agency is under the direct supervision of the governor, and shall be responsible only to the governor or the general assembly. The governor shall appoint the executive director of the agency who shall serve at the pleasure of the governor. As used in this section and sections 80C.2 to 80C.4, unless the context otherwise requires, "agency" means the criminal and juvenile justice planning agency created in this section.

Sec. 2. Section 80C.2, unnumbered paragraph 1, Code 1983, is amended to read as follows:

The criminal and juvenile justice advisory council is created to advise the governor and legislature and direct the agency in the performance of its duties and to perform other duties as required by law. The council shall consist of eleven members. The governor shall appoint seven members each for a four-year term beginning and ending as provided in section 69.19 and subject to confirmation by the senate as follows:

Approved May 25, 1983

**CHAPTER 146**  
**REGULATION OF LOAN BROKERS**  
*S.F. 336*

**AN ACT** regulating the activities of loan brokers and providing penalties.

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

Section 1. NEW SECTION. 535C.1 TITLE. This chapter may be cited as the "Iowa Loan Brokers Act".

Sec. 2. NEW SECTION. 535C.2 DEFINITIONS. As used in this chapter, unless the context otherwise requires:

1. "Loan broker" or "broker" means a person who, in return for consideration to be paid by the borrower before the loan broker or broker has obtained a loan for the borrower or has made a commitment to make a loan, agrees to do either of the following:

- a. Obtain a loan for the borrower or assist the borrower in obtaining a loan.
- b. Consider making a loan to the borrower.

2. "Loan" means an agreement to advance money or property in return for the promise that payments will be made for use of the money or property.

3. "Loan brokerage agreement" or "agreement" means a written agreement in which a broker agrees to do either of the following:

- a. Obtain a loan for the borrower or assist the borrower in obtaining a loan.
- b. Consider making a loan to the borrower.

4. "Borrower" means a person who seeks the services of a loan broker.

5. "Administrator" means the commissioner of insurance or the deputy appointed under section 502.601.

Sec. 3. NEW SECTION. 535C.3 DISCLOSURE STATEMENT REQUIRED.

1. At least seven days before the borrower signs an agreement for the services of a loan broker, or at least seven days before the borrower gives the broker any consideration, whichever first occurs, the broker shall give the borrower a written disclosure statement. The cover sheet of the statement shall have printed, in at least ten point boldface capital letters the title: "DISCLOSURES REQUIRED BY IOWA LAW". The following statement, printed in at least ten point type, shall appear under the title:

"The state of Iowa has not reviewed and does not approve, recommend, endorse, or sponsor any loan brokerage agreement. Neither has the state verified the information contained in this disclosure. If you have questions, seek legal advice before you sign a loan brokerage agreement."

Only the title and the statement shall appear on the cover sheet.

2. The body of the document shall contain the following information in the following order:

a. The name of the broker; names under which the broker does, has done, or intends to do business; and the name of a parent or affiliated company, if any.

b. Whether the broker does business as an individual, partnership, corporation, or any other organizational form of the broker's business.

c. How long the broker has done business.

d. The number of loan brokerage agreements the broker has entered in the most recent calendar year.

e. The number of loans the broker has obtained for borrowers in the most recent calendar year.

f. That a financial statement is on file with the administrator.

g. A description of the services the broker agrees to perform for the borrower.

h. The conditions under which the borrower is obligated to pay the broker. This disclosure must be in boldface type.

i. Either subparagraph (1) or (2), as appropriate:

(1) "As required by Iowa law, this loan broker has secured a bond by \_\_\_\_\_

\_\_\_\_\_

name and address of surety company

a surety authorized to do business in Iowa. Before signing an agreement with the broker, you should check with the surety company to determine the bond's current status."

(2) "As required by Iowa law, this loan broker has established a trust account \_\_\_\_\_

\_\_\_\_\_

number of the account

with \_\_\_\_\_

name and address of the financial institution

Before signing an agreement with the broker, you should check with the financial institution to determine the current status of the trust account."

j. The names, business addresses, titles and principal occupations for the past five years of all officers, directors, or persons occupying a similar position responsible for the broker's business activities.

k. Other information the administrator requires.

**Sec. 4. NEW SECTION. 535C.4 SURETY BOND OR TRUST ACCOUNT REQUIRED.** A loan broker shall obtain a surety bond or establish a trust account. The bond or account shall be in the amount of ten thousand dollars and in favor of the state of Iowa. The bond shall be issued by a surety company authorized to do business in this state. The trust account shall be established with a financial institution, as defined in section 422.61, subsection 1, located in Iowa. The administrator shall act as custodian of the bond or account for borrowers entering loan brokerage agreements with the loan broker. Only the administrator may disburse funds from the trust account. A borrower, damaged by a broker's violation of a loan brokerage agreement entered into with the borrower or by the broker's violation of this chapter, may bring an action against the bond or trust account and may receive payment from the surety or trustee. The surety or trustee is liable only for actual damages arising from a violation. The aggregate liability of the surety or trustee from all actions against a broker shall not exceed the amount of the bond or trust account. The amount of the bond or account shall be distributed pro rata among all borrowers bringing actions against the bond or account within a time designated by the administrator and whose claims are either settled in favor of the borrower or otherwise found to be valid.

The administrator may adopt rules establishing the term and length of the surety bond or trust account.

A broker who does not obtain a bond or establish an account is guilty of a serious misdemeanor.

**Sec. 5. NEW SECTION. 535C.5 FILING WITH THE ADMINISTRATOR—PENALTY.**

1. Before advertising or making other oral or written representations, or acting as a loan broker in this state, a loan broker shall file with the administrator copies of the disclosure statement required under section 535C.3, the most recent financial statement of the broker, and either of the following:

a. The bond required under section 535C.4.  
b. The formal notification from the financial institution that the trust account required under section 535C.4 is established.

2. The broker shall amend these filings no less than annually and, in addition, shall file amendments within forty-five days of any material change in the following:

a. The status of the bond or account.  
b. The financial statement of the broker.  
c. Information required by the disclosure statement. A broker who does not file the copies required is guilty of a serious misdemeanor.

3. The broker shall pay a fifty dollar filing fee with the initial disclosure statement filed under subsection 1. A twenty-five dollar fee shall be charged for each amendment under subsection 2.

4. The administrator shall review the disclosure statement for compliance with requirements imposed under this chapter.

5. The administrator may by order prohibit a broker from advertising, making oral or written representations, or acting as a loan broker if the order is found to be in the public interest and either of the following apply:

a. The disclosure statement or financial statement on file is incomplete in any material respect or contains any statement which was, in light of the circumstances under which it was made, false or misleading with respect to any material fact.

b. The loan broker has willfully violated or willfully failed to comply with any provision of this chapter.

6. The information contained or filed under this section may be made available to the public under such rules as the administrator prescribes.

Sec. 6. NEW SECTION. 535C.6 PENALTIES. A broker is guilty of a serious misdemeanor for failure to do any of the following:

1. Obtain and maintain a surety bond or establish and maintain a trust account as required in section 535C.4.

2. Make accurate and timely filings as required in section 535C.5.

Sec. 7. NEW SECTION. 535C.7 WRITTEN AGREEMENTS REQUIRED. A loan brokerage agreement shall be in writing and signed by the broker and the borrower. The broker shall give the borrower a copy of the agreement when the borrower signs the agreement.

Sec. 8. NEW SECTION. 535C.8 WAIVER OF RIGHTS. A waiver of this chapter by a borrower prior to or at the time of entering into a loan brokerage agreement is contrary to public policy and is void. An attempt by a loan broker to have a borrower waive any rights given in this chapter is a violation of this chapter.

Sec. 9. NEW SECTION. 535C.9 RULES. The administrator may adopt rules according to chapter 17A as necessary or appropriate to implement the purposes of this chapter.

Sec. 10. NEW SECTION. 535C.10 REMEDIES.

1. If a broker materially violates the loan brokerage agreement, the borrower may, upon written notice, void the agreement. In addition, the borrower may recover all moneys paid the broker and may recover other damages including reasonable attorney's fees. The broker materially violates the agreement if the broker does any of the following:

a. Makes false or misleading statements relative to the agreement.  
b. Does not comply with the agreement or the obligations arising from the agreement.  
c. Does not either grant the borrower a loan or diligently attempt to obtain a loan for the borrower.  
d. Does not comply with the requirements of this chapter.

2. A violation of this chapter is a violation of the Iowa consumer fraud Act, section 714.16.

3. Remedies under this chapter are in addition to other remedies available in law or equity.

Sec. 11. NEW SECTION. 535C.11 APPLICABILITY. This chapter does not apply to any activities or arrangements expressly approved or regulated by any regulatory body or officer acting under authority of this state, other than the administrator, or of the United States.

Sec. 12. Section 714.16, subsection 2, Code 1983, is amended by adding the following new paragraph:

NEW PARAGRAPH. A violation of a provision of sections 535C.1 through 535C.10 is an unlawful practice.

Sec. 13. Sections 1 through 11 of this Act are created as a new chapter 535C.

Approved May 25, 1983

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## CHAPTER 147

### REDUCTION OF SENTENCES OF INMATES

*S.F. 302*

**AN ACT** relating to the reduction of sentences of inmates committed to the custody of the director of the division of adult corrections of the department of social services.

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

Section 1. Sections 2 through 8 of this Act are enacted as a new chapter of the Code.

Sec. 2. NEW SECTION. CONDUCT REVIEW. The commissioner of social services shall appoint independent hearing officers whose duties shall include but not be limited to review, as provided in section 4 of this Act, of the conduct of inmates in institutions under the department of social services, division of adult corrections.

Sec. 3. NEW SECTION. GOOD CONDUCT TIME. Each inmate of an institution under the department of social services, division of adult corrections, is eligible for a reduction of sentence of one day for each day of good conduct of the inmate while committed to one of the division's institutions. In addition to the sentence reduction of one day for each day of good conduct, each inmate is eligible for an additional reduction of sentence of up to five days a month if the inmate participates satisfactorily in employment in the institution, in Iowa state industries, in an inmate employment program established by the director, or in an inmate educational program approved by the director. Reduction of sentence pursuant to this section may be subject to forfeiture pursuant to section 4 of this Act. Computation of good conduct time is subject to the following conditions:

1. Time served in jail or other facility, credited by the clerk of court prior to actual placement in a correctional institution, shall accrue for purposes of reduction of sentence under this section.

2. Time spent during escape shall not accrue for purposes of reduction of sentence under this section. An inmate who intentionally escapes may forfeit all good conduct time accrued and not forfeited prior to the escape.

3. Time between parole violation, which violation is determined by the board of parole at the final parole violation hearing, and incarceration shall not accrue for purposes of reduction of sentence under this section.

4. Good conduct time earned and not forfeited shall accrue to an inmate serving a life sentence. The good conduct time so accrued does not apply to reduce the life sentence, but shall be credited to the inmate on the date of commutation, if the life sentence is commuted to a term of years.

5. Except in life sentences, good conduct time shall be credited to the maximum sentence annually on the date of admission.

Sec. 4. NEW SECTION. LOSS OR FORFEITURE OF GOOD CONDUCT TIME.

1. Upon finding that an inmate has violated an institutional rule, the independent hearing officer may order forfeiture of any or all good conduct time earned and not forfeited up to the date of the violation by the inmate. The independent hearing officer has discretion within the guidelines established pursuant to section 5 of this Act, to determine the amount of time that should be forfeited based upon the severity of the violation. Prior violations by the inmate may be considered by the hearing officer in the decision.

2. The orders of the hearing officer are subject to appeal to the superintendent or warden of the institution who may either affirm, modify, remand for correction of procedural errors, or reverse an order. However, sanctions shall not be increased on appeal. A decision of the superintendent or warden is subject to review by the director of the division of adult corrections who may either affirm, modify, remand for correction of procedural errors, or reverse the decision. However, sanctions shall not be increased on review.

3. The director of the division of adult corrections or the director's designee, may restore all or any portion of previously forfeited good conduct time for acts of heroism or for meritorious actions. The director shall establish by rule the requirements as to which activities may warrant the restoration of good conduct time and the amount of good conduct time to be restored.

4. The inmate disciplinary procedure, including but not limited to the method of awarding or forfeiting time pursuant to this chapter, is not a contested case subject to chapter 17A.

Sec. 5. NEW SECTION. POLICIES AND PROCEDURES. The director of the division of adult corrections shall develop policy and procedural rules to implement sections 2 through 4 of this Act. The rules may specify disciplinary offenses which may result in the loss of good conduct time, and the amount of good conduct time which may be lost as a result of each disciplinary offense. The director shall establish rules as to what constitutes "satisfactory participation" for purposes of additional reduction of sentence under section 3 of this Act, for employment in the institution, in Iowa state industries, in an inmate employment program established by the director, or for participation in an educational program approved by the director, when such employment or programs are available.

Sec. 6. NEW SECTION. TIME TO BE SERVED—CREDIT. An inmate shall not be discharged from the custody of the director of the division of adult 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 204.406, 204.413, 902.7, 902.8, or 906.5. 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 non-bailable offense, the inmate shall be given credit for the days already served upon the term of the sentence. The clerk of the district court of the county from which the inmate was sentenced, shall certify to the warden the number of days so served.

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. 7. NEW SECTION. GOOD AND HONOR TIME APPLICATION. Sections 246.38, 246.39, 246.41, 246.42, 246.43, and 246.45, as the sections appear in the 1983 Code, remain in effect for inmates sentenced for offenses committed prior to July 1, 1983.

Sec. 8. NEW SECTION. SEPARATE SENTENCES. When an inmate is committed under several convictions with consecutive sentences, they shall be construed as one continuous sentence in the granting or forfeiting of good conduct time.

Sec. 9. Section 331.702, subsection 45, Code 1983, is amended to read as follows:

45. Certify to the warden of the penitentiary or men's reformatory receiving institution the number of days that an inmate has been credited toward completion of the inmate's sentence as provided in section ~~246.38~~ 6 of this Act.

Sec. 10. Section 663A.2, subsection 6, Code 1983, is amended by striking the subsection and inserting in lieu thereof the following:

6. The person's reduction of sentence pursuant to sections 2 through 8 of this Act has been unlawfully forfeited and the person has exhausted the appeal procedure of section 4, subsection 2 of this Act; or

Sec. 11. Section 901.6, Code 1983, is amended to read as follows:

901.6 JUDGMENT ENTERED. If judgment is not deferred, and no sufficient cause is shown why judgment should not be pronounced and none appears to the court upon the record, judgment shall be pronounced and entered. In every case in which judgment is entered, the court shall include in the judgment entry the number of the particular section of the Code and the name of the offense under which the defendant is sentenced and a statement of the days credited pursuant to section ~~246.38~~ 6 of this Act shall be incorporated into the sentence.

Sec. 12. Section 906.5, unnumbered paragraph 2, Code 1983, is amended to read as follows:

If the person who is under consideration for parole is serving a sentence for conviction of a felony and has a criminal record of one or more prior convictions for a forcible felony or a crime of a similar gravity in this or any other state, parole shall be denied unless the defendant has served at least one-half of the maximum term of his or her the defendant's sentence. However, the mandatory sentence provided for by this section shall not apply if the sentence being served is for a felony other than a forcible felony and the sentences for the prior forcible felonies expired at least five years before the date of conviction for the present felony.

Sec. 13. Sections 246.38, 246.39, 246.41, 246.42, 246.43, and 246.45, Code 1983, are repealed except they remain in effect for persons sentenced for offenses committed prior to July 1, 1983.

Sec. 14. Sections 2 through 6 and sections 8, 9, 10, 11, and 13 of this Act apply only to inmates sentenced for offenses committed after July 1, 1983. Section 12 of this Act takes effect July 1, 1983 but also applies retroactively to inmates who are serving or will serve mandatory sentences pursuant to section 906.5 before July 1, 1983.

Sec. 15. The Code editor may change any reference to the "division of corrections of the department of social services" appearing in this Act to the "department of corrections" and make other corrective changes to this Act consistent with the intent of Senate File 464, when Senate File 464 is enacted into law.

Approved May 25, 1983

**CHAPTER 148****PREPAYMENT OF SPECIAL ASSESSMENT INSTALLMENTS***H.F. 622*

**AN ACT** relating to the prepayment of special assessment installments.

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

Section 1. Section 384.60, subsection 5, Code 1983, is amended to read as follows:

5. Direct the clerk to certify the final schedule to the treasurer of the county or counties in which the assessed property is located, and to publish notice of the schedule once each week for two consecutive weeks in the manner provided in section 362.3, the first publication of which shall be not more than fifteen days from the date of filing of the final schedule.

**PARAGRAPH DIVIDED.** On or before the second publication of the notice, the clerk shall send by certified mail to each property owner whose property is subject to assessment for the improvement, as shown by the records in the office of the county auditor, a copy of the notice. The notice shall also include a statement in substance that assessments may be paid in full or in part without interest within thirty days after the date of ~~certification~~ the first notice of the final assessment schedule, and thereafter all unpaid special assessments bear interest at the rate specified by the ~~board~~ council, but not exceeding that permitted by chapter 74A, computed to the December 1 next following the due dates of the respective installments as provided in section 384.65, subsection 3, and each installment will be delinquent on September 30 following its due date, and will draw additionally the same delinquent interest and the same penalties as ordinary taxes. The notice shall also state substantially that property owners may elect to pay any installment semiannually in advance. If a property is shown by the records to be in the name of more than one owner at the same mailing address, a single notice may be mailed to all owners at that address. Failure to receive a mailed notice is not a defense to the special assessment.

Sec. 2. Section 384.65, subsection 3, Code 1983, is amended to read as follows:

3. All future installments of an assessment may be paid on any date by payment of the then outstanding balance, plus interest to the next December 1 ~~following the due date of the next maturing installment~~.

Approved May 23, 1983

**CHAPTER 149**  
**TREATMENT OF ANIMALS**  
*S.F. 221*

**AN ACT** relating to treatment of animals by persons licensed or registered under chapter 162 with penalties of license or registration suspension or revocation.

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

Section 1. Section 162.13, unnumbered paragraph 2, Code 1983, is amended to read as follows:

Failure of any a person licensed or registered to adequately house, feed, or water dogs or cats, or both, in his or her the person's possession or custody or failure of any an operator of a licensed pet shop to adequately house, feed, or water any a vertebrate animal shall constitute is a simple misdemeanor. Such animals shall be The animals are subject to seizure and impoundment and may be sold or destroyed by euthanasia at the discretion of the secretary and such the failure shall is also constitute grounds for revocation or suspension of license or registration after public hearing. The commission of an act declared to be an unlawful practice under section 714.16 or chapter 717, by any a person licensed or registered under this chapter shall constitute is grounds for revocation or suspension of the license or registration certificate.

Approved May 26, 1983

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**CHAPTER 150**  
**GOVERNMENTAL MOTOR FUEL TAX EXEMPTION**  
*S.F. 14*

**AN ACT** to exempt the state, its agencies, and political subdivisions of the state from the tax on motor fuel where the motor fuel is used for a public purpose and delivered into storage tanks owned or used exclusively by the state, its agencies, or a political subdivision of the state.

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

Section 1. Section 324.3, Code 1983, is amended by adding the following new subsection as subsection 5 immediately following subsection 4:

**NEW SUBSECTION.** 5. Motor fuel sold to the state, any of its agencies, or to any political subdivision of the state, which is used for public purposes and delivered into any size of

storage tank owned or used exclusively by the state, any of its agencies, or a political subdivision of the state. The department of revenue shall provide exemption certificate forms to the state, its agencies, and political subdivisions of the state so that they may provide a certificate of exemption to a distributor or dealer upon the delivery of motor fuel. The certificate of exemption shall specify the number of gallons of motor fuel received and state that all of the motor fuel delivered into the storage tank shall be used for public purposes.

Sec. 2. Section 324.3, unnumbered paragraph 2, Code 1983, is amended to read as follows:

Motor fuel shall be sold tax paid to the state of Iowa, any of its agencies, or to any political subdivision of the state, including motor fuel sold for the transportation of pupils of approved public and nonpublic schools by a contract carrier who contracts with the public school under section 285.5 for the transportation of public and nonpublic school pupils under chapter 285 unless the motor fuel is delivered into storage tanks and exempt under subsection 5. Tax on fuel which is used for public purposes is subject to refund, including tax paid on motor fuel sold for the transportation of school pupils of approved public and nonpublic schools by a contract carrier who contracts with the public school under section 285.5 for the transportation of public and nonpublic school pupils under chapter 285. Claims for refunds will be filed with the department on a quarterly basis and the director shall not grant a refund of motor fuel or special fuel tax where a claim is not filed within one year from the date the tax was due. The claim shall contain the number of gallons purchased; the calculation of the amount of motor fuel and special fuel tax subject to refund and any other information required by the department necessary to process the refund.

Approved May 26, 1983

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## CHAPTER 151

### COMPENSATION FOR SOLEMNIZING A MARRIAGE

*S.F.10*

**AN ACT** relating to compensation for solemnizing a marriage.

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

Section 1. Section 595.12, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

**595.12 FEE AND EXPENSES.**

1. A judge or magistrate authorized to solemnize a marriage under section 595.10, subsection 1, may charge a reasonable fee for officiating and making return for each marriage solemnized at a time other than regular judicial working hours. In addition the judge or magistrate may charge the parties to the marriage for expenses incurred in solemnizing the marriage. No judge or magistrate shall make any charge for solemnizing a marriage during regular judicial working hours. The supreme court shall adopt rules prescribing the maximum fee and expenses that the judge or magistrate may charge.

2. A minister authorized to solemnize a marriage under section 595.10, subsection 2, may charge a reasonable fee for each marriage solemnization and making return in an amount agreed to by the parties.

Approved May 26, 1983

**CHAPTER 152****LIMITATION ON STATE BANK INVESTMENTS***S.F. 310*

**AN ACT** relating to the limitation on state bank investments in certain bonds or notes issued by the Iowa family farm development authority.

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

Section 1. Section 524.901, subsection 2, Code 1983, is amended by adding the following new lettered paragraph:

**NEW LETTERED PARAGRAPH.** The total amount of bonds or notes issued by the Iowa family farm development authority pursuant to chapter 175 which have been issued on behalf of any one owner or operator of agricultural land within the state, as provided for in section 175.34, and the proceeds of which have been loaned to that owner or operator, shall not exceed twenty percent of the capital and surplus of the state bank for each borrower.

Approved May 26, 1983

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**CHAPTER 153****DEPARTMENT OF SOCIAL SERVICES PROGRAMS***S.F. 541*

**AN ACT** relating to the codified provisions of the department of social services for the medical assistance program; the child day care facility program; the aid to dependent children program; the child support and foster care recovery programs, including provisions relating to support recoveries for persons who are not public assistance recipients; the state supplementary assistance program; and the dependent adult abuse program.

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

Section 1. Section 85.38, Code 1983, is amended by adding the following new subsection:  
**NEW SUBSECTION.** 3. Lien for hospital and medical services under chapter 249A. In the event any hospital or medical services as defined in section 85.27 are paid by the state department of social services on behalf of an employee who is entitled to such benefits under the provisions of chapter 85, 85A or 85B, a lien shall exist as respects the right of such employee to benefits as described in section 85.27.

Sec. 2. **NEW SECTION.** 217.34 OFFICE OF INVESTIGATIONS. The office of investigations shall provide assistance to set off against a person's income tax refund or rebate

any debt which has accrued through written contract, subrogation, departmental recoupment procedures, or court judgment and which is in the form of a liquidated sum due and owing the department of social services. The department of social services shall adopt rules under chapter 17A necessary to assist the department of revenue in the implementation of the setoff under section 421.17, subsection 21.

Sec. 3. Section 234.39, Code 1983, is amended by adding the following new unnumbered paragraph:

**NEW UNNUMBERED PARAGRAPH.** A dispositional order of the juvenile court requiring the provision of foster care shall establish, after notice and a reasonable opportunity to be heard is provided to a parent or guardian, the amount of the parent's or guardian's liability for the cost of foster care provided by the department. In establishing the amount of the liability, the court shall take into consideration the department's schedule of charges, and if the amount established deviates from the schedule of charges, the court shall explain the deviation in its order. The order shall direct the payment of the liability to the clerk of the district court for the use of the department's foster care recovery unit. The order shall be filed with the clerk and shall have the same force and effect as a judgment when entered in the judgment docket and lien index. The clerk shall disburse the payments pursuant to the order and enter the disbursements in a record book. If payments are not made as ordered, the clerk shall certify a default to the court and the court may, on its own motion, proceed under section 598.22 or 598.23. A dispositional order establishing the amount of a parent's or guardian's liability for the cost of foster care shall not vacate a prior court order which establishes the parent's or guardian's child support obligation.

Sec. 4. **NEW SECTION. 235B.1 ADULT ABUSE SERVICES.**

1. As used in this section, "dependent adult abuse" means:

a. Any of the following as a result of the willful or negligent acts or omissions of a caretaker:

(1) Physical injury to or unreasonable confinement or cruel punishment of a dependent adult.

(2) The commission of a sexual offense under chapter 709 or section 726.2 with or against a dependent adult.

(3) Exploitation of a dependent adult which means the act or process of taking unfair advantage of a dependent adult or the adult's physical or financial resources for one's own personal or pecuniary profit by the use of undue influence, harassment, duress, deception, false representation, or false pretenses.

(4) The deprivation of the minimum food, shelter, clothing, supervision, physical and mental health care, and other care necessary to maintain a dependent adult's life or health.

b. The deprivation of the minimum food, shelter, clothing, supervision, physical and mental health care, and other care necessary to maintain a dependent adult's life or health as a result of the acts or omissions of the dependent adult.

Dependent adult abuse does not include:

(1) Depriving a dependent adult of medical treatment if the dependent adult holds a belief or is an adherent of a religion whose tenets and practices call for reliance on spiritual means in place of reliance on medical treatment.

(2) The withholding and withdrawing of health care from a dependent adult who is terminally ill in the opinion of a licensed physician, when the withholding and withdrawing of health care is done at the request of the dependent adult or at the request of the dependent adult's next-of-kin or guardian pursuant to the applicable procedures under chapter 125, 222, 229, or 633.

2. The department of social services shall operate a program relating to the providing of services in cases of dependent adult abuse. The program shall emphasize the reporting and

evaluation of dependent adult abuse of an adult who is unable to protect the adult's own interests or unable to perform or obtain essential services.

3. A person who believes that a dependent adult has suffered abuse may report the suspected abuse to the department of social services. The department shall receive dependent adult abuse reports and shall collect, maintain, and disseminate the reports pursuant to sections 235A.12 through 235A.24 by expanding the central registry for child abuse to include reports of dependent adult abuse. The department shall evaluate the reports expeditiously. However, the state department of health is solely responsible for the evaluation and disposition of adult abuse cases within health care facilities and shall inform the department of social services of such evaluations and dispositions.

The department of social services shall inform the appropriate county attorneys of any reports. County attorneys, law enforcement agencies, multidisciplinary teams as defined in section 235A.13, subsection 9, and social services agencies in the state shall cooperate and assist in the evaluation upon the request of the department. County attorneys and appropriate law enforcement agencies shall also take any other lawful action necessary or advisable for the protection of the dependent adult.

Upon a showing of probable cause that a dependent adult has been abused, a district court may authorize a person, authorized by the department to make an evaluation, to enter the residence of, and to examine the dependent adult.

4. If, upon completion of the evaluation or upon referral from the state department of health, the department of social services determines that the best interests of the dependent adult require district court action, the department shall initiate action for the appointment of a guardian or conservator or for admission or commitment to an appropriate institution or facility pursuant to the applicable procedures under chapter 125, 222, 229, or 633. The appropriate county attorney shall assist the department in the preparation of the necessary papers to initiate the action and shall appear and represent the department at all district court proceedings.

The department shall assist the district court during all stages of court proceedings involving a suspected case of adult abuse.

In every case involving adult abuse which is substantiated by the department and which results in a judicial proceeding on behalf of the dependent adult, legal counsel shall be appointed by the court to represent the dependent adult in the proceedings. The court may also appoint a guardian ad litem to represent the dependent adult if necessary to protect the dependent adult's best interests. The same attorney may be appointed to serve both as legal counsel and as guardian ad litem. Before legal counsel or a guardian ad litem is appointed pursuant to this section, the court shall require the dependent adult and any person legally responsible for the support of the dependent adult to complete under oath a detailed financial statement. If, on the basis of that financial statement, the court deems that the dependent adult or the legally responsible person is able to bear all or a portion of the cost of the legal counsel or guardian ad litem, the court shall so order. In cases where the dependent adult or the legally responsible person is unable to bear the cost of the legal counsel or guardian ad litem, the expense shall be paid out of the court expense fund.

5. The department of social services shall complete an assessment of needed services and shall make appropriate referrals to services. The department may provide necessary protective services and may establish a sliding fee schedule for those persons able to pay a portion of the protective services.

6. A person participating in good faith in reporting or cooperating or assisting the department of social services in evaluating a case of dependent adult abuse has immunity from liability, civil or criminal, which might otherwise be incurred or imposed based upon the act of

making the report or giving the assistance. The person has the same immunity with respect to participation in good faith in a judicial proceeding resulting from the report or assistance or relating to the subject matter of the report or assistance.

Sec. 5. Section 237A.5, Code 1983, is amended to read as follows:

237A.5 PERSONNEL. All personnel in licensed ~~centers~~ or registered facilities shall have good health as evidenced by a report following a pre-employment physical examination taken within six months prior to beginning employment, including communicable disease tests by a licensed physician as defined in section 135C.1, at the time of initial employment and every three years thereafter. No staff member of a licensed center or registered group home or a family day care home registered pursuant to section 237A.3, subsection 1, with direct responsibility for child care and no person living in such registered group or family day care home shall have a conviction by any law of any state of a crime involving lascivious acts with mistreatment of a child, child neglect or violence against a person, or shall have a record of substantiated child sexual abuse or a record of any other type of child abuse substantiated within three years prior to the check of the child abuse registry made by the department pursuant to this chapter.

Sec. 6. Section 237A.8, Code 1983, is amended to read as follows:

237A.8 SUSPENSION AND REVOCATION. The director, after notice and opportunity for an evidentiary hearing, may suspend or revoke a license or certificate of registration issued under ~~the provisions~~ of this chapter if the person to whom a license or certificate is issued violates any a provision of this chapter or if ~~a~~ the person makes false reports regarding the operation of the child day care facility to the director or a designee. The director 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.

Sec. 7. Section 237A.20, Code 1983, is amended to read as follows:

237A.20 INJUNCTION. Any A person who establishes, conducts, manages, or operates a center without a license or a group day care home without a certificate of registration may be restrained by temporary or permanent injunction. The action may be instituted by the state, a political subdivision of the state, or an interested person.

Sec. 8. Section 239.1, subsection 3, Code 1983, is amended by striking the subsection and inserting in lieu thereof the following:

3. "Dependent child" means a needy child who is under the age of eighteen, or a needy person eighteen years of age who meets the additional eligibility criteria established by federal law or regulation, and who has been deprived of parental support or care by reason of death, continued absence from home, physical or mental incapacity, or partial or total unemployment of the parent, and who is living with a relative specified in 42 U.S.C. sec. 606 and in federal regulations adopted pursuant to that section. However, a child is not a dependent child solely by reason of a parent's absence from the home due to the parent's performance of active duty in the uniformed services of the United States.

Sec. 9. Section 239.9, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

239.9 FUNERAL EXPENSES. The department may pay, from funds appropriated to it for the purpose, a maximum of four hundred dollars toward funeral expenses on the death of a child who is receiving or has been authorized to receive assistance under this chapter, provided:

1. The total expense of the child's funeral does not exceed one thousand dollars.
2. The decedent does not leave an estate which may be probated with sufficient proceeds to allow a funeral claim of at least one thousand dollars.
3. Payments which are due the decedent's estate or beneficiary by reason of the liability of a life insurance, death or funeral benefit company, association, or society, or in the form of United States social security, railroad retirement, or veterans' benefits upon the death of the decedent, are deducted from the department's liability under this section.

Sec. 10. Section 239.12, Code 1983, is amended to read as follows:

239.12 AID TO DEPENDENT CHILDREN ACCOUNT. There is hereby established in the state treasury an account to be known as the "Aid to Dependent Children Account" to which shall be credited all funds appropriated by the state for the payment of assistance and benefits under this chapter, and all other moneys received at any time for such purposes. Moneys assigned to the department under section 239.12 and received by the child support recovery unit pursuant to section 252B.5 and 42 U.S.C. sec. 664 shall be credited to the account in the fiscal year in which the moneys are received. All assistance and benefits under this chapter shall be paid from ~~said~~ the account.

Sec. 11. Section 249.9, Code 1983, is amended to read as follows:

249.9 FUNERAL EXPENSES. The department may pay, from funds appropriated to it for the purpose, a maximum of four hundred dollars toward funeral expenses on the death of ~~any~~ a person receiving state supplementary assistance or who received assistance under a previous categorical assistance program prior to January 1, 1974, provided:

1. The total expense of the person's funeral does not exceed ~~six hundred fifty one thousand~~ six hundred fifty one thousand dollars.
2. ~~That the~~ The decedent does not leave an estate which may be probated, with sufficient proceeds to allow a funeral claim of at least ~~six hundred fifty one thousand~~ six hundred fifty one thousand dollars.
3. ~~That any payment~~ Payments which ~~is~~ are due the decedent's estate or beneficiary by reason of the liability of ~~any~~ a life insurance ~~or,~~ death or funeral benefit company, association or society, or in the form of United States social security, railroad retirement, or veterans' benefits, upon the death of the decedent ~~shall be,~~ are deducted from the department's liability under this section.

Sec. 12. Section 249A.4, subsection 7, Code 1983, is amended to read as follows:

7. Shall provide for the professional freedom of those licensed practitioners who determine the need for or provide medical care and services, ~~and shall provide freedom of choice to recipients to select the provider of such care and services, and for medical direction and supervision as needed~~ except when the recipient is eligible for participation in a health maintenance organization or prepaid health plan which limits provider selection and which is approved by the department. However, this shall not limit the freedom of choice to recipients to select providers in instances where such provider services are eligible for reimbursement under the medical assistance program but are not provided under the health maintenance organization or under the prepaid health plan, or where the recipient has an already established program of specialized medical care with a particular provider. The department may also restrict the recipient's selection of providers to control the individual recipient's overuse of care and services, provided the department can document this overuse. The department shall promulgate rules for determining the overuse of services, including rights of appeal by the recipient.

Sec. 13. Section 249A.4, subsection 8, unnumbered paragraph 1, Code 1983, is amended to read as follows:

Shall advise and consult at least semiannually with a council composed of the president, or ~~his or her~~ the president's representative who is a member of the professional organization represented by the president, of the ~~Iowa Medical Society~~ medical society, the ~~Iowa Society~~ society of Osteopathic Physicians osteopathic physicians and Surgeons surgeons, the ~~Iowa State Dental Society~~ state dental society, the ~~Iowa State Nurses Association~~ state nurses association, the ~~Iowa Pharmaceutical Association~~ pharmacists association, the ~~Iowa Podiatry Society~~ podiatry society, the ~~Iowa Optometric Association~~ optometric association, the community mental health centers association of Iowa, the ~~Iowa psychological association~~, the ~~Iowa Hospital Association~~ hospital association, the ~~Iowa Osteopathic Hospital Association~~ osteopathic hospital association, opticians' association of Iowa ~~Ophthalmic Dispensers, Inc.~~, (~~opticians~~) and the ~~Iowa Nursing Home Association~~ health care association, the ~~Iowa assembly of home health agencies~~, and the ~~Iowa association of homes for the aging~~, together with one person designated by the Iowa state board of chiropractic examiners; one state representative from each of the two major political parties appointed by the speaker of the house, one state senator from each of the two major political parties appointed by the lieutenant governor, each for a term of two years; the president or the president's representative of the association for retarded citizens; four public representatives, two of whom shall be appointed each year by the governor for staggered terms of two years each, and none of whom shall be members of, or practitioners of or have a pecuniary interest in any of the professions or businesses represented by, any of the several professional groups and associations specifically represented on the council under this subsection, and at least one of whom shall be a recipient of medical assistance; the commissioner of public health, or a representative designated by him ~~the commissioner~~, and the dean of the college of medicine, ~~University~~ university of Iowa, or a representative designated by ~~him~~ the dean.

Sec. 14. Section 249A.5, Code 1983, is amended to read as follows:

249A.5 RECOVERY OF PAYMENT. Medical assistance paid to, or on behalf of, any a recipient cannot be recovered from such beneficiary or paid to a provider of services is not recoverable unless such benefit had been the assistance was incorrectly paid. If, while receiving assistance, the recipient becomes possessed of any resource or income in excess of the amount stated in the application provided for in this chapter, it shall be the duty of the recipient immediately to notify the county board of the receipt or possession of such resource or income. When it is found that any person has failed to so notify the board that he is or was possessed of any resource or income in excess of the amount allowed, or when it is found that, within five years prior to the date of his application, a recipient made an assignment or transfer of property for the purpose of rendering himself eligible for assistance under this chapter, any amount of assistance paid in excess of the amount to which the recipient was entitled shall constitute benefits incorrectly paid. Any benefits Assistance incorrectly paid shall be is recoverable from the provider, or from the recipient, while living, as a debt due the state and, upon his the recipient's death, as a claim classified with taxes having preference under the laws of this state.

Sec. 15. Section 249A.6, subsection 4, Code 1983, is amended to read as follows:

4. In the event If a recipient of assistance through the medical assistance program incurs the obligation to pay attorney fees and court costs for the purpose of enforcing a monetary claim to which the department is subrogated under this section, the amount which the department is entitled to recover under subsection 1, or any lesser amount which the department may agree to accept in compromise of its claim, shall be reduced by an amount which bears the same relation to the total amount of attorney fees and court costs actually paid by the recipient as the amount actually recovered by the department, exclusive of the reduction for attorney fees and court costs, bears to the total amount paid by the third party to the recipient

upon the receipt of a judgment or settlement of the claim, the court costs and reasonable attorney fees shall first be deducted from the judgment or settlement. One-third of the remaining balance shall then be deducted and paid to the recipient. From the remaining balance, the claim of the department shall be paid. Any amount remaining shall be paid to the recipient. An attorney acting on behalf of a recipient of medical assistance for the purpose of enforcing a claim to which the department is subrogated shall not collect from the recipient any amount as attorney fees which is in excess of the amount which the attorney customarily would collect on claims not subject to this section.

Sec. 16. Section 252B.4, Code 1983, is amended to read as follows:

252B.4 NONASSISTANCE CASES. The child support and paternity determination services established by the department pursuant to this Act chapter and other appropriate services provided by law including but not limited to the provisions of chapters 239, 252A, 598 and 675 shall be made available by the unit to any an individual not otherwise eligible as a public assistance recipient upon application by the individual for the services. The application shall be filed with the department. The commissioner may require an application fee not to exceed twenty dollars as determined by the commissioner. The commissioner may require an additional fee to cover the costs incurred by the department in providing the support collection and paternity determination services. The commissioner shall, by regulation rule, establish and make available to all applicants for support enforcement and paternity determination services a fee schedule, however, the fee shall not exceed ten percent of any support money recovered by department action. The fee for support collection and paternity determination services charged to an applicant shall be agreed upon in writing by the individual requesting applicant, and shall be based upon the applicant's ability to pay for the services. The application fee and the additional fee for services provided may be deducted from the amount of the support money recovered by the department. Fees Seventy percent of the fees collected pursuant to this section shall may be retained by the department for use by the unit and thirty percent shall be remitted to the treasurer of state who shall deposit them it in the general fund of the state. The commissioner or a designee and the treasurer of state shall keep an accurate record of funds so retained, remitted, and deposited.

Sec. 17. Section 252B.6, subsection 5, Code 1983, is amended to read as follows:

5. Initiate any necessary civil procedures deemed necessary by the department proceedings to secure reimbursement recover from the parent of a child, for money expended by the state in providing public assistance or services to the child, including support collection services.

Sec. 18. Section 252B.7, Code 1983, is amended to read as follows:

#### 252B.7 LEGAL SERVICES.

1. The attorney general may perform the legal services for the child support recovery program and may enforce all laws for the recovery of child support from responsible relatives. The attorney general shall have power to may file and prosecute:

1 a. Contempt of court proceedings to enforce any order of court pertaining to child support.

2 b. Cases under chapter 252A, the Uniform Support of Dependents Law.

3 c. An information charging a violation of section 726.3, 726.5 or 726.6.

4 d. Any other lawful action which will secure collection of support for minor children.

2. For the aforsaid purposes of subsection 1, the attorney general shall have has the same power to commence, file and prosecute any action or information in the proper jurisdiction, which the county attorney could file or prosecute in that jurisdiction. This shall in no way section does not relieve any a county attorney from his or her the county attorney's duties, or the attorney general from the supervisory power of the attorney general, in the recovery of child support.

3. The unit may contract with a county attorney, the attorney general, a clerk of the district court, or another person or agency to collect support obligations and to administer the child support program established pursuant to this chapter. Notwithstanding section 13.7, the unit may contract with private attorneys for the prosecution of civil collection and recovery cases and may pay reasonable compensation and expenses to private attorneys for the prosecution services provided.

Sec. 19. NEW SECTION. 252B.11 RECOVERY OF COSTS OF COLLECTION SERVICES. The unit may initiate necessary civil proceedings to recover the unit's costs of support collection services provided to an individual, whether or not the individual is a public assistance recipient, from an individual who owes and is able to pay a support obligation but willfully fails to pay the obligation. The unit may seek a lump sum recovery of the unit's costs or may seek to recover the unit's costs through periodic payments which are in addition to periodic support payments. If the unit's costs are recovered from an individual owing a support obligation, the costs shall not be deducted from the amount of support money received from the individual. Seventy percent of the costs collected pursuant to this section may be retained by the department for use by the unit and thirty percent shall be remitted to the treasurer of state who shall deposit it in the general fund of the state. The commissioner or a designee and the treasurer of state shall keep an accurate record of funds so retained, remitted, and deposited.

Sec. 20. Section 421.17, subsection 21, Code 1983, is amended to read as follows:

21. To establish and maintain a procedure to set off against a debtor's income tax refund or rebate any debt, which is assigned to the department of social services, ~~or~~ which the child support recovery unit is attempting to collect on behalf of ~~any~~ an individual not eligible as a public assistance recipient, or which the foster care recovery unit of the department of social services is attempting to collect on behalf of a child receiving foster care provided by the department of social services, which has accrued through written contract, subrogation, or court judgment and which is in the form of a liquidated sum due and owing for the care, support or maintenance of a child or which is owed to the state for public assistance overpayments which the office of investigations of the department of social services is attempting to collect on behalf of the state. For purposes of this subsection, "public assistance" means aid to dependent children, medical assistance, food stamps, foster care, and state supplementary assistance. The procedure shall meet the following conditions:

a. Before setoff all outstanding tax liabilities collectible by the department of revenue shall be satisfied except that no portion of a refund or rebate shall be credited against ~~any~~ tax liabilities which are not yet due.

b. Before setoff the child support recovery unit established pursuant to section 252B.2, the foster care recovery unit, and the office of investigations shall obtain and forward to the department of revenue the full name and social security number of the debtor. The department of revenue shall co-operate in the exchange of relevant information with the child support recovery unit as provided in section 252B.9, with the foster care recovery unit, and with the office of investigations. However, only relevant information required by the child support unit, by the foster care recovery unit, or by the office of investigations shall be provided by the department of revenue. The information shall be held in confidence and shall be used for purposes of setoff only.

c. The child support recovery unit, the foster care recovery unit, and the office of investigations shall, at least annually, submit to the department of revenue for setoff the above-mentioned debts described in this subsection, which are at least fifty dollars, on a date or dates to be specified by the department of social services by rule.

d. Upon submission of a claim the department of revenue shall notify the child support recovery unit, the foster care recovery unit, or the office of investigations as to whether the debtor is entitled to a refund or rebate of at least fifty dollars and if so entitled shall notify the

unit or office of the amount of the refund or rebate and of the debtor's address on the income tax return.

e. Upon notice of entitlement to a refund or rebate the child support recovery unit, the foster care recovery unit, or the office of investigations shall send written notification to the debtor, and a copy of the notice to the department of revenue, of the unit's or office's assertion of its rights or the rights of an individual not eligible as a public assistance recipient to all or a portion of the debtor's refund or rebate and the entitlement to recover the debt through the setoff procedure, the basis of the assertion, the opportunity to request that a joint income tax refund or rebate be divided between spouses, the debtor's opportunity to give written notice of intent to contest the claim, and the fact that failure to contest the claim by written application for a hearing will result in a waiver of the opportunity to contest the claim, causing final setoff by default. ~~The Upon application filed with the department within fifteen days from the mailing of the notice of entitlement to a refund or rebate, the child support recovery unit, the foster care recovery unit, or the office of investigations shall upon application grant a hearing pursuant to chapter 17A. Any An appeal taken from the decision of a hearing officer and any subsequent appeals shall be taken pursuant to chapter 17A.~~

f. Upon the timely request of a debtor or a debtor's spouse to the child support recovery unit, the foster care recovery unit, or the office of investigations, filed within fifteen days from the mailing of the notice of entitlement to a refund or rebate, and upon receipt of the full name and social security number of the debtor's spouse, the unit or office shall notify the department of revenue of the request to divide a joint income tax refund or rebate. The department of revenue shall upon receipt of the notice divide a joint income tax refund or rebate between the debtor and the debtor's spouse in proportion to each spouse's net income as determined under section 422.7.

g. The department of revenue shall, after notice has been sent to the debtor by the child support recovery unit, the foster care recovery unit, or the office of investigations, set off the above-mentioned debt against the debtor's income tax refund or rebate if both the debt and the refund or rebate are at least fifty dollars. However, if a debtor has made all current child support or foster care payments in accordance with a court order or an assessment of foster care liability for the twelve months preceding the proposed setoff and has regularly made delinquent child support or foster care payments during those twelve months, the child support or foster care recovery unit shall notify the department of revenue not to setoff set off the debt against the debtor's income tax refund or rebate. If a debtor has made all current repayment of public assistance in accordance with a court order or voluntary repayment agreement for the twelve months preceding the proposed setoff and has regularly made delinquent payments during those twelve months, the office of investigations shall notify the department of revenue not to set off the debt against the debtor's income tax refund or rebate. The department shall refund any balance of the income tax refund or rebate to the debtor. The department of revenue shall periodically transfer the amount set off to the child support recovery unit, the foster care recovery unit, or the office of investigations. If the debtor gives timely written notice of intent to contest the claim the department of social services revenue shall hold the refund or rebate until final disposition of the contested claim pursuant to chapter 17A or by court judgment. The child support recovery unit, the foster care recovery unit, or the office of investigations shall notify the debtor in writing upon completion of setoff.

Sec. 21. Section 421.17, subsection 25, Code 1983, is amended by striking the subsection and inserting in lieu thereof the following:

25. To provide that in the case of multiple claims to refunds or rebates filed under subsections 21 and 23, that priority shall be given to claims filed by the child support recovery unit or the foster care recovery unit under subsection 21, next priority shall be given to claims filed by the college aid commission under subsection 23, and last priority shall be given to claims filed by the office of investigations under subsection 21.

Sec. 22. Section 692.3, subsection 2, Code 1983, is amended to read as follows:

2. Notwithstanding subsection 1, paragraph "a", the department of social services ~~may~~ shall redisseminate criminal history data obtained pursuant to section 692.2, subsection 1, paragraph "c", to persons licensed or registered under chapters 237 and 237A for the purposes of section 237.8, subsection 2 and section 237A.5. Licensees and registrants under either chapter 237 or chapter 237A who receive information pursuant to this subsection shall not use the information other than for purposes of section 237.8, subsection 2 or section 237A.5. A licensee or registrant who uses the information for other purposes or who communicates the information to another except for the purposes of section 237.8, subsection 2 or section 237A.5 is guilty of an aggravated misdemeanor.

Approved May 26, 1983

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## CHAPTER 154

### PERIOD TO CLAIM A REFUND OF CERTAIN TAXES

S.F. 547

**AN ACT** providing for the period in which to claim a refund for taxes paid on a lump sum distribution.

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

Section 1. Section 422.73, subsection 2, Code 1983, is amended by adding the following new unnumbered paragraph:

**NEW UNNUMBERED PARAGRAPH.** Notwithstanding the period of limitation specified, the taxpayer shall have until June 30, 1983, to file a refund claim for a tax paid on the amount of a lump sum distribution for which the taxpayer has elected under section 402(e) of the Internal Revenue Code of 1954 to be separately taxed for federal income tax purposes for the tax year beginning on January 1, 1977 and ending December 31, 1977, and for the tax year beginning on January 1, 1979 and ending December 31, 1979. Interest shall not accrue during the extended period for refund claims authorized by this Act.

Sec. 2. This Act, being deemed of immediate importance, takes effect from and after its publication in The Sioux City Journal, a newspaper published in Sioux City, Iowa, and in The Cedar Rapids Gazette, a newspaper published in Cedar Rapids, Iowa.

Approved May 19, 1983

I hereby certify that the foregoing Act, Senate File 547 was published in The Sioux City Journal, Sioux City, Iowa on May 26, 1983 and in The Cedar Rapids Gazette, Cedar Rapids, Iowa on May 25, 1983.

MARY JANE ODELL *Secretary of State*

**CHAPTER 155**  
**SALES AND USE TAX REFUNDS OR CLAIMS**  
*S.F. 538*

**AN ACT** prohibiting sales and use tax refunds or claims for taxes voluntarily paid based upon an alleged mistake of law under the laws or Constitution of the United States or the Constitution of the State of Iowa and making the Act retroactive.

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

Section 1. Section 422.73, subsection 1, Code 1983, is amended by adding the following new unnumbered paragraph:

**NEW UNNUMBERED PARAGRAPH.** A credit, action, or claim for refund of sales and use taxes voluntarily paid shall not be allowed to the extent that the credit, action, or claim for refund is based upon an alleged mistake of law regarding the validity or legality under the laws or Constitution of the United States or under the Constitution of the State of Iowa, of the tax imposed by division IV of this chapter or by chapter 423. This section prevails over any other statutes authorizing sales or use tax refunds or claims.

Sec. 2. This Act is retroactive to January 1, 1983 and applies to claims filed on or after January 1, 1983.

Sec. 3. This Act, being deemed of immediate importance, takes effect from and after its publication in the Telegraph Herald, a newspaper published in Dubuque, Iowa, and in the Independence Bulletin-Journal, a newspaper published in Independence, Iowa.

Approved May 19, 1983

I hereby certify that the foregoing Act, Senate File 538 was published in the Telegraph Herald, Dubuque, Iowa on May 25, 1983 and in the Independence Bulletin-Journal, Independence, Iowa on May 26, 1983.

MARY JANE ODELL, *Secretary of State*

**CHAPTER 156**  
**PAYMENT OF PROPERTY TAXES**  
*S.F. 23*

**AN ACT** relating to the payment of property taxes by a taxpayer.

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

Section 1. Section 445.5, Code 1983, is amended to read as follows:

445.5 RECEIPT. The treasurer shall in all cases upon request, make out and deliver to the taxpayer a receipt, stating the time of payment, the description and assessed value of each parcel of land, and the assessed value of personal property, the amount of each kind of tax, the interest on each and costs, if any, giving a separate receipt for each year; and he. The treasurer shall make the proper entries of such the payments on the books or other records approved by the state auditor of his office. Such the\* receipt shall be in full of the first or second half or all of such the person's taxes for that year, but the treasurer shall receive the full amount of any county, state, or school tax whenever the same is tendered, and give a separate receipt therefor. Persons whose real property taxes are delinquent may pay to the county treasurer part of the delinquent real property taxes and the county treasurer shall accept payment of part of these delinquent taxes provided that the amount of the payment is equal to the amount of the installment that has been delinquent the longest plus penalties and interest assessed on that delinquent installment. The payment shall not be permitted if taxes have been sold under chapter 446 and under any circumstances shall not constitute an extension of the time period for a sale under section 446.18.

Sec. 2. This Act, being deemed of immediate importance, takes effect from and after its publication in the Ida County Courier, a newspaper published in Ida Grove, Iowa, and in The Sioux City Journal, a newspaper published in Sioux City, Iowa.

Approved May 19, 1983

I hereby certify that the foregoing Act, Senate File 23 was published in The Sioux City Journal, Sioux City, Iowa on May 26, 1983 and in the Ida County Courier, Ida Grove, Iowa on May 25, 1983.

MARY JANE ODELL, *Secretary of State*

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\*According to enrolled Act

**CHAPTER 157**  
**PUBLIC HEARINGS ON LIQUOR STORES**  
*S.F. 73*

**AN ACT** requiring the Iowa beer and liquor control department to hold a local public hearing when a state liquor store is established or discontinued.

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

Section 1. Section 123.20, Code 1983, is amended by adding the following new subsection: NEW SUBSECTION. To appoint a designee to conduct a public hearing upon the establishment or discontinuance of a state liquor store within the city affected.

Sec. 2. Section 123.23, Code 1983, is amended to read as follows:

123.23 STATE LIQUOR STORES. The department shall establish and maintain in any city which the director ~~may deem~~ deems advisable, a state liquor store or stores for storage and sale of alcoholic liquor in accordance with the provisions of this chapter. The department may, from time to time, as determined by the director, fix the prices of the different classes, varieties, or brands of alcoholic liquor to be sold. Prior to a decision to establish, relocate or discontinue a state liquor store, the director shall appoint a designee to conduct a public hearing on the decision within the city affected.

Approved May 27, 1983

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**CHAPTER 158**  
**SALES TAX ON TRADE-IN OF TANGIBLE PERSONAL PROPERTY**  
*S.F. 56*

**AN ACT** relating to the calculation of the sales, services, and use tax on transactions involving the trade-in of tangible personal property.

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

Section 1. Section 422.42, subsection 6, paragraph b, subparagraph (2), Code 1983, is amended to read as follows:

(2) The tangible personal property traded to the retailer is intended by the retailer to be ultimately sold at retail and will be subject to the tax under section 422.43 when sold or is intended to be used by the retailer or another in the remanufacturing of a like item.

Sec. 2. Section 423.1, subsection 3, paragraph b, subparagraph (2), Code 1983, is amended to read as follows:

(2) The tangible personal property traded to the retailer is intended by the retailer to be ultimately sold at retail and will be subject to the tax under section 422.43 or this chapter when sold or is intended to be used by the retailer or another in the remanufacturing of a like item.

Approved May 27, 1983

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**CHAPTER 159**  
**PERSONS WHO MAY SOLEMNIZE MARRIAGES**  
*S.F. 553*

**AN ACT** specifying who may solemnize a marriage.

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

Section 1. Section 595.10, Code 1983, is amended to read as follows:

595.10 WHO MAY SOLEMNIZE. Marriages must may be solemnized by:

1. A judge of the supreme court, court of appeals, or district court, including a district associate judge, or a judicial magistrate.

2. ~~Some minister of the gospel,~~ A person ordained or licensed according to the usages of his designated as a leader of the person's religious denomination faith.

Approved May 27, 1983

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**CHAPTER 160**  
**TAX LAW PENALTIES**  
*H.F. 626*

**AN ACT** relating to penalties for violations of the motor fuel tax, state individual withholding tax, corporate income tax, sales and use tax, and additional property tax relief for elderly and disabled tax laws.

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

Section 1. Section 324.74, unnumbered paragraph 2, Code 1983, is amended by striking the unnumbered paragraph and inserting in lieu thereof the following:

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. 2. Section 324.75, Code 1983, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. 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. 3. Section 422.16, subsection 1, Code 1983, is amended to read as follows:

1. Every withholding agent as defined herein and every employer as defined herein in this chapter and further defined in the Internal Revenue Code of 1954, as amended, with respect to income tax collected at source, making payment of wages as defined herein to either a resident employee or employees, or a nonresident employee or employees, working in Iowa, shall deduct and withhold from such the wages an amount which will approximate the employee's annual tax liability on a calendar year basis, calculated on the basis of tables to be prepared by the department and schedules or percentage rates, based on such the wages, to be prescribed by the department. Every employee or other person shall declare to such the employer or withholding agent the number of his the employee's personal exemptions and dependency exemptions or credits to be used in applying such the tables and schedules or percentage rates, provided that no more such personal or dependency exemptions or credits may be declared by such the employee or other person than the number to which he the employee or other person is entitled. Such The claiming of such exemptions or credits in excess of entitlement shall constitute is a serious misdemeanor.

Sec. 4. Section 422.16, subsection 10, paragraphs a and b, Code 1983, are amended to read as follows:

a. Any An employer or withholding agent required under the provisions of this chapter to furnish a statement required by this chapter who willfully furnishes a false or fraudulent statement, or who willfully fails to furnish such the statement shall is, for each such failure, be subject to a civil penalty of one five hundred dollars, such the penalty to be in addition to any criminal penalty otherwise provided by the Code.

b. Any An employer or withholding agent required under this chapter to withhold taxes on wages or other taxable Iowa income subject to this chapter who fails to file a semimonthly, monthly, or quarterly deposit form for the withholding of tax with the department on or before the due date, unless it is shown that the failure was due to reasonable cause, is subject to a penalty determined by adding to the amount required to be shown as tax due on the semimonthly, monthly, or quarterly deposit form five percent of the amount of the tax if the failure is for not more than one month, with an additional five percent for each additional month or fraction of a month during which the failure continues, not exceeding twenty-five percent in the aggregate. If any person or withholding agent fails to remit at least ninety percent of the tax due with the filing of the semimonthly, monthly, or quarterly deposit form on or before the due date, or pays less than ninety percent of any tax required to be shown on the semimonthly, monthly, or quarterly deposit form, unless it is shown that the failure was due to reasonable cause, there shall be added to the tax a penalty of five percent of the amount of the tax due, if the failure is for not more than one month, with an additional five percent for each additional month or fraction of a month during which the failure continues, not exceeding twenty-five percent in the aggregate. When penalties are applicable for failure to file a semimonthly, monthly, or quarterly deposit form and failure to pay the tax due or required on the semimonthly, monthly, or quarterly deposit form, the penalty provision for failure to file is

in lieu of the penalty provision for failure to pay the tax due or required on the semimonthly, monthly, or quarterly deposit form. In the case of willful failure to file a semimonthly, monthly, or quarterly deposit form with intent to evade tax or willful filing of a false semimonthly, monthly, or quarterly deposit form with intent to evade tax, in lieu of the penalty otherwise provided in this paragraph, there is added to the amount required to be shown as tax on the semimonthly, monthly, or quarterly deposit form, fifty percent of the amount of the tax. The taxpayer shall also pay interest on the tax or additional tax at the rate in effect under section 421.7, for each month counting each fraction of a month as an entire month, computed from the date the semimonthly, monthly, or quarterly deposit form was required to be filed. The penalty and interest become a part of the tax due from the withholding agent.

Sec. 5. Section 422.25, subsections 5 and 8, Code 1983, are amended to read as follows:

5. Any A person or withholding agent required to supply any information, to pay any tax, or to make, sign, or file any a semimonthly, monthly, or quarterly deposit form or return or supplemental return, who willfully makes any a false or fraudulent semimonthly, monthly, or quarterly deposit form or return, or willfully fails to pay such the tax, supply such the information, or make, sign, or file such the semimonthly, monthly, or quarterly deposit form or return, at the time or times required by law, shall be is guilty of a fraudulent practice.

8. Any A person or withholding agent who willfully attempts in any manner to defeat or evade any a tax imposed by this division or the payment thereof of the tax, shall upon conviction for each such offense be is guilty of a class "D" felony.

Sec. 6. Section 422.40, subsection 4, Code 1983, is amended to read as follows:

4. Any A person, or any officer or employee of any a corporation, or member or employee of any a partnership, who, with intent to evade any a requirement of this division or any a lawful requirement of the director thereunder, shall fail fails to pay any tax or fails to make, sign, or verify any a return or fails to supply any information required by or under the provisions of this division, shall be is guilty of a serious misdemeanor fraudulent practice. Any A person, corporation, or any officer or employee of a corporation, or member or employee of any a partnership, who, with intent to evade any of the requirements of this division, or any lawful requirements of the director thereunder, shall make, render, sign, or verify any makes, renders, signs, or verifies a false or fraudulent return or statement, or shall supply any supplies false or fraudulent information, or who shall aid, abet, direct, cause, or who shall procure aids, abets, directs, causes, or procures anyone so to do, shall be is guilty of a fraudulent practice class "D" felony. Such The penalty shall be is in addition to all other penalties in this division provided.

Sec. 7. Section 422.58, subsections 1, 3, and 5, Code 1983, are amended to read as follows:

1. If a person fails to file a permit holder's semimonthly or monthly tax deposit form or a return with the department on or before the due date, unless it is shown that the failure was due to reasonable cause, there shall be added to the amount required to be shown as tax on the semimonthly or monthly tax deposit form or return five percent of the amount of the tax if the failure is for not more than one month, with an additional five percent for each additional month or fraction of a month during which the failure continues, not exceeding twenty-five percent in the aggregate. If a person or permit holder fails to remit at least ninety percent of the tax due with the filing of the semimonthly or monthly tax deposit form or return on or before the due date, or pays less than ninety percent of any tax required to be shown on the return, excepting the period between the completion of an examination of the books and records of a taxpayer and the giving of notice to the taxpayer that a tax or additional tax is due, there shall be added to the tax a penalty of five percent of the amount of the tax due, if the failure is for not more than one month, with an additional five percent for each additional month or fraction of a month the failure continues, not exceeding twenty-five percent in the aggregate, unless it is shown that the failure was due to reasonable cause. In case of willful

failure to file a semimonthly or monthly tax deposit form or return, willful filing of a false semimonthly or monthly tax deposit form or return or willful filing of a false or fraudulent semimonthly or monthly tax deposit form or return with intent to evade tax, in lieu of the penalty otherwise provided in this subsection, there shall be added to the amount required to be shown as tax on the semimonthly or monthly tax deposit form or return fifty percent of the amount of the tax. When penalties are applicable for failure to file a semimonthly or monthly tax deposit form or return and failure to pay at least ninety percent of the tax due or required on the semimonthly or monthly tax deposit form or return, the penalty for failure to file is in lieu of the penalty for failure to pay at least ninety percent of the tax due or required on the semimonthly or monthly tax deposit form or return. The taxpayer shall also pay interest on the tax or additional tax at the rate in effect under section 421.7 for each month counting each fraction of a month as an entire month, computed from the date the semimonthly or monthly tax deposit form or return was required to be filed. The penalty and interest shall be paid to the department and disposed of in the same manner as other receipts under this division. Unpaid penalties and interest may be enforced in the same manner as the tax imposed by this division.

3. Any A person who willfully attempts to evade a tax imposed by this division or the payment thereof of the tax or any a person who makes or causes to be made any a false or fraudulent semimonthly or monthly tax deposit form or return with intent to evade the tax imposed by this division or the payment thereof shall be of the tax is guilty of a fraudulent practice class "D" felony.

5. A person required to pay a tax, or to make, sign, or file a semimonthly or monthly tax deposit form or return or supplemental return, who willfully makes a false or fraudulent semimonthly or monthly tax deposit form or return, or willfully fails to pay at least ninety percent of the tax or willfully fails to make, sign, or file the semimonthly or monthly tax deposit form or return, at the time required by law, is guilty of a fraudulent practice.

Sec. 8. Section 423.18, subsections 2 and 3, Code 1983, are amended to read as follows:

2. A person who willfully attempts in any manner to evade a tax imposed by this chapter or the payment of ninety percent thereof of the tax, or a person who makes or causes to be made any false or fraudulent monthly deposit form or return with intent to evade the tax imposed by this chapter or the payment of ninety percent thereof of the tax is guilty of a fraudulent practice class "D" felony.

3. A person required to pay tax, or to make, sign or file a monthly deposit form or return, or supplemental return, who willfully makes a false or fraudulent monthly deposit form or return, or who willfully fails at the time required by law to pay the tax or fails to make, sign or file the monthly deposit form or return, at the time required by law, is guilty of a fraudulent practice.

Sec. 9. Section 423.26, Code 1983, is amended to read as follows:

423.26 PENALTY FOR FALSE STATEMENT. Any A person who willfully makes any a false statement in regard to the purchase price of a vehicle subject to taxation under section 423.7 is guilty of a simple misdemeanor fraudulent practice.

Sec. 10. Section 425.29, Code 1983, is amended to read as follows:

425.29 FALSE CLAIM—PENALTY. Any A person making 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 shall be without being legally entitled to it is guilty of a simple misdemeanor fraudulent practice. An action Prosecution under this section shall be brought in the county in which the affidavit was filed 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 shall send a notice of disallowance of the claim.

Approved May 31, 1983

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**CHAPTER 161**  
**REFUND OF PRORATE REGISTRATION FEE**  
*H.F. 630*

**AN ACT** relating to the refund of prorated registration fees.

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

Section 1. Section 326.15, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

**326.15 REFUNDS OF REGISTRATION FEES.** The refund of registration fees paid for motor vehicles under this chapter is allowed, except that no refund shall be allowed and paid if the unused portion of the fee is less than ten dollars per vehicle. Refunds shall be made as follows:

1. If the motor vehicle is destroyed by fire or accident, or junked and its identity as a motor vehicle is entirely eliminated, the owner in whose name the motor vehicle was registered at the time of destruction or dismantling shall return the plates to the department and make a claim for refund. A refund is not allowed unless a junking certificate has been issued, as provided in section 321.52.

2. If the motor vehicle is removed from the apportioned fleet, the owner in whose name the motor vehicle was registered shall return the plates to the department and make a claim for refund. A refund shall not be allowed without documentation of the subsequent registration of the motor vehicle.

3. If the motor vehicle is stolen, the owner shall give notice of the theft to the department within five days. If the motor vehicle is not recovered by the owner before December 1 of the year for which the registration fee was paid, the owner shall make a statement of theft and make a claim for refund.

4. If the composite percentage apportioned by an owner on a fleet of vehicles based in Iowa to each of the jurisdictions with which Iowa has an apportionment agreement is more than one hundred percent, the fleet owner may file a claim with the department for a refund of registration fees paid in excess of one hundred percent, except when percentages are computed over one hundred percent as specified in section 326.8. The claim for refund shall be filed on or after December 1 of the year for which refund is requested, and the fleet owner shall furnish satisfactory evidence of the alleged overpayment. The department shall prescribe and provide suitable forms requisite or deemed necessary to process claims and ensure that claims are paid to fleet owners who have complied with proportional registration requirements. A

fleet owner may elect to apply a refund to proportional registration fees payable the next registration year in lieu of receiving a refund payable under this section. The state of Iowa is not liable for claims unless filed within four full years following the calendar year for which the application is made.

5. If as a result of an audit the motor vehicle registration fees are found to have been paid in error, a claim for refund shall be filed with satisfactory evidence of the error.

A refund for trailers and semitrailers issued multiyear registration plates shall be paid by the department under the previously stated conditions.

Refunds of proportional registration fees are allowed only if the state which issued the base plate for the vehicle allows a similar refund to Iowa carriers. If the motor vehicle for which refund is sought is leased by the owner to an apportioned registrant, the claim shall be filed in the names of both the lessee and the lessor and the refund payment made payable to both the lessee and the lessor.

Refunds of proportional registration fees shall be paid on the basis of unexpired complete calendar months remaining from the date the claim is filed with the department. Refunds for trailers and semitrailers issued a multiyear registration plate shall be paid on the basis of unexpired complete registration years remaining from the date the claim is filed.

Approved May 31, 1983

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## CHAPTER 162

### REFUND OF CERTAIN SALES, SERVICES, AND USE TAXES

*H.F. 69*

**AN ACT** relating to the refund of state sales, services, and use tax paid by contractors upon goods, wares, or merchandise or from services rendered, furnished, or performed to a contractor used in the performance of a contract for the state, a political subdivision, or an instrumentality of the state or a political subdivision, and making the bill retroactive.

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

Section 1. Section 422.45, subsection 7, unnumbered paragraph 1, Code 1983, is amended to read as follows:

Any A private nonprofit educational institution in this state or any a tax-certifying or tax-levying body of the state of Iowa or governmental subdivision thereof of the state, including the state board of regents, state department of social services, state department of transportation, any a municipally owned solid waste facility which sells all or part of its processed waste as fuel to a municipally owned public utility, and all divisions, boards, commissions, agencies or instrumentalities of state, federal, county or municipal government which do not have no earnings going to the benefit of an equity investor or stockholder may make application to the department for the refund of any the sales, services, or use tax upon the gross receipts of all sales of goods, wares or merchandise, or from services rendered, furnished, or

performed, to ~~any~~ a contractor, used in the fulfillment of ~~any~~ a written contract with the state of Iowa, any political subdivision ~~thereof~~ of the state, or ~~any~~ a division, board, commission, agency or instrumentality ~~thereof~~ of the state or a political subdivision, or ~~any~~ a private non-profit educational institution in this state ~~which~~, if the property becomes an integral part of the project under contract and at the completion ~~thereof~~ of the project becomes public property, or is devoted to educational uses ~~as specified in this subsection~~; except goods, wares or merchandise or services rendered, furnished, or performed used in the performance of any contract in connection with the operation of any municipal utility engaged in selling gas, electricity, or heat to the general public; and ~~excepting such~~ except goods, wares, and merchandise used in the performance of ~~any~~ a contract for a "project" under chapter 419 as defined ~~therein~~ in that chapter other than goods, wares or merchandise used in the performance of ~~any~~ a contract for ~~any~~ a "project" under ~~said~~ chapter 419 for which a bond issue was or will have been approved by a municipality prior to July 1, 1968, or for which the goods, wares, or merchandise becomes an integral part of the project under contract and at the completion of the project becomes public property or is devoted to educational uses.

Sec. 2. This Act is retroactive to November 1, 1982 for the sales, services, or use tax paid upon the gross receipts of the sales of goods, wares, or merchandise, occurring on or after November 1, 1982.

Approved May 31, 1983

## CHAPTER 163

### RESIDENCE QUALIFICATION FOR DRAINAGE DISTRICT TRUSTEE

*H.F. 42*

AN ACT relating to the residence qualification for election to the office of levee or drainage district trustee.

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

Section 1. Section 462.1, Code 1983, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A district under the control of a city council as provided in chapter 459 may be placed under the control and management of a board of trustees by the city council following the procedures provided in this chapter for the county board of supervisors.

Sec. 2. Section 462.7, Code 1983, is amended to read as follows:

462.7 ELIGIBILITY OF TRUSTEES. Each trustee shall be a citizen of the United States not less than eighteen years of age, ~~the~~ and one of the following:

1. The bona fide owner of agricultural land in the election district for which he or she the trustee is elected, and a resident of the county in which that district is located or of a county which is contiguous to or corners on that county.

2. The bona fide owner of nonagricultural land in the election district for which the trustee

is elected, and a resident of that district. This subsection applies only when the election district is wholly within the corporate limits of a city.

3. A stockholder of a family farm corporation as defined in section 172C.1, subsection 8, which owns land in the election district who is a resident of the county in which that district is located or of a county which is contiguous to or corners on that county.

4. In a district which is a levee and drainage district which has eighty-five percent of its acreage within the corporate limits of a city and has been under the control of a city under chapter 459, a bona fide owner of benefited land in the district. If the owner is a family farm corporation as defined by section 172C.1, subsection 8, a business corporation organized and existing under chapter 491, 494, or 496A, or a partnership, a stockholder or officer authorized by the corporation or a general partner may be elected as a trustee of the district.

Approved May 31, 1983

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## CHAPTER 164

### GAMING LICENSE FOR POLITICAL PARTIES AND CANDIDATES

H.F. 176

**AN ACT** providing that a political party or candidate committee or party organization is a qualified organization for the purpose of conducting games of skill, games of chance, and raffles and providing that a political party or party organization may contract with another qualified organization to conduct the games of skill, games of chance, or raffles.

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

Section 1. Section 99B.7, subsection 1, paragraph m, Code 1983, is amended to read as follows:

m. The person or organization conducting the game can show to the satisfaction of the department that it the person or organization is eligible for exemption from federal income taxation under either section 501(c)(3), 501(c)(5), 501(c)(6), 501(c)(10) or 501(c)(19) of the Internal Revenue Code, as defined in section 422.4. However, this paragraph does not apply to a political party as defined in section 43.2 or, to a nonparty political organization that has qualified to place a candidate as its nominee for statewide office pursuant to chapter 44, or to a candidate committee as defined in section 56.2.

Sec. 2. Section 99B.7, Code 1983, is amended by adding the following new subsection:

**NEW SUBSECTION. 5.** A political party or a political party organization is a qualified organization within the meaning of this chapter. Political parties or party organizations may contract with other qualified organizations to conduct the games of skill, games of chance, and raffles which may lawfully be conducted by the political party or party organization. A licensed qualified organization may promote the games of skill, games of chance, and raffles which it may lawfully conduct.

Approved May 31, 1983

**CHAPTER 165****CIGARETTE AND LITTLE CIGAR TAX***S.F. 543*

**AN ACT** relating to cigarettes and little cigars by striking language which terminates the temporary tax increase imposed on cigarettes and little cigars and makes the tax permanent and by striking language which terminates the two percent discount rate for the sale of cigarette stamps decreasing the percent that cigarettes are required to be marked up, and computing the markup on only one-half of the cigarette tax.

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

Section 1. 1981 Iowa Acts, chapter 43, section 1, amending section 98.6, Code 1981, is amended to read as follows:

SECTION 1. Section 98.6, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. Notwithstanding subsection 1, there is imposed for the fiscal biennium beginning July 1, 1981 and ending June 30, 1983 and shall be collected and paid to the department a tax on all cigarettes used or otherwise disposed of in this state for any purpose at the rate of nine mills on each cigarette which shall not be considered as part of the basic cost of cigarettes as defined in section 551A.2.

Sec. 2. 1981 Iowa Acts, chapter 43, section 2, amending section 98.8, subsection 1, Code 1981, is amended to read as follows:

SEC. 2. Section 98.8, subsection 1, Code 1981, 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 permit which has not been revoked and to no other person. Stamps shall be sold to the permit holders at a discount of not to exceed five percent of the face value. However, for the fiscal biennium beginning July 1, 1981 and ending June 30, 1983, stamps shall be sold to 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. 3. Section 551A.2, subsection 8, Code 1983, is amended to read as follows:

8. "Basic cost of cigarettes" shall mean whichever of the two following amounts is lower, namely: (a) the true invoice cost of cigarettes to the wholesaler or retailer, as the case may be, or (b) the lowest replacement cost of cigarettes to the wholesaler or retailer in the quantity last purchased, less, in either case, all trade discounts and customary discounts for cash, plus one-half of the full face value of any stamps which may be required by any cigarette tax Act of this state, unless included by the manufacturer in his list price.

Sec. 4. Section 551A.2, subsection 9, paragraph b, Code 1983, is amended to read as follows:

b. The cost of doing business by the wholesaler is presumed to be four three percent of the basic cost of said cigarettes in the absence of proof of a lesser or higher cost, plus which includes cartage to the retail outlet, if furnished or paid for by the wholesaler plus the full face value of any stamps which may be required by any cigarette tax Act of this state to the extent not already included in the basic cost of cigarettes. Such cartage cost is presumed to be one-half of one percent of the basic cost of the cigarettes in the absence of proof of a lesser or higher cost.

Sec. 5. Section 551A.2, subsection 10, paragraph b, Code 1983, is amended to read as follows:

b. The cost of doing business by the said retailer is presumed to be ~~eight~~ six percent of the basic cost of cigarettes in the absence of proof of a lesser or higher cost plus the full face value of any stamps which may be required by any cigarette tax Act of this state to the extent not already included in the basic cost of cigarettes.

Approved June 1, 1983

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## CHAPTER 166

### HEALTH INSURANCE COVERAGE OF OPTOMETRIC SERVICES

S.F. 178

**AN ACT** relating to the inclusion of optometric services in health insurance policies or contracts if the vision care services or procedures are covered when performed by other health care providers.

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

Section 1. Section 509.3, Code 1983, is amended by adding the following new subsection after subsection 4:

**NEW SUBSECTION. 4A.** A provision shall be made available to policyholders, under group policies covering vision care services or procedures, for payment of necessary medical or surgical care and treatment provided by an optometrist licensed under chapter 154 if the care and treatment are provided within the scope of the optometrist's license and if the policy would pay for the care and treatment if the care and treatment were provided by a person engaged in the practice of medicine or surgery as licensed under chapter 148 or 150A. The policy shall provide that the policyholder may reject the coverage or provision if the coverage or provision for services which may be provided by an optometrist is rejected for all providers of similar vision care services as licensed under chapter 148, 150A, or 154. This subsection applies to group policies delivered or issued for delivery after July 1, 1983, and to existing group policies on their next anniversary or renewal date, or upon expiration of the applicable collective bargaining contract, if any, whichever is later. This subsection does not apply to blanket, short-term travel, accident only, limited or specified disease, or individual or group conversion policies, or policies designed only for issuance to persons for coverage under Title XVIII of the Social Security Act, or any other similar coverage under a state or federal government plan.

Sec. 2. Section 514.7, Code 1983, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 1:

**NEW UNNUMBERED PARAGRAPH.** A provision shall be available in approved contracts with hospital and medical service corporate subscribers under group subscriber contracts or plans covering vision care services or procedures, for payment of necessary medical or surgical care and treatment provided by an optometrist licensed under chapter 154, if the

care and treatment are provided within the scope of the optometrist's license and if the subscriber contract would pay for the care and treatment if it were provided by a person engaged in the practice of medicine or surgery as licensed under chapter 148 or 150A. The subscriber contract shall also provide that the subscriber may reject the coverage or provision if the coverage or provision for services which may be provided by an optometrist is rejected for all providers of similar vision care services as licensed under chapter 148, 150A, or 154. This paragraph applies to group subscriber contracts delivered after July 1, 1983, and to group subscriber contracts on their anniversary or renewal date, or upon the expiration of the applicable collective bargaining contract, if any, whichever is the later. This paragraph does not apply to contracts designed only for issuance to subscribers eligible for coverage under Title XVIII of the Social Security Act, or any other similar coverage under a state or federal government plan.

Sec. 3. Section 514B.1, subsection 2, Code 1983, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The health care services available to enrollees under prepaid group plans covering vision care services or procedures, shall include a provision for payment of necessary medical or surgical care and treatment provided by an optometrist licensed under chapter 154, if performed within the scope of the optometrist's license, and the plan would pay for the care and treatment when the care and treatment were provided by a person engaged in the practice of medicine or surgery as licensed under chapter 148 or 150A. The plan shall provide that the plan enrollees may reject the coverage for services which may be provided by an optometrist if the coverage is rejected for all providers of similar vision care services as licensed under chapter 148, 150A, or 154. This paragraph applies to services provided under plans made after July 1, 1983, and to existing group plans on their next anniversary or renewal date, or upon the expiration of the applicable collective bargaining contract, if any, whichever is the later. This paragraph does not apply to enrollees eligible for coverage under Title XVIII of the Social Security Act or any other similar coverage under a state or federal government plan.

Approved June 1, 1983

**CHAPTER 167**  
**SEXUAL EXPLOITATION OF CHILDREN**  
*S.F. 496*

**AN ACT** relating to the promotion of the sexual exploitation of children and providing penalties.

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

Section 1. Section 728.1, Code 1983, is amended by adding the following new subsection:

**NEW SUBSECTION. 9.** "Promote" means to procure, manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmute, transmit, publish, distribute, circulate, disseminate, present, exhibit, or advertise, or to offer or agree to do any of these acts.

Sec. 2. Section 728.3, Code 1983, is amended to read as follows:

**728.3 ADMITTING MINORS TO PREMISES WHERE OBSCENE MATERIAL IS EXHIBITED.**

1. ~~Any~~ A person who knowingly sells, gives, delivers, or provides a minor who is not a child with a pass or admits a the minor to premises where obscene material is exhibited is guilty of a public offense and shall upon conviction be is guilty of a serious misdemeanor.

2. A person who knowingly sells, gives, delivers, or provides a child with a pass or admits a child to a premise where obscene material is exhibited is guilty of a public offense and upon conviction is guilty of an aggravated misdemeanor.

Sec. 3. Section 728.4, Code 1983, is amended to read as follows:

**728.4 SALE OF HARD CORE PORNOGRAPHY.** ~~Any~~ A person who knowingly sells or offers for sale material depicting a sex act involving sadomasochistic abuse, excretory functions, a child, or bestiality, which the average adult taking the material as a whole in applying contemporary community standards would find appeals to the prurient interest and is patently offensive; and which material, taken as a whole, lacks serious literary, scientific, political, or artistic value shall, upon conviction be is guilty of an aggravated misdemeanor. Charges under this section may only be brought by a county attorney or by the attorney general.

Sec. 4. Section 728.12, Code 1983, is amended to read as follows:

**728.12 SEXUAL EXPLOITATION OF CHILDREN.**

1. A person commits a class "C" felony when he or she the person employs, uses, persuades, induces, entices, coerces, knowingly permits, or otherwise causes a child to engage in a prohibited sexual act or in the simulation of a prohibited sexual act if the person knows, has reason to know, or intends that the act or simulated act may be photographed, filmed, or otherwise preserved in a negative, slide, book, magazine, or other print or visual medium.

2. A person commits a class "D" felony when the person knowingly promotes any material visually depicting a live performance of a child engaging in a prohibited sexual act or in the simulation of a prohibited sexual act.

However, this section does not apply to law enforcement officers, court personnel, licensed physicians, licensed psychologists, or attorneys in the performance of their official duties.

Sec. 5. Section 728.13, Code 1983, is amended to read as follows:

728.13 FORFEITURE. Everything of value that is furnished or intended to be furnished in exchange for material in violation of section 728.2, or 728.4, or 728.12, subsection 2, all proceeds traceable to such an exchange, and all property, moneys, negotiable instruments, and securities used or intended to be used to facilitate a violation of those sections, and all assets traceable to the violation of those sections, is subject to forfeiture. However, property shall not be forfeited under this paragraph, to the extent of the interest of an owner, if the owner did not have knowledge of or did not consent to the violation of the chapter. The burden of proof is upon claimants of the property to rebut this presumption.

Approved June 1, 1983

## CHAPTER 168

### PROTECTION OF WILD MAMMALS, FISH, BIRDS, REPTILES, AND AMPHIBIANS

*H.F. 343*

**AN ACT** authorizing the conservation commission to protect and manage wild game and nongame mammals, birds, reptiles, amphibians, and fish.

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

Section 1. Section 107.23, unnumbered paragraph 1, Code 1983, is amended to read as follows:

It shall be the duty of the ~~The commission to~~ shall protect, propagate, increase, and preserve the ~~fish, game, furbearing animals and protected birds~~ wild mammals, fish, birds, reptiles, and amphibians of the state and ~~to enforce by proper actions and proceedings the laws, rules, and regulations relating thereto to them.~~ The commission shall collect, classify, and preserve all statistics, data, and information as in its opinion shall tend to promote the objects of this chapter; ~~shall,~~ conduct research in improved conservation methods, and disseminate information to residents and nonresidents of Iowa in conservation matters.

Sec. 2. Section 107.24, subsection 2, paragraph b, Code 1983, is amended to read as follows:

b. Fish hatcheries, fish nurseries, game farms, and ~~fish, game, furbearing animal and protected bird~~ wild mammal, fish, bird, reptile, and amphibian refuges.

Sec. 3. Section 107.24, subsection 4, Code 1983, is amended to read as follows:

4. Capture, propagate, buy, sell, or exchange any species of ~~fish, game, fur-bearing animals and protected birds~~ wild mammal, fish, bird, reptile, and amphibian needed for stocking the lands or waters of the state, and to feed, provide for, and care for ~~such fish, animals and birds~~ them.

Sec. 4. Section 107.24, subsection 8, Code 1983, is amended to read as follows:

8. Control by shooting or trapping any ~~fish, game, fur-bearing animals and protected birds~~ wild mammal, fish, bird, reptile, and amphibian for the purpose of preventing the destruction of or damage to private or public property, but shall not go upon private property for ~~such that~~ purpose without the consent of the owner or occupant ~~thereof.~~

Sec. 5. Section 109.1, Code 1983, is amended by adding the following new subsection after subsection 13:

**NEW SUBSECTION. 13A.** "Wild mammal" means a mammal and family of mammal listed in sections 109.40 and 109.41.

Sec. 6. Section 109.42, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

109.42 **NONGAME PROTECTED.** Protected nongame species include wild fish, birds, reptiles, and amphibians, and a product, egg, or offspring of them, and a dead body or part of a body. However, nongame does not include game, fish, fur-bearing animals, turtles, or frogs, as defined in this chapter. The commission shall designate by rule those species of nongame which by their abundance or habits are declared a nuisance, and these species shall not be protected.

Approved June 2, 1983

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**CHAPTER 169**  
**REGULATION OF SECURITIES**  
*H.F. 514*

**AN ACT** amending the Iowa Uniform Securities Act, and providing a civil penalty.

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

Section 1. Section 19A.3, Code 1983, is amended by adding the following new subsection:

**NEW SUBSECTION. 22.** The deputy administrator in charge of securities within the department of insurance as designated pursuant to section 502.601.

Sec. 2. Section 502.102, subsection 4, paragraph d, subparagraph (2), Code 1983, is amended to read as follows:

(2) During any period of twelve consecutive months does not ~~direct more than fifteen offers to sell or buy into effect transactions in this state in any manner to with more than three persons other than those specified in subparagraph (1) of this paragraph, whether or not the offeror or any of the offerees is then present in this state;~~

Sec. 3. Section 502.202, subsection 11, Code 1983, is amended to read as follows:

11. ~~Any A~~ security issued in connection with an employee stock purchase, option, savings, pension, profit sharing or similar benefit plan, provided, in the case of plans which are not qualified under section 401 of the Internal Revenue Code of 1954 and which provide for contribution by employees, the administrator is notified in writing ~~thirty fifteen~~ days before the inception of the plan of the terms of the plan.

Sec. 4. Section 502.203, subsection 8, Code 1983, is amended to read as follows:

8. ~~Any An~~ offer or sale to a bank, savings institution, trust company, insurance company, investment company as defined in the Investment Company Act of 1940, pension or profit sharing trust, or other financial institution or institutional buyer, or to a broker-dealer, whether the purchaser is acting for itself or in a fiduciary capacity. However, the administrator, by rule or order, may grant this exemption to a person or class of persons based upon the factors of financial sophistication, net worth, and the amount of assets under investment.

Sec. 5. Section 502.203, subsection 9, Code 1983, is amended by striking the subsection and inserting in lieu thereof the following:

9. The sale, as part of a single issue, of securities by the issuer of the securities if all of the following conditions are satisfied:

a. Within any period of twelve consecutive months, sales are made to less than thirty-six purchasers in this state, exclusive of purchases by bona fide institutional investors for their own account for investment.

b. Unless permitted by the administrator by rule, or by order issued upon written application showing good cause for the allowance of the sale, the issue is not an issue of:

(1) Fractional undivided interests in oil, gas, or other mineral leases, rights, or royalties.

(2) Interests in a partnership organized under the laws of or having its principal place of business in a foreign jurisdiction.

c. The issuer reasonably believes that all the buyers in this state are purchasing for investment.

d. Commission or other remuneration is not paid or given, directly or indirectly, for the sale, except as may be permitted by the administrator by rule, or by order issued upon written application showing good cause for allowance of commission or other remuneration.

e. The issuer or a person acting on behalf of the issuer does not offer or sell the securities by any form of general solicitation or advertising.

Sec. 6. Section 502.203, Code 1983, is amended by adding the following new subsection:

**NEW SUBSECTION. 16.** The administrator may create by rule a limited offering transactional exemption which furthers the objectives of compatibility with federal exemptions and uniformity among the states and provides criteria to determine and assure the suitability of investors.

Sec. 7. Section 502.203, subsection 12, Code 1983, is amended to read as follows:

12. ~~Any~~ An offer, but not a sale, of a security for which a registration statement has been filed under this chapter or a written notice has been filed pursuant to section 502.202, subsection 1, 9, or 11 if no stop order or suspension or denial order is in effect and no proceeding is pending under this chapter.

Sec. 8. Section 502.209, Code 1983, is amended by adding the following new subsection:

**NEW SUBSECTION. 6. a.** Subsection 1, paragraphs e and h, shall not apply to the registration of an issue offered by a person whose principal place of business is in this state. However, the provisions of subsection 1, paragraph e relating to fraud shall apply to such persons.

b. The administrator may adopt rules to:

(1) Implement paragraph a and delineate the format and process to be used.

(2) Provide procedural safeguards, if the administrator finds these safeguards are necessary.

Sec. 9. Section 502.301, subsection 3, Code 1983, is amended to read as follows:

3. Every registration shall expire on the last day of ~~September~~ December in each year.

Sec. 10. Section 502.302, subsection 1, Code 1983, is amended to read as follows:

1. A broker-dealer or agent may obtain an initial or renewal license by filing with the administrator, or an organization which the administrator by rule designates, an application together with a consent to service of process pursuant to section 502.609 and the appropriate filing fee. The application shall contain ~~whatever~~ the information the administrator ~~by rule~~ requires by rule concerning the applicant's form and place of organization, proposed method of doing business and financial condition, the qualifications and experience of the applicant, including, in the case of a broker-dealer, the qualifications and experience of any partner, officer,

director or controlling person, any injunction or administrative order or conviction of a misdemeanor involving securities and any conviction of a felony, and any other matters which the administrator determines are relevant to the application. If no denial order is in effect and no proceeding is pending under section 502.304, registration becomes effective at noon of the thirtieth day after an application is filed. The administrator may by rule or order specify an earlier effective date and may by order defer the effective date until noon of the thirtieth day after the filing of ~~any an~~ amendment. Registration of a broker-dealer automatically constitutes registration of ~~any an~~ agent named in the application or amendments ~~thereto~~ to the application who is a partner, officer or director, or who is a person occupying a similar status or performing similar functions.

Sec. 11. Section 502.303, subsection 4, Code 1983, is amended to read as follows:

4. The administrator shall make periodic examinations, within or without this state, of the business and records of each registered broker-dealer, at ~~such~~ the times and in ~~such~~ the scope as the administrator determines. The examinations may be made without prior notice to the broker-dealer. The administrator may copy all records the administrator feels are necessary to conduct the examination. The expense reasonably attributable to ~~any such an~~ examination shall be paid by the broker-dealer whose business is examined, but the expense so payable shall not exceed an amount which the administrator by rule prescribes. For the purpose of avoiding unnecessary duplication of examinations, the administrator may co-operate with securities administrators of other states, the securities and exchange commission, and any national securities exchange or national securities association registered under the Securities Exchange Act of 1934. The administrator shall not make public the information obtained in the course of examinations, except when ~~any a~~ duty under this chapter requires the administrator to take action regarding ~~any a~~ broker-dealer or to make the information available to one of the agencies specified ~~herein~~ in this section, or except when the administrator is called as a witness in any a criminal or civil proceeding.

Sec. 12. Section 502.304, subsection 1, unnumbered paragraph 1, Code 1983, is amended to read as follows:

The administrator may by order deny, suspend or revoke ~~any a~~ registration or may censure ~~any an~~ applicant or registrant or may impose a civil penalty, if the order is found to be in the public interest and it is found that the applicant or registrant or, in the case of a broker-dealer, ~~any a~~ partner, ~~an~~ officer, or a director, ~~any a~~ person occupying a similar status or performing similar functions, or ~~any a~~ person directly or indirectly controlling the broker-dealer:

Sec. 13. Section 502.304, Code 1983, is amended by adding the following new subsection:

NEW SUBSECTION. 7. A civil penalty levied under subsection 1 shall not exceed two hundred fifty dollars per violation per person nor ten thousand dollars in a single proceeding against any one person. All administrative fines received shall be deposited in the state general fund.

Sec. 14. Section 502.404, Code 1983, is amended to read as follows:

502.404 PROHIBITED TRANSACTIONS OF BROKER-DEALERS AND AGENTS. No A broker-dealer or agent shall not effect any a transaction in, or induce or attempt to induce the purchase or sale of, any security in this state by means of any manipulative, deceptive or other fraudulent scheme, device, or contrivance, fictitious quotation, or in violation of this Act or any rule or order hereunder. A broker-dealer or agent shall not recommend to a customer the purchase, sale or exchange of a security without reasonable grounds to believe that the transaction or recommendation is suitable for the customer based upon reasonable inquiry concerning the customer's investment objectives, financial situation and needs, and other relevant information known by the broker-dealer.

Sec. 15. Section 502.601, subsection 1, Code 1983, is amended to read as follows:

1. The provisions of this This chapter shall be administered by the commissioner of insurance of the state of Iowa. The administrator shall appoint a deputy administrator who shall be subject to exempt from the merit system provided for in chapter 19A. The deputy administrator shall be the principal operations officer of the securities department and shall be responsible to the administrator for the routine administration of the chapter and the management of the securities department. In the absence of the administrator, whether because of vacancy in the office, by reason of absence, physical disability or other cause, the deputy administrator shall be the acting administrator and shall, for the time being, have and exercise the authority conferred upon the administrator. The administrator may by order from time to time delegate to the deputy administrator any or all of the functions assigned to the administrator in this chapter. The administrator shall employ ~~such~~ officers, attorneys, accountants, and other employees as shall be needed for the administration of the chapter.

Sec. 16. Section 502.603, subsection 1, paragraph c, Code 1983, is amended to read as follows:

c. Publish Keep confidential the information obtained in the course of an investigation. However, if the administrator determines that it is necessary or appropriate in the public interest or for the protection of investors, the administrator may share information with other securities administrators, regulatory authorities, or governmental agencies or may publish information concerning any a violation of this chapter or any a rule or order hereunder under this chapter.

Sec. 17. Section 502.608, subsection 1, Code 1983, is amended to read as follows:

1. A document is filed when it is received by the administrator, except that documents required to be filed under sections 502.202 and 502.203 shall be deemed to be filed with the administrator:

a. On the date received by the administrator.

b. If it has not been received by the administrator prior to the date by which the document must be filed, on the date the document is mailed with the United States postal service by registered or certified mail addressed to the administrator's office in Des Moines, Iowa.

Sec. 18. An applicant for renewal registration as a broker-dealer to be effective January 1, 1984, shall pay a filing fee of two hundred fifty dollars. An applicant for renewal registration as an agent to be effective January 1, 1984, shall pay a filing fee of twenty-five dollars. Subsequent to January 1, 1984, renewal fees are as provided in section 502.302, subsection 2.

Sec. 19.

1. The legislative council shall establish a joint interim subcommittee of the committees on commerce of the senate and small business and commerce of the house to serve as an advisory committee on securities regulation.

2. The advisory committee on securities regulation shall review and study the desirability of merit review of securities and the structure, funding and staffing of the securities division of the Iowa department of insurance. The advisory committee shall hold at least one public hearing to seek public input.

3. The advisory committee shall report its findings and recommendations, including any proposed legislation, to the legislative council and the general assembly on or before January 15, 1984.

Sec. 20. Effective July 1, 1984, the new subsection added to section 502.209 by this Act is repealed and the following amendment to section 502.209, subsection 1, paragraphs e and h is enacted.

Sec. 21. Section 502.209, subsection 1, paragraphs e and h, Code 1983, are amended to read as follows:

e. The issuance or sale of the securities is ~~or would be unfair or inequitable to purchasers or~~ has worked or tended to work a fraud upon purchasers or would so operate;

h. The financial condition of the issuer affects or would affect the soundness of the securities; ~~or, except that applications for registration of securities by companies which are in the development stage shall not be denied based solely upon the financial condition of the company. For purposes of this rule, a "development stage company" is defined as a company which has been in existence for five years or less.~~

Approved June 2, 1983

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## CHAPTER 170

### COMPARABLE WORTH EMPLOYMENT POLICY AND STUDY

H.F. 313

**AN ACT** establishing as the policy of the state that employees shall be paid at a rate based on comparable worth, providing for a study, and delaying the implementation of the policy.

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

Section 1. 79.17 COMPENSATION BASED ON COMPARABLE WORTH. It is the policy of this state that a state department, board, commission, or agency shall not discriminate in compensation for work of comparable worth between jobs held predominantly by women and jobs held predominantly by men. "Comparable worth" means the value of work as measured by the composite of the skill, effort, responsibility, and working conditions normally required in the performance of work.

Sec. 2. A study shall be conducted for the purpose of establishing an evaluation of jobs under the merit employment system on the basis of their comparable worth, with particular attention given to jobs predominantly held by women and jobs predominantly held by men. As used in this section, "comparable worth" means the value of work as measured by the composite of skill, effort, responsibility, and working conditions normally required in the performance of work.

The study shall be conducted within the limits of available funds and personnel and shall be supervised by the Iowa merit employment department. State agencies charged with the responsibility of administering various payroll systems shall cooperate with the Iowa merit employment department in helping to carry out the study. Within the limits of available funds, a contract with an independent, private firm having expertise in personnel administration shall be negotiated to conduct the study.

The legislative council shall appoint six persons to serve on a steering committee for the study, and the governor shall appoint a seventh member to the steering committee. The director of the Iowa merit employment department, the director of the Iowa civil rights commission, and the director of the Iowa commission on the status of women or their designees shall serve as advisors to the steering committee. The steering committee shall be responsible for

approving the final form of any request for proposal for a contract with a private firm to perform the study, and shall select the private firm to conduct the study from those firms submitting proposals.

In consultation with the Iowa merit employment department, the steering committee shall establish guidelines for carrying out the study and shall establish a date for the completion of the study. The steering committee shall be furnished with data from the study and progress reports on the study, as the steering committee deems necessary. The final report of the study shall be submitted to the steering committee, the legislative council, and the governor.

The Iowa merit employment department shall develop and submit to the governor and the legislative council an estimate of the appropriations necessary to implement the comparability adjustments for employees under the Iowa merit employment system as presented in the final report of the study.

Sec. 3. This Act shall not serve as a limitation on the provisions of chapter 601A but it shall be construed in harmony with chapter 601A and shall be construed liberally to effectuate its purpose.

Sec. 4. This Act, being deemed of immediate importance, takes effect from and after its publication in *The Jefferson Bee*, a newspaper published in Jefferson, Iowa, and the *West Des Moines Express*, a newspaper published in West Des Moines, Iowa. However, section 1 of this Act does not take effect until July 1, 1984.

Approved May 31, 1983

I hereby certify that the foregoing Act, House File 313 was published in *The Jefferson Bee*, Jefferson, Iowa on June 14, 1983 and in the *West Des Moines Express*, West Des Moines, Iowa on June 9, 1983.

MARY JANE ODELL, *Secretary of State*

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**CHAPTER 171**  
**JOB TRAINING PROGRAMS AT AREA SCHOOLS**  
*H.F. 623*

**AN ACT** to establish an Iowa industrial new jobs training program.

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

Section 1. **NEW SECTION. TITLE.** This Act shall be known and may be cited as the Iowa industrial new jobs training Act.

Sec. 2. **NEW SECTION. DEFINITIONS.** When used in this Act, unless the context otherwise requires:

1. "New jobs training program" or "program" means the project or projects established by an area school for the creation of jobs by providing education and training of workers for new jobs for new or expanding industry in the merged area served by the area school.

2. "Project" means a training arrangement which is the subject of an agreement entered into between the area school and an employer to provide program services.
3. "Program services" includes but is not limited to the following:
  - a. New jobs training.
  - b. Adult basic education and job-related instruction.
  - c. Vocational and skill-assessment services and testing.
  - d. Training facilities, equipment, materials, and supplies.
  - e. On-the-job training.
  - f. Administrative expenses for the new jobs training program.
  - g. Subcontracted services with institutions governed by the board of regents, private colleges or universities, or other federal, state, or local agencies.
  - h. Contracted or professional services.
  - i. Issuance of certificates.
4. "Program costs" means all necessary and incidental costs of providing program services.
5. "Employer" means the person providing new jobs in the merged area served by the area school and entering into an agreement.
6. "Employee" means the person employed in a new job.
7. "Agreement" is the agreement between an employer and an area school concerning a project.
8. "Area school" means a vocational school or a community college established under chapter 280A.
9. "Board of directors" means the board of directors of an area school.
10. "Incremental property taxes" means the taxes as provided in section 4 of this Act.
11. "New jobs credit from withholding" means the credit as provided in section 5 of this Act.
12. "Date of commencement of the project" means the date of the agreement.
13. "Certificate" means industrial new jobs training certificates issued pursuant to section 6 of this Act.
14. "Industry" means a business engaged in interstate or intrastate commerce for the purpose of manufacturing, processing, or assembling products, conducting research and development, or providing services in interstate commerce, but excludes retail, health, or professional services. "Industry" does not include a business which closes or substantially reduces its operation in one area of the state of Iowa and relocates substantially the same operation in another area of the state of Iowa. This subsection does not prohibit a business from expanding its operations in another area of the state provided that existing operations of a similar nature are not closed or substantially reduced.
15. "New job" means a job in a new or expanding industry but does not include jobs of recalled workers, or replacement jobs or other jobs that formerly existed in the industry in the state of Iowa.

Sec. 3. NEW SECTION. AGREEMENT. An area school may enter into an agreement to establish a project. If an agreement is entered into, the area school and the employer shall notify the department of revenue as soon as possible. An agreement may provide, but is not limited to:

1. Program costs, including deferred costs, may be paid from one or a combination of the following sources:
  - a. Incremental property taxes to be received or derived from an employer's business property where new jobs are created as a result of the project.

b. New jobs credit from withholding to be received or derived from new employment resulting from the project.

c. Tuition, student fees, or special charges fixed by the board of directors to defray program costs in whole or in part.

d. Guarantee of payments to be received under paragraph a, b, or c.

2. Payment of program costs shall not be deferred for a period longer than ten years from the date of commencement of the project.

3. Costs of on-the-job training for employees shall not exceed fifty percent of the annual gross payroll costs for up to one year of the new jobs. For purposes of this subsection, "gross payroll" can be the gross wages, salaries, and benefits for the jobs in training in the project.

4. A provision which fixes the minimum amount of incremental property taxes, new jobs credit from withholding, or tuition and fee payments which shall be paid for program costs.

5. Any payments required to be made by an employer are a lien upon the employer's business property until paid and have equal precedence with ordinary taxes and shall not be divested by a judicial sale. Property subject to the lien may be sold for sums due and delinquent at a tax sale, with the same forfeitures, penalties, and consequences as for the nonpayment of ordinary taxes. The purchaser at tax sale obtains the property subject to the remaining payments.

Sec. 4. **NEW SECTION. INCREMENTAL PROPERTY TAXES.** If an agreement provides that all or part of program costs are to be paid for by incremental property taxes, the board of directors shall provide by resolution that taxes levied on the employer's taxable business property, where new jobs are created as a result of a project, each year by or for the benefit of the state, city, county, school district, or other taxing district after the effective date of the resolution shall be divided as provided in section 403.19, subsections 1 and 2, in the same manner as if the employer's business property, where new jobs are created as a result of a project, was taxable property in an urban renewal project and the resolution was an ordinance within the meaning of those subsections. The taxes received by the board of directors shall be allocated to and when collected be paid into a special fund of the area school and may be irrevocably pledged by the area school to pay the principal of and interest on the certificates issued by the area school to finance or refinance, in whole or in part, the project. However, with respect to any urban renewal project as to which an ordinance is in effect under section 403.19, the collection of incremental property taxes authorized by this Act are suspended in favor of collection of incremental taxes under section 403.19. As used in this section, "taxes" includes, but is not limited to, all levies on an ad valorem basis upon land or real property of the employer's business, where new jobs are created as a result of a project.

Sec. 5. **NEW SECTION. NEW JOBS CREDIT FROM WITHHOLDING.** If an agreement provides that all or part of program costs are to be met by receipt of new jobs credit from withholding, it shall be done as follows:

1. New jobs credit from withholding shall be based upon the wages paid to the employees in the new jobs.

2. An amount equal to one and one-half percent of the gross wages paid by the employer to each employee participating in a project shall be credited from the payment made by an employer pursuant to section 422.16. If the amount of the withholding by the employer is less than one and one-half percent of the gross wages paid to the employees covered by the agreement, then the employer shall receive a credit against other withholding taxes due by the employer. The employer shall remit the amount of the credit quarterly in the same manner as withholding payments are reported to the department of revenue, to the area school to be allocated to and when collected paid into a special fund of the area school to pay the principal of and interest on certificates issued by the area school to finance or refinance, in whole or in part, the project. When the principal and interest on the certificates have been paid, the employer credits shall cease and any money received after the certificates have been paid shall be remitted to the treasurer of state to be deposited in the general fund of the state.

3. The new jobs credit from withholding and the special fund into which it is paid, may be irrevocably pledged by an area school for the payment of the principal of and interest on the certificate issued by an area school to finance or refinance, in whole or in part, the project.

4. The employer shall certify to the department of revenue that the credit in withholding is in accordance with an agreement and shall provide other information the department may require.

5. An area school shall certify to the department of revenue the amount of new jobs credit from withholding an employer has remitted to the special fund and shall provide other information the department may require.

6. An employee participating in a project will receive full credit for the amount withheld as provided in section 422.16.

Sec. 6. NEW SECTION. CERTIFICATES. To provide funds for the present payment of the costs of new jobs training programs, an area school may borrow money and issue and sell certificates payable from a sufficient portion of the future receipts of payments authorized by the agreement. The receipts shall be pledged to the payment of principal of and interest on the certificates.

1. Certificates may be sold at public sale as provided by chapter 75 or at private sale at par, premium, or discount at the discretion of the board of directors. However, chapter 76 does not apply to the issuance of these certificates.

2. Certificates may be issued with respect to a single project or multiple projects and may contain terms or conditions as the board of directors may provide by resolution authorizing the issuance of the certificates.

3. Certificates issued to refund other certificates may be sold at public sale or at private sale as provided in this section with the proceeds from the sale to be used for the payment of the certificates being refunded. The refunding certificates may be exchanged in payment and discharge of the certificates being refunded, in installments at different times or an entire issue or series at one time. Refunding certificates may be sold or exchanged at any time on, before, or after the maturity of the outstanding certificates to be refunded, may be issued for the purpose of refunding a like, greater, or lesser principal amount of certificates and may bear a higher, lower, or equivalent rate of interest than the certificates being renewed or refunded.

4. To further secure the payment of the certificates, the board of directors shall, by resolution, provide for the assessment of an annual levy of a standby tax upon all taxable property within the merged area. A copy of the resolution shall be sent to the county auditor of each county in which the merged area is located. The revenues from the standby tax shall be deposited in a special fund and shall be expended only for the payment of principal of and interest on the certificates issued as provided in this section, when the receipt of payment for program costs as provided in the agreement is insufficient. If payments are necessary and made from the special fund, the amount of the payments shall be promptly repaid into the special fund from the first available payments received for program costs as provided in the agreement which are not required for the payment of principal of or interest on certificates due. No reserves may be built up in this fund in anticipation of a projected default. The board of directors shall adjust the annual standby tax levy for each year to reflect the amount of revenues in the special fund and the amount of principal and interest which is due in that year.

5. Before certificates are issued, the board of directors shall publish once a notice of its intention to issue the certificates, stating the amount, the purpose, and the project or projects for which the certificates are to be issued. A person may, within fifteen days after the publication of the notice by action in the district court of a county in the area within which the area school is located, appeal the decision of the board of directors in proposing to issue the

certificates. The action of the board of directors in determining to issue the certificates is final and conclusive unless the district court finds that the board of directors has exceeded its legal authority. An action shall not be brought which questions the legality of the certificates, the power of the board of directors to issue the certificates, the effectiveness of any proceedings relating to the authorization of the project, or the authorization and issuance of the certificates from and after fifteen days from the publication of the notice of intention to issue.

6. The board of directors shall determine if revenues are sufficient to secure the faithful performance of obligations in the agreement.

Sec. 7. NEW SECTION. DEVELOPMENT COMMISSION. The Iowa development commission in consultation with the department of public instruction and the office for planning and programming shall coordinate the new jobs training program. The Iowa development commission shall adopt, amend, and repeal rules under chapter 17A that the area school will use in developing projects with new and expanding industrial new jobs training proposals. The commission is authorized to make any rule that is adopted, amended, or repealed effective immediately upon filing with the administrative rules coordinator or at a subsequent stated date prior to indexing and publication, or at a stated date less than thirty-five days after filing, indexing, and publication. The Iowa development commission shall prepare an annual report for the governor and general assembly on the activities of the industrial new jobs training program.

Sec. 8. This Act, being deemed of immediate importance, takes effect from and after its publication in the Globe-Gazette, a newspaper published in Mason City, Iowa, and in the Logan Herald-Observer, a newspaper published in Logan, Iowa.

Approved May 27, 1983

I hereby certify that the foregoing Act, House File 623 was published in the Logan Herald-Observer, Logan, Iowa on June 8, 1983 and in the Globe-Gazette, Mason City, Iowa on June 10, 1983.

MARY JANE ODELL, *Secretary of State*

**CHAPTER 172****STATE PAYMENTS OF CERTAIN TAX CREDITS  
AND OTHER PAYMENTS***S.F. 540*

**AN ACT** relating to state payments by providing for payments in each fiscal year of homestead tax credits, extraordinary tax credits, mobile home tax credits, agricultural land tax credits, livestock tax credits, military tax credits, and personal property tax credits to the respective county treasurers by the state comptroller, by providing for obligation of state funds for goods and services delivered only during the fiscal year with certain exceptions, and by providing for monthly payments of funds to school districts under chapter 442.

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

Section 1. Section 8.33, Code 1983, is amended by adding the following new unnumbered paragraph:

**NEW UNNUMBERED PARAGRAPH.** No payment of an obligation for goods and services shall be charged to an appropriation subsequent to the last day of the fiscal term for which the appropriation is made unless such goods or services are received on or before the last day of the fiscal term, except that repair projects and other contracts for services and capital expenditures for the purchase of land or the erection of buildings or new construction, which were committed and in progress prior to the end of the fiscal term are excluded from this provision.

Sec. 2. Section 135D.22, unnumbered paragraph 4, Code 1983, is amended to read as follows:

The amounts due each county shall be paid ~~in two equal payments~~ by the state comptroller on ~~May~~ December 15 and November 15 of each year, drawn upon warrants payable to the respective county treasurers. The county treasurer in each county shall apportion the payment in accordance with section 135D.25.

Sec. 3. Section 425.1, subsection 3, Code 1983, is amended by striking the subsection and inserting in lieu thereof the following:

3. The amount due each county shall be paid by the state comptroller upon requisition of the director of revenue in two payments on November 15 and March 15 of each fiscal year, drawn upon warrants payable to the respective county treasurers. The two payments shall be as nearly equal as possible.

Sec. 4. Section 425.19, Code 1983, 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 ~~within one hundred eighty days after receipt of the claim on~~ February 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 December 31 of each year.

Sec. 5. Section 425.23, subsection 3, paragraph a, Code 1983, is amended to read as follows:

a. Any person who is eligible to file a claim for credit for property taxes due and who has a household income of five thousand dollars or less and who has a special assessment levied against the homestead may file a claim with the county treasurer that the claimant had a household income of five thousand dollars or less and that a special assessment is presently levied against the homestead. The department shall provide to the respective county treasurers such forms as are necessary for the administration of this subsection. The claim shall be filed not later than September 30 of each year. Upon the filing of the claim, no penalty or interest for late payment shall accrue against the amount of the special assessment due and payable. The claim filed by the claimant shall constitute a claim for credit of an amount equal to the actual amount due and payable upon the special assessment payable during the fiscal year against the homestead of the claimant or an amount equal to the annual payment of the special assessment levied against the homestead of the claimant and payable in annual installments through the period of years provided by the governing body of the city, whichever is less. The department of revenue shall, upon the filing of the claim with the department by the county treasurer, pay that amount of the special assessment during the current fiscal year to the county treasurer. The county treasurer shall submit the claims to the director of revenue not later than October 15 of each year. The director of revenue shall certify to the state comptroller the amount of reimbursement due each county for special assessment credits allowed under this subsection. The amount of reimbursement due each county shall be paid by the state comptroller on ~~November~~ October 15 20 of each year, drawn upon warrants payable to the respective county treasurer. There is appropriated annually from the general fund of the state to the department of revenue an amount sufficient to carry out the provisions of this subsection. The county treasurer shall credit any moneys received from the department against the amount of the special assessment due and payable on the homestead of the claimant.

Sec. 6. Section 426.7, Code 1983, is amended to read as follows:

426.7 WARRANTS DRAWN BY COMPTROLLER. After receiving from the ~~several~~ county auditors ~~of the state~~ the certifications provided for in section 426.6, and during the following fiscal year, the state comptroller shall draw warrants on the agricultural land credits fund created by ~~this chapter~~ in section 426.1, payable to the county treasurers ~~of the several counties of the state~~ in the ~~total~~ amount certified by the county auditors of the respective counties and mail ~~said~~ the warrants to the county auditors ~~of said counties~~ in ~~two equal payments on or before September 15 and March~~ on August 15 of each fiscal year, ~~provided that in the event taking into consideration the relative budget and cash position of the state resources. However, if the agricultural land credits fund is insufficient to pay in full the total of the amounts certified to the state comptroller on the first of June, the state comptroller shall prorate the fund to the several county treasurers and notify the several county auditors of the pro rata percentage on or before August 1.~~

Sec. 7. Section 426A.4, Code 1983, is amended to read as follows:

426A.4 CERTIFICATION BY DIRECTOR OF REVENUE. Sums distributable from the military service tax credit fund shall be allocated ~~every six months annually~~ to the ~~several~~ counties of the state. On ~~March 25 and September 25~~ September 15 annually the director of revenue shall certify to the comptroller the total credits claimed by each county. Upon receipt of the certification from the director of revenue, the comptroller shall draw warrants to the treasurer of each county payable from the military service tax credit fund in the amount claimed; ~~provided that. However, if the amount of money in the fund is insufficient to pay the credits claimed in full, then in that event they the claims shall be paid on a pro rata basis. Payments shall be made to the treasurer of each county not later than April 15 and October~~ September 15 30 of each year. The state comptroller shall transfer any funds in the military service tax credit fund on May 31 of each year not necessary for the payment of claims to the general fund.

Sec. 8. Section 427.17, subsection 4, Code 1983, is amended to read as follows:

4. The amounts due each taxing district shall be paid on warrants payable to the respective county treasurers in two equal payments by the state comptroller on March 15 and September 15 of each year with the first payment starting March 15, 1974. The county treasurer shall apportion the proceeds to the various taxing districts in the county.

Sec. 9. Section 427A.12, subsection 7, Code 1983, is amended to read as follows:

7. The amount due each taxing district shall be paid in the form of warrants payable to the respective county treasurers by the state comptroller in two equal payments on September 15 and March 15 of each fiscal year, taking into consideration the relative budget and cash position of the state resources. The first payment shall be made on March 15, 1974. The county treasurer shall pay the proceeds to the various taxing districts in the county.

Sec. 10. Section 442.26, unnumbered paragraph 2, Code 1983, is amended by striking the unnumbered paragraph and inserting in lieu thereof the following:

All state aids paid under this chapter, unless otherwise stated, shall be paid in monthly installments beginning on September 15 of a budget year and ending on June 15 of the budget year and the installments shall be as nearly equal as possible as determined by the state comptroller, taking into consideration the relative budget and cash position of the state resources. However, the state aids paid to school districts under section 442.28 shall be paid in monthly installments beginning on December 15 and ending on June 15 of a budget year and state aids paid to school districts under section 442.38 shall be paid in monthly installments beginning on February 15 and ending on June 15 of a budget year.

Sec. 11. Sections 1 and 10 of this Act take effect upon publication. All other sections of this Act take effect July 1 following enactment.

Sec. 12. This Act, being deemed of immediate importance, takes effect from and after its publication in the Iowa City Press-Citizen, a newspaper published in Iowa City, Iowa, and in the Muscatine Journal, a newspaper published in Muscatine, Iowa.

Approved May 27, 1983

I hereby certify that the foregoing Act, Senate File 540 was published in the Iowa City Press-Citizen, Iowa City, Iowa on June 2, 1983 and in the Muscatine Journal, Muscatine, Iowa on June 3, 1983.

MARY JANE ODELL, *Secretary of State*

**CHAPTER 173****URBAN REVITALIZATION AREA TAX EXEMPTIONS***H.F. 631*

**AN ACT** relating to property tax exemptions in an urban revitalization area.

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

Section 1. Section 404.2, subsection 2, paragraphs f and h, Code 1983, are amended to read as follows:

f. A statement specifying whether the revitalization is applicable to none, some, or all of the property assessed as residential, agricultural, commercial or industrial property within the designated area or a combination thereof and whether the revitalization is for rehabilitation and additions to existing buildings or new construction or both. If revitalization is made applicable only to some property within an assessment classification, the definition of that subset of eligible property must be by uniform criteria which further some planning objective identified in the plan. The city shall state how long it is estimated that the area shall remain a designated revitalization area which time shall be longer than one year from the date of designation and shall state any plan by the city to issue revenue bonds for revitalization projects within the area.

h. Any tax exemption schedule that shall be used in lieu of the schedule set out in section 404.3, subsection 1, 2, 3 or 4. This schedule shall not allow a greater exemption, but may allow a smaller exemption, than allowed in the schedule specified in the corresponding subsection of section 404.3 and shall be the same schedule used for all property of the same classification located in an existing revitalization area.

Sec. 2. Section 404.3, subsection 4, Code 1983, is amended to read as follows:

4. All qualified real estate assessed as residential property or assessed as commercial property, consisting if the commercial property consists of three or more separate living quarters with at least seventy-five percent of the space used for residential purposes, is eligible to receive a one hundred percent exemption from taxation on the actual value added by the improvements. The exemption is for a period of ten years.

Sec. 3. The amendment to section 404.3, subsection 4, for property assessed as residential property provided in section 2 of this Act is effective for areas designated revitalization areas on or after the effective date of this Act and shall apply to an area which is a revitalization area on the effective date of this Act. Owners of qualified real estate assessed as residential property located in an area which is a revitalization area on the effective date of this Act may elect the exemption provided by the amendment to section 404.3, subsection 4 in section 2 of this Act only if the owner has not previously made an election for exemption for the qualified real estate in the revitalization area. A city shall not have to amend its schedule of exemptions or its plan in order for such owner to elect the exemption provided by the amendment to section 404.3, subsection 4, for property assessed as residential property in this Act.

Sec. 4. Section 1 of this Act applies to a revitalization area on the effective date of this Act where the plan is consistent with its provisions or is amended to be consistent with its provisions and applies to areas designated revitalization areas on or after the effective date of this Act.

Sec. 5. This Act, being deemed of immediate importance, takes effect from and after its publication in The Hudson Herald, a newspaper published in Hudson, Iowa, and in The Daily Nonpareil, a newspaper published in Council Bluffs, Iowa.

Approved May 31, 1983

I hereby certify that the foregoing Act, House File 631 was published in The Hudson Herald, Hudson, Iowa on June 9, 1983 and in The Daily Nonpareil, Council Bluffs, Iowa on June 6, 1983.

MARY JANE ODELL, *Secretary of State*

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## CHAPTER 174

### INCOME TAX DEDUCTION FOR CERTAIN EMPLOYMENT

*S.F. 524*

**AN ACT** relating to the computation of net income for purposes of the state individual and corporate income tax by providing an additional business deduction for wages paid or accrued for work done in the state by certain individuals.

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

Section 1. Section 422.7, Code 1983, is amended by adding the following new subsection:

**NEW SUBSECTION. 17.** If the adjusted gross income includes income or loss from a small business operated by the taxpayer, an additional deduction shall be allowed in computing the income or loss from the small business if the small business hired for employment in the state during its annual accounting period ending with or during the taxpayer's tax year any of the following:

a. A handicapped individual domiciled in this state at the time of the hiring meets any of the following conditions:

(1) Has a physical or mental impairment which substantially limits one or more major life activities.

(2) Has a record of that impairment.

(3) Is regarded as having that impairment.

b. An individual domiciled in this state at the time of the hiring who meets any of the following conditions:

(1) Has been convicted of a felony in this or any other state or the District of Columbia.

(2) Is on parole pursuant to chapter 906.

(3) Is on probation pursuant to chapter 907, for an offense other than a simple misdemeanor.

(4) Is in a work release program pursuant to chapter 247A.

c. An individual, whether or not domiciled in this state at the time of the hiring, who is on parole or probation and to whom the interstate probation and parole compact under section 247.40 applies.

The amount of the additional deduction is equal to fifty percent of the wages paid to individuals named in paragraphs a, b, and c who were hired for the first time by that business during the annual accounting period for work done in the state. This additional deduction is allowed for the wages paid to those individuals successfully completing a probationary period during the twelve months following the date of first employment by the business and shall be deducted at the close of the annual accounting period.

The additional deduction shall not be allowed for wages paid to an individual who was hired to replace an individual whose employment was terminated within the twelve-month period preceding the date of first employment. However, if the individual being replaced left employment voluntarily without good cause attributable to the employer or if the individual was discharged for misconduct in connection with the individual's employment as determined by the Iowa department of job service, the additional deduction shall be allowed.

A taxpayer who is a partner of a partnership or a shareholder of a subchapter S corporation, may deduct that portion of wages qualified under this subsection paid by the partnership or subchapter S corporation based on the taxpayer's pro rata share of the profits or losses from the partnership or subchapter S corporation.

For purposes of this subsection, "physical or mental impairment" means any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the body systems or any mental or psychological disorder, including mental retardation, organic brain syndrome, emotional or mental illness and specific learning disabilities.

For purposes of this subsection, "small business" means small business as defined in section 220.1, subsection 28, except that it shall also include the operation of a farm.

Sec. 2. Section 422.35, Code 1983, is amended by adding after subsection 6 the following new subsection and renumbering the remaining subsections:

**NEW SUBSECTION. 7.** If the taxpayer is a small business corporation, subtract an amount equal to fifty percent of the wages paid to individuals named in paragraphs a, b, and c who were hired for the first time by the taxpayer during the tax year for work done in this state:

a. A handicapped individual domiciled in this state at the time of the hiring meets any of the following conditions:

(1) Has a physical or mental impairment which substantially limits one or more major life activities.

(2) Has a record of that impairment.

(3) Is regarded as having that impairment.

b. An individual domiciled in this state at the time of the hiring who meets any of the following conditions:

(1) Has been convicted of a felony in this or any other state or the District of Columbia.

(2) Is on parole pursuant to chapter 906.

(3) Is on probation pursuant to chapter 907, for an offense other than a simple misdemeanor.

(4) Is in a work release program pursuant to chapter 247A.

c. An individual, whether or not domiciled in this state at the time of the hiring, who is on parole or probation and to whom the interstate probation and parole compact under section 247.40 applies.

This deduction is allowed for the wages paid to the individuals successfully completing a probationary period named in paragraphs a, b, and c during the twelve months following the date of first employment by the taxpayer and shall be deducted in the tax years when paid.

For purposes of this subsection, "physical or mental impairment" means any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the body systems or any mental or psychological disorder, including mental retardation, organic brain syndrome, emotional or mental illness and specific learning disabilities.

For purposes of this subsection, "small business" means small business as defined in section 220.1, subsection 28, except that it shall also include the operation of a farm.

Sec. 3. This Act takes effect January 1 following enactment for tax years beginning on or after the effective date.

Approved June 3, 1983

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**CHAPTER 175**  
**GRAIN DEALERS' AND WAREHOUSE OPERATORS' FEES**  
*S.F. 544*

**AN ACT** relating to fees charged to grain dealers and grain warehouse operators by the commerce commission under chapters 542 and 543.

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

Section 1. Section 542.3, subsection 2, paragraph a, Code 1983, is amended to read as follows:

a. A class 1 license is required if the grain dealer purchases any grain by credit-sale contract, or if the value of grain purchased by the grain dealer from producers during the grain dealer's previous fiscal year exceeds ~~two hundred fifty~~ five hundred thousand dollars. Any other grain dealer may elect to be licensed as a class 1 grain dealer.

Sec. 2. Section 542.3, subsection 2, paragraph b, Code 1983, as amended by 1983 Iowa Acts, Senate File 402, section 1, is amended to read as follows:

b. A class 2 license is required for any grain dealer not holding a class 1 license. A class 2 licensee whose purchases from producers during a fiscal year exceed a limit of ~~two hundred fifty~~ five hundred thousand dollars in value shall file within thirty days of the date the limit is reached a complete application for a class 1 license. If a class 1 license is denied, the person immediately shall cease doing business as a grain dealer.

Sec. 3. Sections 542.6 and 543.33 as temporarily amended by 1981 Iowa Acts, chapter 180, sections 7 and 26, are temporarily reenacted effective July 1, 1983, until July 1, 1984.

Sec. 4. 1981 Iowa Acts, chapter 180, section 32, is amended to read as follows:

SEC. 32. It is the intent of the general assembly that sections 7 and 26 of this Act shall have temporary effect only, and that sections 542.6 and 543.33, Code 1981, as they existed prior to amendment by this Act shall be the law of this state on and after July 1, ~~1983~~ 1984.

Approved June 3, 1983

**CHAPTER 176**  
**POLITICAL ELECTIONS AND CAMPAIGN FINANCING**

*S.F. 545*

**AN ACT** relating to registration, elections and the Iowa election campaign fund.

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

Section 1. Section 47.7, Code 1983, is amended by adding the following new subsection:  
NEW SUBSECTION. 4. Not later than July 1, 1984, information listed in section 48.6 contained in a county's manual records but not on the county's computer readable records shall be provided to the registrar in a form specified by the registrar. The registrar shall require that any information supplied under section 48.6, except subsections 9 and 11, be provided to the registrar in a form specified by the registrar.

Sec. 2. Chapter 48, Code 1983, is amended by adding the following new section:

NEW SECTION. The state board of regents shall provide access to the designated public portions of its university residence halls and lounges for a registrar, deputy registrar, mobile deputy registrar, person delivering voter registration forms provided in section 48.3 to register eligible electors, or a candidate. The state board of regents may establish reasonable restrictions on the time, manner and place of access by those registrars, persons and candidates.

Sec. 3. Section 48.6, subsection 12, Code 1983, is amended to read as follows:

12. Residential telephone number at the option of the applicant if available.

Sec. 4. Section 48.7, subsection 1, paragraph a, Code 1983, is amended to read as follows:

a. The qualified elector may submit to the commissioner a written notice of the change of name, telephone number, or address, bearing a form of the type provided for electors registering under section 48.3 providing for the elector's current name, telephone number, social security number and address and the elector's signature. Upon receipt of the notice form, the commissioner shall change the registration records accordingly and the change shall be reflected in the election registers prepared for the next election held ten or more days after receipt of the qualified elector's notice. If the notice form received by the commissioner does not contain the information regarding name and address necessary to properly update the registration records, the commissioner shall immediately send notice to the elector, by forwardable mail directed to the elector's last known address, that the elector's registration is defective. The commissioner's notice shall advise the elector of the corrections necessary.

Sec. 5. Section 49.77, subsection 2, Code 1983, is amended to read as follows:

2. One of the precinct election officials shall announce the elector's name aloud for the benefit of any persons present pursuant to section 49.104, subsections 2, 3 or 5. Any of those persons may upon request view the signed declarations of eligibility and may review the signed declarations on file so long as the person does not interfere with the functions of the precinct election officials.

Sec. 6. Section 53.2, Code 1983, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If the application is for a primary election ballot and the request is for a ballot of a party different from that recorded on the qualified elector's voter registration record, the requested ballot shall be mailed or given to the applicant together with a "Change or Declaration of Party Affiliation" form as prescribed in section 43.42, to be completed by the qualified elector at the time of voting. Upon receipt of the properly completed form, the commissioner shall approve the change or declaration and enter a notation of the change on the registration records.

Sec. 7. Section 53.8, subsection 2, Code 1983, is amended to read as follows:

2. If an application is received so late that it is unlikely that the absentee ballot can be returned in time to be counted on election day, the commissioner shall enclose with the absentee ballot a statement to that effect. The statement shall also point out that it is possible for the applicant or the applicant's designee to personally deliver his the completed absentee ballot to the office of the commissioner at any time before the closing of the polls on election day.

Sec. 8. Section 56.18, Code 1983, is amended to read as follows:

56.18 CHECKOFF—INCOME TAX.

1. Any person whose state income tax liability for any taxable year is one dollar or more may direct that one dollar of such liability be paid over to the Iowa election campaign fund when submitting his or her state income tax return to the department of revenue. In the case of a joint return of husband and wife having a state income tax liability of two dollars or more, each spouse may direct that one dollar be paid to the fund. The director of revenue shall revise the income tax form to provide a space spaces on the face of the tax return and immediately above the signature lines which the taxpayer may use to designate that contributions made under this section be credited to a specified political party as defined by section 43.2, or to the Iowa election campaign fund as a contribution to be shared by all such political parties in the manner prescribed by section 56.19. The form shall inform the taxpayer ~~that when an individual chooses the latter alternative his or her one dollar contribution is shared by all eligible political parties of the consequences of the choices provided under this section,~~ but this information may be contained in a footnote or other suitable form if the director of revenue finds it is not feasible to place the information immediately above the signature line.

2. A person who directs that funds be paid over under subsection 1 to a specified political party or to be shared by political parties may direct that an additional two dollars be paid over to the choice made by that person in subsection 1. The additional two dollars shall not be paid over from the person's tax liability but shall first be subtracted from any refund due on the return. If no refund or an insufficient refund is due on the return, the tax liability of the person shall be increased by the balance of the additional two dollars. In the case of a joint return of husband and wife, each spouse may direct that an additional two dollars be paid over to the choice made by that person in subsection 1.

3. If the refund due on the return or the payment remitted with the return is insufficient to pay the additional two dollars designated by each taxpayer, the amount designated shall be reduced to the amount of refund or the amount remitted with the return that is greater than the taxes due under division II of chapter 422.

The action taken by a person for the checkoff is irrevocable.

However, before a checkoff pursuant to subsection 2 of the section shall be permitted, all liabilities on the books of the department of revenue, accounts identified as owing under section 421.17 and the checkoff permitted under section 107.16 shall be satisfied.

Sec. 9. Section 56.19, Code 1983, is amended to read as follows:

**56.19 FUND CREATED.** The "Iowa election campaign fund" is created within the office of the treasurer of state. The fund shall consist of funds paid by persons having an Iowa income tax liability as provided in section 56.18. The treasurer of state shall maintain within the fund a separate account for each political party as defined in section 43.2. The director of revenue shall remit funds collected as provided in section 56.18 to the treasurer of state who shall deposit such funds in the appropriate account within the Iowa election campaign fund. All contributions directed to the Iowa election campaign fund by taxpayers who do not designate any one political party to receive their contributions shall be divided by the director of revenue equally among each account currently maintained in the fund. However, at any time when more than two accounts are being maintained within the fund contributions to the fund by taxpayers who do not designate any one political party to receive their contributions shall be divided among the accounts in the same proportion as the number of qualified electors declaring affiliation with each political party for which an account is maintained bears to the total number of qualified electors who have declared an affiliation with a political party. Any interest income received by the treasurer of state from investment of moneys deposited in the fund shall be deposited in the Iowa election campaign fund. Such funds shall be subject to payment to the chairperson of the specified political party by the state comptroller in the manner provided by section 56.22.

**Sec. 10.**

1. Until January 1, 1984, the county commissioner of registration for each county shall accept lists of residential telephone numbers of qualified electors provided by the state central committees of political parties as defined in section 43.2. The county commissioner of registration shall enter those residential telephone numbers into its system of registration records for those qualified electors who do not have a residential telephone number listed in the registration records. If the political parties submit differing residential telephone numbers for a qualified elector having none listed, the commissioner may decline to enter any telephone number. The residential telephone numbers entered into the registration records shall be in a computer readable form specified by the registrar and provided to the registrar.

2. A county may file a claim by July 1, 1984 with the state registrar for its costs of entering and submitting telephone numbers under subsection 1, not exceeding fifteen cents per telephone number, for the residential telephone numbers submitted to the registrar. The voter registration commission shall adjust the charges made under section 47.8 by increasing them sufficiently to pay the filed claims by July 1, 1989. The claims shall be paid in the order received from the funds received from the increased charges as those funds become available.

3. The declaration of eligibility forms provided under section 49.77 and used in the primary and general elections in the years 1984 and 1986 shall contain a line, below the line for the elector's address, for the elector's residential telephone number. After the election the commissioner of registration shall review the declarations of eligibility and the registration records and correct or amend the records so that they contain the residential telephone number provided by the elector on the declaration of eligibility.\* The telephone numbers, if added or changed, shall be provided to the state registrar in the same manner as if submitted under section 48.6.

**Sec. 11.** The provisions of section 8 of this Act shall be effective for tax years beginning on or after January 1, 1983 and to this extent, the provisions of this section are retroactive to January 1, 1983.

Approved June 3, 1983

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\*According to enrolled Act

**CHAPTER 177**  
**STATE INHERITANCE TAX REVISIONS**  
*H.F. 635*

**AN ACT** relating to the state inheritance tax by eliminating the preliminary inheritance tax return, specifying the value to use in computing the tax, providing for inheritance tax receipts and collection of the tax, including penalties and interest and making coordinating amendments.

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

Section 1. Section 331.704, subsection 2, paragraph i, Code 1983, is amended by striking the paragraph.

Sec. 2. Section 450.1, Code 1983, is amended by adding the following new unnumbered paragraph:

**NEW UNNUMBERED PARAGRAPH.** For purposes of this chapter, unless the context otherwise requires, "personal representative" means an executor, administrator, or trustee as each is defined in section 633.3.

Sec. 3. Section 450.4, subsection 1, Code 1983, is amended to read as follows:

1. When the entire estate of the decedent does not exceed the sum of ten thousand dollars after deducting the debts liabilities, as defined in this chapter.

Sec. 4. Section 450.5, Code 1983, is amended to read as follows:

**450.5 LIABILITY FOR TAX.** Any person becoming beneficially entitled to any property or interest therein in property by any method of transfer as herein specified in this chapter, and all administrators, executors, personal representatives and referees, and trustees of estates or transfers taxable under the provisions of this chapter, shall be are respectively liable for all such taxes to be paid by them respectively.

Sec. 5. Section 450.7, subsection 3, Code 1983, is amended to read as follows:

3. The sale, exchange, mortgage, or pledge of property by the personal representative pursuant to a testamentary direction or power, pursuant to section 633.387, or under order of court, divests the property from the lien of the tax. The proceeds from such a that sale, exchange, mortgage, or pledge shall be held by the personal representative subject to the same priorities for the payment of the tax as existed with respect to the property before the transaction, and the personal representative is personally liable for payment of the tax to the extent of the proceeds. Whenever there is a change in the status, type, or nature of the assets reported in the preliminary inventory, the change shall be reported on or before the filing of the final report when required by the department of revenue.

Sec. 6. Section 450.12, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

**450.12 LIABILITIES DEDUCTIBLE.**

1. Subject to the limitations in subsections 2 and 3, there shall be deducted from the gross value of the estate only the liabilities defined as follows:

The debts owing by the decedent at the time of death, the local and state taxes accrued before the decedent's death, the federal estate tax and federal taxes owing by the decedent, a reasonable sum for funeral expenses, the allowance for surviving spouse and minor children

granted by the probate court or its judge, court costs, the costs of appraisement made for the purpose of assessing the inheritance tax, the fee of personal representatives as allowed by order of court, the amount paid by the personal representatives for a bond, the attorney's fee in a reasonable amount to be approved by the court for the probate proceedings in the estate, the costs of the sale of real estate or personal property in the estate, including the real estate agent's commission, and expenses for abstracting, documentary stamps, and title correction expenses.

A liability shall not be deducted unless the personal representative certifies that it has been paid or, if not paid, the director of revenue is satisfied that it will be paid.

2. If the decedent's gross estate includes property with a situs outside of Iowa, the liabilities deductible under subsection 1 shall be prorated on the basis that the gross value of property with a situs in Iowa bears to the total gross estate. Only the Iowa portion of the liabilities shall be deductible in computing the tax imposed by this chapter. However, a liability secured by a lien on property shall be allocated to the state where the property has a situs and shall not be prorated except to the extent the liability exceeds the value of the property.

3. If a liability under subsection 1 is secured by property, or a portion of property, not included in the decedent's gross estate, only that portion of the liability attributable to property or a portion of property included in the decedent's gross estate is deductible in computing the tax imposed by this chapter.

Sec. 7. Section 450.17, Code 1983, is amended to read as follows:

450.17 CONVEYANCE—EFFECT. When said real estate or any an interest therein, in real estate is subject to such tax, no a conveyance either before or after the entering of said lien, shall does not discharge the real estate so conveyed from said the lien except as provided in section 450.7.

Sec. 8. Section 450.21, Code 1983, is amended to read as follows:

450.21 ADMINISTRATION ON APPLICATION OF DIRECTOR. If, upon the death of any person leaving an estate that may be liable to a tax under the provisions of this chapter, a will disposing of such the estate is not offered for probate, or an application for administration made within four months from the time of such the decease, the director of revenue may, at any time thereafter, make application to the proper court, setting forth such that fact and praying requesting that an administrator may a personal representative be appointed, and thereupon said the court shall appoint an administrator a personal representative to administer upon such the estate.

Sec. 9. Section 450.22, Code 1983, is amended to read as follows:

450.22 ADMINISTRATION AVOIDED. When the heirs or persons entitled to inherit the property of an estate subject to the tax hereby imposed under this chapter, desire to avoid the appointment of an administrator a personal representative as provided in section 450.21, and in all instances where real estate is involved and no regular probate proceedings are not had, they or one of them shall file under oath the inventories required by section 633.361 and reports and perform all the duties required by this chapter, of administrators, including the filing of the lien of the personal representative and file the inheritance tax return. Proceedings for the collection of the tax when no administrator a personal representative is not appointed, shall conform as nearly as may be to the provisions of this chapter in other cases.

Sec. 10. Section 450.24, Code 1983, is amended to read as follows:

450.24 APPRAISERS. In each county the court shall, on or before January 15 of each year, appoint three competent residents and freeholders of said the county to act as appraisers of all the real property within its jurisdiction which is charged or sought to be charged with an inheritance tax. Said The appraisers shall serve for one year, and until their successors are appointed and qualified. They shall each take an oath to faithfully and impartially perform the

duties of the office, but shall not be required to give bond. They shall be subject to removal at any time at the discretion of the court. The court may also in its discretion, either before or after the appointment of the regular appraisers, appoint other appraisers to act in any given case. Vacancies occurring otherwise than by expiration of term shall be filled by appointment of the court. ~~No~~ A person interested in any manner in the estate to be appraised may shall not serve as an appraiser of ~~such~~ that estate.

Sec. 11. Section 450.27, Code 1983, is amended to read as follows:

450.27 COMMISSION TO APPRAISERS. When an appraisal of ~~any part of an~~ real estate is requested by the department of revenue, as provided in section ~~450.39~~ 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 appraisement, 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, ~~he the~~ clerk shall not issue the commission until the determination of the prior estate, except at the request of the department of revenue when the parties in interest who desire seek to remove an inheritance tax lien.

Sec. 12. Section 450.30, Code 1983, is amended to read as follows:

450.30 REAL PROPERTY IN DIFFERENT COUNTIES. ~~When~~ If real property is located in more than one county, the appraisers of the county in which the estate is being administered may appraise ~~the whole all~~ real estate, or those of the several counties may serve for the real property within their respective counties or other appraisers be appointed as the district court may direct.

Sec. 13. Section 450.32, Code 1983, is amended to read as follows:

450.32 HEARING - ORDER. If upon ~~such~~ the hearing the court finds the amount at which the real property is appraised is its value on the market in the ordinary course of trade, and the appraisement was fairly and in good faith made, it shall approve ~~such the~~ appraisement; but if it. If the court finds that the appraisement was made at a greater or less lesser sum than the value of the real property in the ordinary course of trade, or that the same it was not fairly or in good faith made, it shall set aside the appraisement. Upon said the appraisement being set aside, the court shall fix the value of the real property of said the estate for inheritance tax purposes and the valuation so fixed shall be is that upon which the tax shall be paid, unless an appeal is taken from the order of said the court as hereinafter provided for in this chapter.

Sec. 14. Section 450.36, Code 1983, is amended to read as follows:

450.36 APPRAISAL OF OTHER PROPERTY. If there ~~be~~ is an estate or real property subject to ~~said~~ tax wherein and the records in the clerk's office do not disclose that there may be a tax due under the provisions of this chapter, the ~~person or~~ persons interested in the real property shall report the matter to the clerk department of revenue with an application a request that the real property be appraised.

Sec. 15. Section 450.37, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

450.37 VALUE FOR COMPUTING THE TAX.

1. Unless the value has been determined under chapter 450B, the tax shall be computed based upon one of the following:

a. The fair market value of the property in the ordinary course of trade determined under subsection 2.

b. The alternate value of the property, if the personal representative so elects, that has been established for federal estate tax purposes under section 2032 of the Internal Revenue Code of 1954 as defined in section 422.4. The election shall be exercised on the return by the personal representative or other person signing the return, within the time prescribed by law for filing the return or before the expiration of any extension of time granted for filing the return.

2. Fair market value in the ordinary course of trade shall be established by agreement between the department of revenue, the personal representative, and the persons who have an interest in the property.

a. If an agreement has not been reached on the fair market value of real property in the ordinary course of trade, the director of revenue has thirty days after the return is filed to request an appraisal under section 450.27. If an appraisal request is not made within the thirty-day period, the value listed on the return is the agreed value of the real property.

b. If an agreement is not reached on the fair market value of personal property in the ordinary course of trade, the personal representative or any person interested in the personal property may appeal to the director of revenue for a revision of the department of revenue's determination of the value and after the appeal hearing may seek judicial review of the director's decision. The provisions of section 450.94, subsection 3, relating to appeal of a determination of the department and review of the director's decision apply to an appeal and review made under this subsection.

Sec. 16. Section 450.44, Code 1983, is amended to read as follows:

450.44 ~~REMAINDERS~~ — APPRAISEMENT VALUATION. When any a person, whose estate over and above the amount of that person's debts liabilities, as defined in this chapter, exceeds the sum of ten thousand dollars, ~~shall bequeath, devise bequeaths, devises, or otherwise transfer transfers~~ real property to or for the use of persons exempt from the tax imposed by this chapter, during life or for a term of years, and the remainder to persons not thus exempt, this property, upon the determination of the estate for life or years, shall be appraised valued at its then actual market value from which shall be deducted the value of any improvements on it, made by the person who owns the remainder interest during the time of the prior estate, to be ascertained and determined by the appraisers as provided in section 450.37, subsection 1, paragraph a, and the tax on the remainder shall be paid by the person who owns the remainder interest as provided in section 450.46.

Sec. 17. Section 450.45, Code 1983, is amended to read as follows:

450.45 ~~LIFE AND TERM ESTATES~~ — APPRAISEMENT VALUATION. ~~Subject to section 450.39 when~~ When an estate or interest for life or term of years in real property is given to a party other than those especially exempt by this chapter, ~~the clerk shall cause the property to be appraised at the actual market value, shall be valued as provided in section 450.37 as is provided in ordinary cases, and the party entitled to the estate or interest shall, within nine months from the death of decedent owner, pay the tax, and in default the court shall order the estate or interest, or so as much as necessary to pay the tax, penalty, and interest, to be sold.~~

Sec. 18. Section 450.46, Code 1983, is amended to read as follows:

450.46 ~~DEFERRED ESTATE~~ — APPRAISEMENT VALUATION. Upon the determination of any prior estate or interest, when the remainder or deferred estate or interest or any part of it is subject to tax and the tax upon the remainder or deferred interest has not been paid, the persons entitled to the remainder or deferred interest shall immediately report to the clerk of the proper court department of revenue the fact of the determination of the prior estate, and upon receipt of the report, or upon information from any source, of the determination of any prior estate when the remainder interest has not been appraised valued for the purpose of assessing tax, ~~the clerk shall forthwith issue a commission to the inheritance tax appraisers, who shall immediately proceed to appraise the property shall be valued as provided in like cases in section 450.44 and the tax upon the remainder interest shall be paid by the person who owns the remainder interest within nine months after the determination of the prior estate. If the tax is not paid within this time the court shall then order the property, or so as much thereof as may be necessary to pay the tax, penalty, and interest, to be sold.~~

Sec. 19. Section 450.47, Code 1983, is amended to read as follows:

450.47 LIFE AND TERM ESTATES IN PERSONAL PROPERTY. ~~Subject to section 450.39, when~~ When an estate or interest for life or term of years in personal property is given to one or more persons other than those especially exempt by this chapter and the remainder or deferred estate to others, ~~the clerk shall cause the property devised or conveyed to be appraised shall be valued under section 450.37~~ as provided in ordinary estates and the value of the ~~several~~ estates or interests devised or conveyed shall be determined as provided in section 450.51, and the tax upon the estates or interests liable for the tax shall be paid to the department of revenue from the property ~~appraised~~ valued or by the persons entitled to the estate or interest within nine months from the death of the testator, grantor, or donor; ~~provided, that.~~ However, payment of the tax upon any deferred estate or remainder interest may be deferred until the determination of the prior estate by the giving of a good and sufficient bond as provided in section 450.48.

Sec. 20. Section 450.51, Code 1983, is amended to read as follows:

450.51 ANNUITIES—LIFE AND TERM ESTATES. The value of any annuity, deferred estate, or interest, or any estate for life or term of years, subject to inheritance tax shall be determined for the purpose of computing ~~said the~~ tax by the use of current, commonly used tables of mortality and actuarial principles pursuant to regulations prescribed by the director of revenue. The taxable value of annuities, life or term, deferred, or future estates, shall be computed at the rate of four percent per annum of the ~~appraised~~ established value of the property in which ~~such the~~ estate or interest exists or is founded.

Sec. 21. Section 450.53, Code 1983, is amended to read as follows:

450.53 DUTY OF FIDUCIARIES PERSONAL REPRESENTATIVES TO PAY TAX. ~~It is the duty of all fiduciaries~~ All personal representatives, except guardians and conservators, ~~or and~~ other persons charged with the management or settlement of any estate or trust from which a tax is due under this chapter, ~~to shall file a final an~~ shall file a final an inheritance tax return with a copy of any federal estate tax return and other documents required by the director which may reasonably tend to prove the amount of tax due, and shall pay to the department of revenue the amount of the tax due from any devisee, grantee, donee, heir, or beneficiary of the decedent, except in cases where payment of the tax is deferred until the determination of a prior estate, in which cases the owner of the future interest shall file a supplemental ~~final~~ inheritance tax return and pay to the department of revenue the tax due. The ~~final~~ inheritance tax returns shall be in the form prescribed by the director.

Sec. 22. Section 450.54, Code 1983, is amended to read as follows:

450.54 SALE TO PAY TAX. ~~Executors, administrators, trustees,~~ Personal representatives or the director of revenue, ~~shall have power to may sell so~~ as much of the property of the decedent as will enable them to pay ~~said the~~ tax, in the same manner as is ~~now~~ provided by law for the sale of ~~such that~~ property for the payment of debts of testators or intestates.

Sec. 23. Section 450.55, Code 1983, is amended to read as follows:

450.55 ACTION MEANS TO COLLECT TAX. The Sections 422.26 and 422.30, pertaining to the lien except the requirements of recording, collection of tax, jeopardy assessments, and distress warrants, apply to the unpaid tax, penalty, and interest imposed under this chapter. In addition the director of revenue may bring, or cause to be brought in the director's name of office, suit, for the collection of ~~said the~~ tax, penalty, interest, and costs, against the ~~executor, administrator, or trustee,~~ personal representative or against the person entitled to property subject to ~~said the~~ tax, or upon any bond given to secure payment ~~thereof of the tax,~~ either jointly or severally, and obtaining judgment may cause execution to be issued ~~thereon~~ as is provided by statute in other cases. The proceedings shall conform as nearly as may be to those for the collection of ordinary debt by suit.

Sec. 24. Section 450.57, Code 1983, is amended to read as follows:

**450.57 TAX DEDUCTED FROM LEGACY OR COLLECTED.** Every ~~executor, administrator, personal representative or referee, or trustee~~ having in charge or trust any property of an estate subject to said tax, and which is made payable by ~~him~~ the personal representative or referee, shall deduct the tax ~~therefrom from the property~~ or shall collect the tax ~~thereon~~ from the legatee or person entitled to ~~said the property~~ and pay the ~~same tax~~ to the department of revenue, and ~~he~~ the personal representative or referee shall not deliver any specific legacy or property subject to said tax to any person until ~~he~~ the personal representative or referee has collected the tax thereon.

Sec. 25. Section 450.58, Code 1983, is amended to read as follows:

**450.58 FINAL SETTLEMENT TO SHOW PAYMENT.** ~~No~~ The final settlement of the account of any ~~executor, administrator, or trustee~~ a personal representative shall ~~not~~ be accepted or allowed unless it shall ~~show shows~~, and the court shall ~~find finds~~, that all taxes imposed by the ~~provisions~~ of this chapter upon any property or interest ~~therein, in property~~ that is hereby made payable by ~~such executors, administrators, or trustees, the personal representative~~ and to be settled by ~~said the account, shall have has been paid~~, and that the receipt of the department of revenue for ~~such the tax shall have been filed with the clerk showing such payment has been obtained as provided in section 450.64~~. Any order contravening the provision of this section shall be ~~is~~ void. Upon the filing of such receipt showing payment of the tax, the clerk shall record the same upon the inheritance tax lien book in his office.

Sec. 26. Section 450.61, Code 1983, is amended to read as follows:

**450.61 BEQUESTS TO EXECUTORS OR TRUSTEES PERSONAL REPRESENTATIVES.** ~~Whenever~~ If a decedent appoints one or more ~~executors or trustees~~ personal representatives and, in lieu of their allowance or commission, makes a bequest or devise of property to them which would otherwise be liable to said tax, or appoints them his residuary legatees, and ~~said the bequests, devises, or residuary legacies exceed the statutory fees as compensation for their services, such the excess shall be is~~ liable to such tax.

Sec. 27. Section 450.62, Code 1983, is amended to read as follows:

**450.62 LEGACIES CHARGED UPON REAL ESTATE.** ~~Whenever~~ any If legacies subject to said tax are charged upon or payable out of any real estate, the heir or devisee, before paying the ~~same tax~~, shall deduct ~~said the tax therefrom from it~~ and pay it to the ~~executor, administrator, trustee, personal representative~~ or department of revenue, and the ~~same tax~~ shall remain a charge against and be a lien upon ~~said the real estate until it is paid; and payment thereof. Payment of the tax shall be enforced by the executor, administrator, trustee, personal representative or director of revenue as herein provided in this chapter.~~

Sec. 28. Section 450.64, Code 1983, is amended to read as follows:

**450.64 CLERK FURNISHED RECEIPT SHOWING PAYMENT.** Upon payment of ~~such the tax in full~~ the department of revenue shall forthwith transmit a ~~duplicate receipt, to the clerk of the court of the county in which the estate is being settled, to the person designated by the taxpayer signing the return showing the payment of such the tax. If the tax is not paid in full, a taxpayer whose tax liability is paid in full may request a receipt as to that taxpayer's share of the tax.~~

Sec. 29. Section 450.71, Code 1983, is amended to read as follows:

**450.71 PROOF OF AMOUNT OF TAX DUE.** Before issuing a receipt for the tax, the director of revenue may demand from ~~administrators, executors, trustees, personal representatives~~ or beneficiaries ~~such information as may be necessary to verify the correctness of the amount of the tax and interest, and when such this demand is made they shall send to the director of revenue certified copies of wills, deeds, or other papers, or of such those parts of their reports as the director may demand, and upon the refusal or neglect of said the parties to~~

comply with the demand of the director, it is the duty of the clerk of the court to shall comply with such the demand, and the expenses of making such copies and transcripts shall be charged against the estate, as are other costs in probate, or the tax may be assessed without deducting debts liabilities for which the estate may be is liable.

Sec. 30. Section 450.86, Code 1983, is amended to read as follows:

450.86 SECURITIES AND ASSETS HELD BY BANK, ETC. No A safe deposit company, trust company, bank, or other institution, or person or persons holding securities or assets, exclusive of life insurance policies payable to named beneficiaries, which securities or other assets are located in a safety deposit box or other security enclosure of the decedent, after receiving knowledge of the death shall not deliver or transfer the same them to the transferee, joint owner, or beneficiary of the decedent unless the tax for which the securities or assets are liable under this chapter is first paid, or the payment thereof is secured by bond as herein provided in this chapter. However, all the contents shall be reported in writing to the department of revenue, and thereafter may be delivered to the executor, administrator, or legal personal representative. It is lawful for and the duty of the The director of revenue, personally, or by any person by him duly authorized by the director, to shall examine the securities or assets at the time of any a proposed delivery or transfer. Failure to give written notice of the contents of the safety deposit box or other security enclosure to the department of revenue at the time of or prior to the delivery of the securities or assets to the executor, administrator, or legal personal representative or transferee, joint owner, or beneficiary shall render renders the safe deposit company, trust company, bank, or other institution, or person or persons liable for the payment of the tax upon the securities or assets as provided in this chapter.

Sec. 31. Section 450.87, Code 1983, is amended to read as follows:

450.87 TRANSFER OF CORPORATION STOCK. If a foreign executor, administrator, or trustee shall assign or transfer personal representative assigns or transfers any corporate stock or obligations in this state standing in the name of a decedent, or in trust for a decedent, liable to such tax, the tax shall be paid to the department of revenue on or before the transfer thereof; otherwise the corporation permitting its stock to be so transferred shall be is liable to pay such the tax, interest, and costs, and it is the duty of the director of revenue to shall enforce the payment thereof of the tax, interest, and costs.

Sec. 32. Section 450.88, Code 1983, is amended to read as follows:

450.88 CORPORATIONS TO REPORT TRANSFERS. Every Iowa corporation organized for pecuniary profit shall, on July 1 of each year, by its proper officers under oath, make a full and correct report to the director of revenue of all transfers of its stocks made during the preceding year by any person who appears on the books of such the corporation as the owner of such the stock, when such the transfer is made to take effect at or after the death of the owner or transferor, and all transfers which are made by an administrator, executor, trustee, a personal representative, referee, or any person other than the owner or person in whose name the stocks appeared of record on the books of such the corporation, prior to the transfer thereof. Such This report shall show the name of the owner of such the stocks and his the owner's place of residence, the name of the person at whose request the stock was transferred, his the person's place of residence and the authority by virtue of which he the person acted in making such the transfer, the name of the person to whom the transfer was made, and the residence of such the person, together with such other information as the officers reporting may have relating to estates of persons deceased who may have been owners of stock in such the corporation. If it appears that any such stock so transferred is subject to tax under the provisions of this chapter, and the tax has not been paid, the director of revenue shall notify the corporation in writing of its liability for the payment thereof of the tax, and shall bring suit against such the corporation as in other cases herein provided unless payment of the tax is made within sixty days from the date of such notice.

The provisions of this ~~This section shall~~ does not apply if the lien has been released under the provisions of section 450.7 or the director has issued a consent to transfer.

Sec. 33. Section 450.90, Code 1983, is amended to read as follows:

450.90 PROPERTY IN THIS STATE BELONGING TO FOREIGN ESTATE. ~~Whenever~~ When property, real or personal, within this state belongs to a foreign estate and ~~said~~ the foreign estate passes in part exempt from the tax imposed by this chapter and in part subject to ~~said~~ the tax and there is ~~no~~ not a specific devise of the property within this state to exempt persons or if it is within the authority or discretion of the foreign ~~executor, administrator, or trustee~~ personal representative administering the estate to dispose of the property not specifically devised to exempt persons in the payment of ~~debts~~ liabilities owing by the decedent at the time of his death, or in the satisfaction of legacies, devises, or trusts given to direct or collateral legatees or devisees or in payment of the distributive shares of any direct and collateral heirs, then the property within the jurisdiction of this state belonging to ~~such~~ the foreign estate ~~shall be~~ is subject to the tax imposed by this chapter, and the tax due ~~thereon~~ shall be assessed as provided in section ~~450.89~~ 450.12, subsection 2, relating to the deduction of the proportionate share of ~~indebtedness; provided, however, that~~ liabilities. However, if the value of the property so situated exceeds the total amount of the estate passing to other persons than those exempt ~~hereby~~ from the tax imposed by this chapter, ~~such~~ the excess ~~shall~~ is not be subject to ~~said~~ tax.

Sec. 34. Section 450.94, subsection 2, Code 1983, is amended to read as follows:

2. The taxpayer shall file a ~~final~~ an inheritance tax return on forms to be prescribed by the director of revenue. When a ~~final~~ 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 ~~thereon~~, which shall be a sum certain if paid on or before the last day of the month in which the notice is postmarked, or on or before the last day of the following month if the notice is postmarked after the twentieth day of a month and before the first day of the following month.

Sec. 35. Section 450.96, Code 1983, is amended to read as follows:

450.96 CONTINGENT ESTATES. Estates in expectancy which are contingent or defeasible and in which proceedings for the determination of the tax have not been taken or where the taxation thereof has been held in abeyance, shall be ~~appraised~~ valued at their full, undiminished value when the persons entitled ~~thereto~~ to the estates come into the beneficial enjoyment or possession ~~thereof~~ of the estates, without diminution for or on account of any valuation ~~theretofore~~ made of the particular estates for purposes of taxation, upon which said estates in expectancy may have been limited previously made. When an estate, devise, or legacy can be divested by the act or omission of the legatee or devisee, it shall be taxed as if there were no possibility of ~~such~~ the divesting. When a devise, bequest, or transfer is one in part contingent, and in part vested so that the beneficiary will come into possession and enjoyment of a portion of ~~his~~ the inheritance on or before the happening of the event upon which the possible defeating contingency is based, a tax shall be imposed and collected upon ~~such~~ the bequest or transfer as upon a vested interest, at the highest rate possible under the terms of this chapter if no ~~such~~ contingency existed; provided that in the event ~~such~~ if ~~the~~ the contingency reduces the value of the estate or interest ~~so~~ taxed, and the amount of tax ~~so~~ paid is in excess of the tax for which ~~such~~ the bequest or transfer is liable upon the removal of ~~such~~ the contingency, ~~such~~ the excess shall be refunded as is provided in sections 450.94 and 450.95 in other cases.

Sec. 36. Section 633.361, unnumbered paragraph 2, Code 1983, is amended by striking the unnumbered paragraph.

Sec. 37. Sections 450.13, 450.14, 450.15, 450.18, 450.19, 450.38, 450.39, 450.56, 450.72, 450.73, and 450.89, Code 1983, are repealed.

Sec. 38. This Act, except for section 23, applies to the estates of persons dying on or after its effective date.

Sec. 39. Section 23 of this Act applies to taxes, penalties, and interest still owing on the effective date of this Act and to taxes, penalties, and interest becoming due on or after that effective date.

Approved June 6, 1983

## CHAPTER 178

### PROPERTY TAX FILING BY CERTAIN NONPROFIT ORGANIZATIONS

H.F. 640

**AN ACT** providing for the filing of a claim for a property tax exemption by certain nonprofit organizations only once without refiling a claim in subsequent years so long as the ownership of the property or use of the property remains unchanged, subject to a penalty provided by law.

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

Section 1. Section 427.1, subsection 23, Code 1983, is amended to read as follows:

23. STATEMENT OF OBJECTS AND USES FILED. ~~Every~~ A society or organization claiming an exemption under the provisions of either subsection 6 or subsection 9 of this section shall file with the assessor not later than February 1 of the year for which such exemption is requested, a statement upon forms to be prescribed by director of revenue, describing the nature of the property upon which ~~such~~ the exemption is claimed and setting out in detail any uses and income from ~~such~~ the property derived from ~~such~~ the rentals, leases or other uses of ~~such~~ the property not solely for the appropriate objects of ~~such~~ 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. The assessor, in arriving at the valuation of any property of ~~such~~ the society or organization, shall take into consideration any uses of the property not for the appropriate objects of the organization and shall assess in the same manner as other property, all or any portion of the property involved which is leased, let or rented and is used regularly for commercial purposes for a profit to any a party or individual. ~~In any case where~~ If a portion of the property is used regularly for commercial purposes ~~no~~ an exemption shall not be allowed upon property so used and the exemption granted shall be in the proportion of the value of the property used solely for the appropriate objects of the organization, to the entire value of the property. ~~No~~ An exemption shall not be granted upon any property upon or in which persistent

violations of the laws of the state of Iowa are permitted. ~~Every~~ A claimant of an exemption shall, under oath, declare that no ~~such~~ violations of law will be knowingly permitted or have been permitted on or after January 1 of the year ~~for~~ in which a tax exemption is requested. Claims for ~~such~~ exemption shall be verified under oath by the president or other responsible ~~heads~~ head of the organization. A society or organization which ceases to use the property for the purposes stated in the claim shall provide written notice to the assessor of the change in use.

Approved June 6, 1983

## CHAPTER 179

### FEDERAL TAX CODE COORDINATION

*S.F. 386*

**AN ACT** relating to taxation by updating references to the Internal Revenue Code for individual and corporate income tax, franchise tax and inheritance tax, providing for an increase in the minimum tax, increasing the individual income tax credit for child and dependent care expenses, providing an income tax credit for an increase in qualified research expenditures in this state, providing a temporary provision on unemployment compensation, and making the Act retroactive.

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

Section 1. Section 422.4, subsection 17, Code 1983, is amended to read as follows:

17. "Internal Revenue Code of 1954" means the Internal Revenue Code of 1954, as amended to and including January 1, ~~1982~~ 14, 1983.

Sec. 2. Section 422.4, Code 1983, is amended by adding the following new subsection:

**NEW SUBSECTION.** 19. For purposes of section 422.4, subsection 17, the Internal Revenue Code of 1954 shall be interpreted to include the provisions of Pub. L. No. 98-4.

Sec. 3. Section 422.5, unnumbered paragraph 10, Code 1983, is amended to read as follows:

In addition to all taxes imposed under this division, there is imposed upon every resident and nonresident, including resident and nonresident estates and trusts, of this state a state minimum tax for tax preference items equal to ~~twenty-five~~ seventy percent of the state's apportioned share of the federal minimum tax. The state's apportioned share of the federal minimum tax is one hundred percent in the case of a resident and in the case of a nonresident a percent equal to the ratio of the federal minimum tax on preferences attributable to Iowa to the federal minimum tax on all preferences. The director shall prescribe rules for the determination of the amount of the federal minimum tax on preference items attributable to Iowa which shall be based as much as equitably possible on the allocation provisions of section 422.8, subsections 2 and 3. For purposes of this paragraph, "federal minimum tax" means the federal minimum tax for tax preferences computed under sections 55 to 58 of the Internal Revenue Code of 1954 for the tax year.

Sec. 4. Section 422.6, unnumbered paragraph 1, Code 1983, is amended to read as follows:

The tax imposed by section 422.5 and credit for increasing research activities granted under section 422.10 shall apply to and become a charge against estates and trusts with respect to their taxable income, and the rates shall be the same as those applicable to individuals. The fiduciary shall be responsible for making the return of income for the estate or trust for which he the fiduciary acts, whether such the income be is taxable to the estate or trust or to the beneficiaries thereon.

Sec. 5. Section 422.7, subsection 16, Code 1983, is amended to read as follows:

16. Add the amounts deducted and subtract the amounts included as income as a result of the treatment provided sale-leaseback agreements under section 168(f)(8) of the Internal Revenue Code of 1954 to the extent that the amounts deducted and the amounts included in income are not otherwise deductible or included in income under the provisions of the Internal Revenue Code of 1954. Entitlement to depreciation on any property included in a sale-leaseback agreement shall be determined under the Internal Revenue Code of 1954, excluding section 168(f)(8) in making the determination.

Sec. 6. Section 422.7, Code 1983, is amended by adding the following new subsection:

**NEW SUBSECTION.** 17. Subtract the amount of unemployment compensation to be included in Iowa net income for any tax year. Add back the amount of unemployment compensation computed under section 85 of the Internal Revenue Code of 1954, as amended up to and including December 31, 1981. This subsection is effective only for the tax year beginning on or after January 1, 1982 and before December 31, 1982.

Sec. 7. Section 422.9, subsection 2, paragraph c, Code 1983, is amended by striking the paragraph.

Sec. 8. Chapter 422, Code 1983, is amended by inserting after section 422.9 the following new section:

**NEW SECTION.** 422.10 RESEARCH ACTIVITIES CREDIT. 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 shall equal 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, and 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, 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 computed under section 44F of the Internal Revenue Code of 1954, as amended to and including January 1, 1983.

Any credit in excess of the tax liability less personal exemption and child care credits provided in section 422.12 for the taxable year shall be refunded with interest computed under section 422.25. In lieu of claiming a refund, a taxpayer may elect to have the overpayment shown on the taxpayer's final, completed return credited to the tax liability for the following taxable year.

Sec. 9. Section 422.12, subsection 2, Code 1983, is amended to read as follows:

2. A child and dependent care credit equal to five ten percent of the qualifying employment-related expenses and subject to the same limitations provided by section 44A of the Internal Revenue Code of 1954.

Married taxpayers electing to file separate returns or filing separately on a combined return must allocate the child and dependent care credit to each spouse in the proportion that his or her each spouse's respective net income bears to the total combined net income. Taxpayers affected by the allocation provisions of section 422.8 shall be permitted a deduction for the credit only in ~~such~~ the amount as is fairly and equitably allocable to Iowa under rules prescribed by the director.

Sec. 10. Section 422.12, Code 1983, is amended by inserting after subsection 2 the following new subsection and renumbering the remaining subsection:

**NEW SUBSECTION. 3.** A political contributions credit equal to five percent of the first one hundred dollars donated as a political contribution as defined in section 41(c) of the Internal Revenue Code of 1954. In the case of a married couple filing a joint return, a political contributions credit equal to five percent of the first two hundred dollars donated shall be allowed.

Sec. 11. Section 422.16, subsection 1, Code 1983, is amended to read as follows:

1. Every withholding agent as defined herein and every employer as defined herein and further defined in the Internal Revenue Code of 1954, as amended, with respect to income tax collected at source, making payment of wages as defined herein to either a resident employee or employees, or a nonresident employee or employees, working in Iowa, shall deduct and withhold from such wages an amount which will approximate the employee's annual tax liability on a calendar year basis, calculated on the basis of tables to be prepared by the department and schedules or percentage rates, based on such wages, to be prescribed by the department. Every employee or other person shall declare to such employer or withholding agent the number of his personal exemptions and dependency exemptions or credits to be used in applying such tables and schedules or percentage rates, provided that no more such personal or dependency exemptions or credits may be declared by such employee or other person than the number to which he is entitled except as allowed under section 3204(m)(1) of the Internal Revenue Code of 1954. Such claiming of such exemptions or credits in excess of entitlement shall constitute a misdemeanor.

Sec. 12. Section 422.32, subsection 4, Code 1983, is amended to read as follows:

4. "Internal Revenue Code of 1954" means the Internal Revenue Code of 1954, as amended to and including January 1, ~~1982~~ 14, 1983.

Sec. 13. Section 422.32, Code 1983, is amended by adding the following new subsection:

**NEW SUBSECTION. 12.** For purposes of section 422.32, subsection 4, the Internal Revenue Code of 1954 shall be interpreted to include the provisions of Pub. L. No. 98-4.

Sec. 14. Section 422.33, subsection 4, Code 1983, is amended to read as follows:

4. In addition to all taxes imposed under this division, there is imposed upon each corporation doing business within the state a state minimum tax for tax preference equal to ~~twenty-five~~ seventy percent of the state's apportioned share of the federal minimum tax. The state's apportioned share of the federal minimum tax is a percent equal to the ratio of the federal minimum tax on preferences attributable to Iowa to the federal minimum tax on all preferences. The director shall prescribe rules for the determination of the amount of the federal minimum tax on preferences attributable to Iowa which shall be based as much as equitably possible on the allocation and apportionment provisions of subsections 2 and 3. For purposes of this subsection, "federal minimum tax" means the federal minimum tax for tax preferences computed under sections 55 to 58 of the Internal Revenue Code of 1954 for the tax year.

Sec. 15. Section 422.33, Code 1983, is amended by adding the following new subsection:

**NEW SUBSECTION. 5.** 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 computed under section 44F of the Internal Revenue Code of 1954, as amended to and including January 1, 1983.

Any credit in excess of the tax liability for the taxable year shall be refunded with interest computed under section 422.25. In lieu of claiming a refund, a taxpayer may elect to have the overpayment shown on its final, completed return credited to the tax liability for the following taxable year.

Sec. 16. Section 422.35, subsection 8, Code 1983, is amended to read as follows:

8. Add the amounts deducted and subtract the amounts included in income as a result of the treatment provided sale-leaseback agreements under section 168(f)(8) of the Internal Revenue Code of 1954 to the extent that the amounts deducted and the amounts included in income are not otherwise deductible or included in income under the other provisions of the Internal Revenue Code of 1954. Entitlement to depreciation on any property involved in a sale-leaseback agreement shall be determined under the Internal Revenue Code of 1954, excluding section 168(f)(8) in making the determination.

Sec. 17. Section 422.60, unnumbered paragraph 2, Code 1983, is amended to read as follows:

In addition to all taxes imposed under this division, there is imposed upon each financial institution doing business within the state a state minimum tax for tax preference items equal to ~~twenty-five~~ seventy percent of the state's apportioned share of the federal minimum tax. The state's apportioned share of the federal minimum tax is a percent equal to the ratio of the federal minimum tax on preferences attributable to Iowa to the federal minimum tax on all preferences. The director shall prescribe rules for the determination of the amount of the federal minimum tax on preferences attributable to Iowa which shall be based as much as equitably possible on the allocation and apportionment provisions of section 422.63. For purposes of this subsection, "federal minimum tax" means the federal minimum tax for tax preferences computed and paid or payable under sections 55 to 58 of the Internal Revenue Code of 1954, as amended to and including January 1, 1982.

Sec. 18. Section 450B.1, Code 1983, is amended by adding the following new subsection:

NEW SUBSECTION. 4. For purposes of section 450B.1, subsection 1, the Internal Revenue Code of 1954 shall be interpreted to include the provisions of Pub. L. No. 98-4.

Sec. 19. The prohibition in section 422.16, subsection 11, paragraph e, on the waiver relating to reasonable cause of the addition to tax for underpayment of the estimated tax payable shall not apply with regard to the 1982 tax year to farmers and fishermen who have elected not to pay estimated taxes during the 1982 tax year and the director shall waive the addition to tax for underpayment of the estimated tax payable for the 1982 tax year to April 30, 1983 for reasonable cause.

Sec. 20. During the 1983 legislative interim, the department of revenue shall study the tax incidence and tax impact of the existing state minimum tax, using tax information from minimum tax filings with the state and other available tax information. The department shall also estimate the tax incidence, tax impact, and tax effect of alternative methods for determining a state minimum tax, including the development of a state minimum tax paralleling the federal minimum tax but using the Iowa net income as the initial tax base, adding tax preference items from the federal minimum tax, deducting federal taxes and general and specified itemized deduction from the federal tax, and establishing a rate of eight, nine or ten

percent on the resulting income, comparing that with the Iowa regular taxable income to determine the state minimum tax. The department of revenue shall report the result of this study to the General Assembly by January 15, 1984.

Sec. 21. Sections 1, 6, and 12 are retroactive to January 1, 1982 for tax years beginning on or after January 1, 1982. These sections shall also be applicable for tax years beginning prior to January 1, 1982 where the Internal Revenue Code of 1954, as amended up to and including January 14, 1983, provides for certain inclusions or exclusions in computing federal taxable income for a tax year beginning prior to January 1, 1982.

Sec. 22. Sections 3, 7, 9, 10, 14, and 17 are retroactive to January 1, 1983 for tax years beginning on or after January 1, 1983.

Sec. 23. Sections 2, 13, and 18 are retroactive to tax years ending after December 31, 1982. The sections shall be applicable for tax years ending after December 31, 1982, but only with respect to commodities received for the 1983 crop year.

Sec. 24. Sections 5 and 16 are retroactive to January 1, 1981 for the tax years beginning on or after January 1, 1981.

Sec. 25. Sections 4, 8, and 15 are effective January 1, 1985 for tax years beginning on or after January 1, 1985.

Approved June 6, 1983

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## CHAPTER 180

### PROPERTY TAX LEVY FOR EQUIPMENT REPLACEMENT

*S.F. 537*

**AN ACT** to provide a property tax levy for equipment replacement for area schools.

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

Section 1. NEW SECTION. 280A.28 TAX FOR EQUIPMENT REPLACEMENT. Annually, the board of directors may certify for levy a tax on taxable property in the merged area at a rate not exceeding three cents per thousand dollars of assessed valuation for equipment replacement for the area school.

Sec. 2. This Act is repealed effective July 1, 1988.

Approved June 6, 1983

**CHAPTER 181**  
**COST OF CERTAIN STATE PUBLICATIONS**  
*S.F. 550*

**AN ACT** relating to determining the cost of certain state publications.

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

Section 1. Section 14.21, Code 1983, is amended to read as follows:

14.21 PUBLICATION OF PARTS OF CODE. The Code editor in consultation with the superintendent of printing may cause to be printed from time to time, in the form of leaflets, folders, or pamphlets and in such numbers as the Code editor deems reasonable, parts of the Code for the use of public officers. ~~Such~~ The orders shall be limited to actual needs as shown by experience or other competent proof, and the printing shall be done in an economical manner approved by the legislative council.

Commencing July 1, 1977, the Code editor shall cause to be compiled, indexed and published in loose-leaf form the Iowa court rules, which shall consist of all rules of civil procedure, rules of criminal procedure, rules of appellate procedure, and supreme court rules. The Code editor shall cause to be distributed supplements to the compilation on or before the effective date of either new rules, or amendments to or the repeal of existing rules. All expenses incurred by the Code editor under this paragraph shall be defrayed under the provisions of section 14.22. There shall be established a price for the compilation of rules, and a separate price for each supplement. The price of the compilation and of supplements shall represent the costs of compiling and indexing, plus the amounts charged for printing and distribution and a cost for labor determined jointly by the legislative council and rules review committee in consultation with the state printer. ~~A~~ On request a single copy of each compilation and of each supplement shall be distributed free of charge to each of the persons or agencies referred to in section 18.97, subsections 1, 2, 5, 6, 7, 8 and 15.

Sec. 2. Section 17.22, Code 1983, is amended to read as follows:

17.22 PRICE. ~~Said~~ The publications listed in this section shall be sold at a price to be established by dividing the total cost ~~only~~, of printing, binding, distribution and paper stock by the total number printed of each edition, and increasing the figure obtained by an amount, which represents all or any portion of compilation and editing labor costs, to be determined by the legislative council and rules review committee in consultation with the state printer.

1. Code or its supplements thereto and, the Iowa administrative code or its supplements, and the Iowa administrative bulletin.

2. Session laws.

3. Daily journals and bills.

4. Book of annotations to the Code.

5. Supplements to the book of annotations.

6. Tables of corresponding sections to the Code.

7. ~~Reports of the supreme court, and reports of the court of appeals.~~

8 7. Rules of civil procedure, rules of appellate procedure and supreme court rules Iowa court rules.

The Iowa administrative code and bulletin may be distributed with each order for purchase of the Code. The Iowa administrative code, its supplements, the Iowa administrative bulletin or the Code may be distributed with the Code or separately. There shall be established separate prices for the Iowa administrative code, for its supplements, for the Iowa administrative bulletin and for the Code. The price charged for the Iowa administrative code, its supplements or the Iowa administrative bulletin shall represent the cost of compiling and indexing plus the amount charged for the printing and distribution.

When the Code is published in more than one volume the superintendent of printing may distribute each volume on order, after payment of the estimated purchase price for the set, when said the volume becomes available.

Approved June 6, 1983

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## CHAPTER 182

### ALTERNATIVE ENERGY PRODUCING FACILITIES AND RESEARCH

S.F. 380

**AN ACT** to encourage economic development by providing incentives for certain energy producing facilities and research and development activities.

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

Section 1. Section 419.1, subsection 2, paragraph a, Code 1983, is amended to read as follows:

a. ~~Any land~~ Land, buildings or improvements, whether or not in existence at the time of issuance of the bonds issued under ~~authority of~~ this chapter, which are suitable for the use of ~~any a~~ voluntary nonprofit hospital, clinic or health care facility as defined in section 135C.1, subsection 4, or of one or more physicians for an office building to be used exclusively by professional health care providers, including appropriate ancillary facilities, or of ~~any a~~ private college or university, or ~~any a~~ state institution governed under chapter 262 whether for the establishment or maintenance of the college or university, or of ~~any an~~ industry or industries for the manufacturing, processing or assembling of ~~any~~ agricultural or manufactured products, even though the processed products may require further treatment before delivery to the ultimate consumer, or of ~~any a~~ commercial enterprise engaged in storing, warehousing or distributing products of agriculture, mining or industry including but not limited to barge facilities and riverfront improvements useful and convenient for the handling and storage of goods and products, or of a facility for the generation of electrical energy through the use of a renewable energy source including but not limited to hydroelectric and wind generation facilities, or of a facility engaged in research and development activities, or of a national, regional or divisional headquarters facility of a company that does multistate business, or of a telephone company, or of a beginning businessperson for any purpose, or of ~~any a~~ commercial amusement or theme park, or of ~~any a~~ housing unit or complex for the elderly or handicapped, or of ~~any a~~ fair or exposition held in the state, other than the Iowa state fair, which is a member of the association of Iowa fairs, or

Sec. 2. NEW SECTION. 476.34 PURPOSE. It is the policy of this state to encourage the development of alternate energy production facilities and small hydro facilities in order to conserve our finite and expensive energy resources and to provide for their most efficient use.

Sec. 3. NEW SECTION. 476.35 DEFINITIONS. As used in this division, unless the context otherwise requires:

1. "Alternate energy production facility" means any or all of the following:

a. A solar, wind turbine, waste management, resource recovery, refuse-derived fuel, or woodburning facility.

b. Land, systems, buildings, or improvements that are located at the project site and are necessary or convenient to the construction, completion, or operation of the facility.

c. Transmission or distribution facilities necessary to conduct the energy produced by the facility to users located at or near the project site.

2. "Electric utility" means a public utility that furnishes electricity to the public for compensation.

3. "Small hydro facility" means any or all of the following:

a. A hydroelectric facility at a dam.

b. Land, systems, buildings, or improvements that are located at the project site and are necessary or convenient to the construction, completion, or operation of the facility.

c. Transmission or distribution facilities necessary to conduct the energy produced by the facility to users located at or near the project site.

Sec. 4. NEW SECTION. 476.36 RATES FOR ALTERNATE ENERGY PRODUCTION FACILITIES.

1. Subject to section 476.37, the commission shall require electric utilities to enter into long-term contracts to do the following:

a. Purchase or wheel electricity from alternate energy production facilities or small hydro facilities located in the utility's service area under the terms and conditions that the commission finds are just and economically reasonable to the electric utilities' ratepayers, are non-discriminatory to alternate energy producers and small hydro producers and will further the policy stated in section 476.34.

b. Provide for the availability of supplemental or backup power to alternate energy production facilities or small hydro facilities on a nondiscriminatory basis and at just and reasonable rates.

2. Upon application by the owner or operator of an alternate energy production facility or small hydro facility or any interested party, the commission shall establish for the affected public utility just and economically reasonable rates for electricity purchased under subsection 1, paragraph a. The rates shall be established at levels sufficient to stimulate the development of alternate energy production and small hydro facilities in Iowa and to encourage the continuation of existing capacity from those facilities.

3. The commission shall base the rates for new facilities or new capacity from existing facilities on the following factors:

a. The estimated capital cost of the next generating plant, including related transmission facilities, to be placed in service by the electric utility serving the area.

b. The term of the contract between the electric utility and the seller.

c. A levelized annual carrying charge based upon the term of the contract and determined in a manner consistent with both the methods and the current interest or return requirements associated with the electric utility's new construction program.

d. The electric utility's annual energy costs, including current fuel costs, related operation and maintenance costs, and other energy-related costs considered appropriate by the commission.

4. The commission shall consider the factors listed in subsection 3 in setting rates for existing facilities. However, the commission may consider other factors and may establish a rate for existing facilities that is less than the rate established for new facilities if the commission determines that a lower rate is sufficient to encourage small power production.

5. In the case of a utility that purchases all or substantially all of its electricity requirements, the rates established under this section must be equal to the current cost to the electric utility of similar types and quantities of electrical service.

6. In lieu of the other procedures provided by this section, an electric utility and an owner or operator of an alternate energy production facility or small hydro facility may enter into a long-term contract in accordance with subsection 1 and may agree to rates for purchase and sale transactions. A contract entered into under this subsection must be filed with the commission in the manner provided for tariffs under section 476.4.

7. This section does not require an electric utility to construct additional facilities unless those facilities are paid for by the owner or operator of the affected alternate energy production facility or small hydro facility.

**Sec. 5. NEW SECTION. 476.37 EXCEPTIONS.**

1. The commission shall not require an electric utility to purchase or wheel electricity from an alternate energy production facility or small hydro facility unless the facility meets all of the following conditions:

a. Has an electric generating capacity of not more than eighty megawatts.

b. Is owned or operated by an individual, firm, copartnership, corporation, company, association, joint stock association, city, town, or county that:

(1) Is not primarily engaged in the business of producing or selling electricity, gas, or useful thermal energy other than electricity, gas, or useful thermal energy sold solely from alternate energy production facilities or small hydro facilities.

(2) Does not sell electricity, gas, or useful thermal energy to residential users other than the tenants or the owner or operator of the facility.

2. The commission shall not require an electric utility to purchase or wheel electricity from a small hydro facility unless the facility has an electric generating capacity of not more than eighty megawatts.

**Sec. 6. NEW SECTION. 476.38 EXEMPTION FROM EXCESS CAPACITY.** Capacity purchased from an alternate energy production facility or small hydro facility shall not be included in a calculation of an electric utility's excess generating capacity for rate-making purposes.

**Sec. 7.** Until July 1, 1986, the rate for a new facility under section 476.36, subsection 2, shall not exceed eight cents per kilowatt hour.

Approved June 6, 1983

**CHAPTER 183****PENALTIES FOR CERTAIN CRIMES***H.F. 652*

**AN ACT** relating to the penalties for certain crimes including crimes for which the penalty is an aggravated misdemeanor and the crime of false use of a financial instrument and providing penalties.

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

Section 1. Section 715.6, Code 1983, is amended to read as follows:

**715.6 FALSE USE OF A FINANCIAL INSTRUMENT – PENALTIES.** The use of a financial instrument with the intent to obtain fraudulently anything of value by ~~one~~ a user who knows that the instrument is not what it purports to be, or who knows that ~~he or she~~ the user is not the person nor the authorized agent of the person who, as shown on the instrument, has the right to so use the instrument, ~~shall constitute~~ constitutes the false use of a financial instrument.

**PARAGRAPH DIVIDED.** False use of a financial instrument as defined in section 715.1, subsection 2, 3, or 4, is false use of a financial instrument in the first degree. False use of a financial instrument as defined in section 715.1, subsection 1, to obtain property one hundred dollars or more in value, is false use of a financial instrument in the first degree. False use of a financial instrument in the first degree is a class “C” “D” felony.

False use of a financial instrument as defined in section 715.1, subsection 1, to obtain property not exceeding one hundred dollars in value, is false use of a financial instrument in the second degree. False use of a financial instrument in the second degree is an aggravated misdemeanor.

The value of property for purposes of this section is its normal market or exchange value within the community at the time of the false use of a financial instrument with intent to obtain the property. If money or property is sought to be obtained by a series of false uses of financial instruments from the same person or location, or from different persons by a series of false uses of financial instruments which occur in approximately the same location or time period so that the attempts to obtain property are attributable to a single scheme, plan or conspiracy, such false uses of financial instruments may be considered a single false use of a financial instrument and the value may be the total value of all the property sought to be obtained.

Sec. 2. Section 903.1, Code 1983, is amended to read as follows:

**903.1 MAXIMUM SENTENCE FOR MISDEMEANANTS.**

1. When a person is convicted of a simple or serious misdemeanor and a specific penalty is not provided for, the court shall determine the sentence, and shall fix the period of confinement or the amount of fine, if such be the sentence, within the following limits:

1. For an aggravated misdemeanor, imprisonment not to exceed two years, or a fine not to exceed five thousand dollars, or both.

2. For a serious misdemeanor, imprisonment not to exceed one year, or a fine not to exceed one thousand dollars, or both.

3 a. For a simple misdemeanor, imprisonment not to exceed thirty days, or a fine not to exceed one hundred dollars.

b. For a serious misdemeanor, imprisonment not to exceed one year, or a fine not to exceed one thousand dollars, or both.

2. When a person is convicted of an aggravated misdemeanor, and a specific penalty is not provided for, the maximum penalty shall be imprisonment not to exceed two years, or a fine not to exceed five thousand dollars, or both. When a judgment of conviction of an aggravated misdemeanor is entered against any person and the court imposes a sentence of confinement for a period of more than one year the term shall be an indeterminate term.

Sec. 3. Section 2 of this Act amending section 903.1 of the Code, takes effect July 1, 1983, but also applies retroactively to January 1, 1978.

Approved June 7, 1983

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## CHAPTER 184

### PROGRAMS FOR MATHEMATICS, SCIENCE AND FOREIGN LANGUAGE EDUCATION

*H.F. 532*

**AN ACT** to provide for the establishment of programs relating to science, mathematics, and foreign languages, and to make an appropriation.

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

Section 1. **NEW SECTION. 257.31 SOFTWARE CLEARINGHOUSE.**

1. The state board of public instruction under its authority granted in section 257.10, subsection 14, shall establish a computer software clearinghouse for instructional purposes to perform the following services for school districts, area education agencies, and merged area schools in this state:

- a. Acquire computer programs based upon curricular needs of educational agencies.
- b. Evaluate computer programs as to their appropriateness to educational programs used in this state.
- c. Catalog and organize computer programs.
- d. Reproduce and distribute computer programs.
- e. Provide for the development of appropriate educational materials to accompany the computer programs.

2. The state board shall establish a committee to coordinate the activities of the clearinghouse. The members of the committee shall meet as often as necessary to accomplish their duties and shall receive reimbursement for travel and necessary expenses from funds appropriated in this section.

The committee may negotiate agreements with public and private agencies in order to perform the services listed in subsection 1 and may charge users of the services listed in subsection 1 reproduction costs and other costs associated with the services.

3. There is appropriated from the general fund of the state to the department of public instruction, for the fiscal year beginning July 1, 1984 and each fiscal year thereafter, the sum of

two hundred fifty thousand (250,000) dollars, or so much thereof as is necessary, to fund the computer software clearinghouse.

Sec. 2. NEW SECTION. 261.5 GUARANTEED LOAN PAYMENT PROGRAM. There is established a guaranteed student loan payment program to be administered by the commission. An individual who meets all of the following conditions is eligible for reimbursement payments under the program if the individual:

1. Is a teacher employed on a full-time basis under sections 279.13 through 279.19 in a school district in this state or is a teacher in an approved nonpublic school in this state.
2. Has an outstanding debt with an eligible lender under the Iowa guaranteed student loan program as of the beginning of a school year.
3. Has never defaulted on a loan guaranteed by the commission or by the federal government.
4. Teaches one or more of the following during that school year:
  - a. A sequential mathematics course at the advanced algebra level or higher.
  - b. A chemistry, advanced chemistry, physics or advanced physics course.
5. Graduated from college after January 1, 1983 with a major in mathematics or science.

The commission shall adopt rules under chapter 17A to provide for the administration of this program.

There is appropriated from the general fund of the state to the Iowa college aid commission, the sum of thirty thousand (30,000) dollars, or as much thereof as is necessary, for the fiscal year beginning July 1, 1983, and the sum of sixty thousand (60,000) dollars, or as much thereof as is necessary, for the fiscal year beginning July 1, 1984 and each succeeding fiscal year, to make the reimbursement payments required under this section.

Maximum annual reimbursement payments to an eligible teacher for loan repayments made during a school year shall be equal to one thousand dollars or the remainder of a loan, whichever is less. Total payments for an eligible teacher shall not exceed six thousand dollars. If a teacher fails to complete a year of instruction in a course listed in subsection 4, the teacher shall not be reimbursed for loan repayments made during that school year.

Sec. 3. Section 442.39, Code 1983, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. For the school year beginning July 1, 1983 and succeeding school years, a school district receiving additional funds under subsection 2 for its pupils at the ninth grade level and above that are enrolled in sequential mathematics courses at the advanced algebra level and above; chemistry, advanced chemistry, physics or advanced physics courses; or foreign language courses at the second year level and above shall have an additional weighting of one pupil added to its total.

Sec. 4. NEW SECTION. 442.44 APPROPRIATION FOR SPECIAL COURSES. The state comptroller shall pay to each school district in this state an amount equal to fifty dollars times the sum of the number of pupils enrolled for the entire school year on a full-time equivalent basis in foreign language courses at the first-year level and twenty-five dollars times the sum of the number of pupils enrolled for the entire school year on a full-time equivalent basis in sequential mathematics courses at the advanced algebra level and above and in chemistry, advanced chemistry, physics and advanced physics courses.

Payment for a budget year shall be determined on the basis of the full-time equivalent enrollment in the courses for the base year.

The department of public instruction shall adopt rules under chapter 17A to carry out this section.

For the school year beginning July 1, 1984 and each succeeding school year, there is appropriated from the general fund of the state to the state comptroller an amount sufficient to make the payments to school districts required by this section. Moneys received by a school

district under this section are miscellaneous income. Moneys received by a school district for pupils enrolled in science and mathematics courses shall be used only for purchase of equipment and supplies.

Sec. 5. Section 261.2, Code 1983, is amended by adding the following new subsection:

NEW SUBSECTION. Prepare and administer the Iowa science and mathematics loan program under this chapter.

Sec. 6. NEW SECTION. 261.28 SCIENCE AND MATHEMATICS LOAN PROGRAM. The Iowa science and mathematics loan program is established to be administered by the commission. The purpose of the loan program is to assist teachers to obtain or to upgrade their teaching authorization in the areas of science or mathematics. The commission shall adopt rules under chapter 17A, in consultation with the board of educational examiners, to administer the program. The rules shall provide that loans not be granted to teachers for the purpose of improving their knowledge of subject content or teaching skills in order to teach courses in subject matter areas for which they possess approval granted by the board of educational examiners. The rules shall also provide that priority for loans be given to teachers possessing minimal qualifications for teaching science or mathematics.

Sec. 7. NEW SECTION. 261.29 LOANS TO TEACHERS. Loans may be granted only to a person possessing a valid teacher's certificate issued under chapter 260. The annual amount of a loan to a teacher enrolled as a full-time student shall not exceed one thousand dollars for the fiscal year beginning July 1, 1983 and one thousand five hundred dollars for each succeeding fiscal year, or the total amount of tuition and fees, whichever is less. The annual amount of a loan to a teacher enrolled on at least a half-time basis shall not exceed five hundred dollars for the fiscal year beginning July 1, 1983 and seven hundred fifty dollars for each succeeding fiscal year, or the total amount of tuition and fees, whichever is less. Loans may be made for courses in programs offered in this state and approved by the board of educational examiners. The board of educational examiners shall adopt rules pursuant to chapter 17A for approval of programs. The rules shall require that the programs provide training in both subject content and teaching methodology for mathematics and science teaching.

The commission shall set a final date for submission of applications each year and shall review the applications and inform the recipients within a reasonable time after the deadline.

Sec. 8. NEW SECTION. 261.30 APPROPRIATIONS. There is appropriated from the general fund of the state to the Iowa college aid commission for the fiscal year beginning July 1, 1983 the sum of forty thousand (40,000) dollars, or as much thereof as is necessary, and for each succeeding fiscal year, the sum of one hundred forty thousand (140,000) dollars, or as much thereof as is necessary, to make loans under sections 261.28 and 261.29.

Sec. 9. NEW SECTION. 261.31 REPAYMENT. Repayment of the loan shall begin one year after the teacher completes the educational program for which tuition and fees are received. If a teacher submits evidence to the commission that the teacher was employed as a teacher of one or more science or mathematics courses or as an elementary teacher teaching science and mathematics in a public school district or nonpublic school in this state during that year, fifty percent of the amount of the loan is canceled.

At the end of the second year, if the teaching requirements are met, the remainder of the loan is forgiven and payments made by that teacher during the year shall be refunded to the teacher.

There is created a science and mathematics loan repayment fund for deposit of payments made by teachers. Refunds of payments by teachers shall be paid by the commission to the teachers from the fund created in this section. Payments made by teachers that are not refunded shall be transferred on each June 30 from the fund created in this section to the general fund of the state.

The interest rate collected on the loan shall be equal to the interest rate being collected by an eligible lender under the guaranteed student loan program.

The commission shall prescribe by rule the terms of repayment which shall provide for monthly payments of principal and interest of not less than seventy-five dollars.

Sec. 10. **NEW SECTION. 257.27 PROGRAMS FOR IMPROVEMENT OF SCIENCE AND MATHEMATICS TEACHING.** The department shall provide for the establishment of programs, approved by the board of educational examiners, for teachers to improve skills in teaching in the science and mathematics areas. Each program shall provide assistance to teachers in subject content and teaching methodology for science or mathematics.

The programs may be established through an area education agency or public or private institution of higher education in this state.

There is appropriated from the general fund of the state to the department of public instruction for the fiscal year beginning July 1, 1983, the sum of forty thousand (40,000) dollars or as much thereof as is necessary, and for the fiscal year beginning July 1, 1984, and each succeeding fiscal year, the sum of one hundred forty thousand (140,000) dollars, or as much thereof as is necessary, to be allocated for the establishment of programs under this section.

Sec. 11. Section 261.2, Code 1983, is amended by adding the following new subsection:

**NEW SUBSECTION.** Administer the supplemental grant program under this chapter.

Sec. 12. **NEW SECTION. 261.32 SUPPLEMENTAL GRANT PROGRAM.** A person who graduates from a public or nonpublic high school in this state after January 1, 1984 who has successfully completed at least seven units of science and mathematics courses, and at least three of the seven units include sequential mathematics courses at the advanced algebra level or higher, chemistry, advanced chemistry, physics, or advanced physics courses, and who attends an eligible institution is eligible for a supplemental grant provided in this chapter.

The department of public instruction shall transmit to the commission a list of high school graduates who have successfully completed the courses required in this section.

For the purpose of this section and section 261.33, an eligible institution is an accredited private institution as defined in section 261.9, subsection 5, an institution of higher learning under the state board of regents, or a merged area school established under chapter 280A.

Sec. 13. **NEW SECTION. 261.33 PAYMENT OF GRANTS.** A student meeting the requirements of section 261.32 may make application to the commission, on forms prescribed by the commission, for payment of a supplemental grant to an eligible institution in which the student is enrolled on a full-time basis. The maximum supplemental grant is five hundred dollars per year. Payment under the grant shall be allocated equally among the semesters or trimesters and shall be paid at the beginning of each semester or trimester upon certification by the eligible institution that the student is admitted as a full-time student and in attendance. If the student discontinues attendance before the end of a semester or trimester after receiving payment under the grant, the amount of refund due the student, up to the amount of payment under the grant, shall be paid by the eligible institution to the state.

An eligible student may receive a supplemental grant for two semesters of undergraduate study or the trimester equivalent.

The amount of a supplemental grant to a student shall not be considered when determining financial need under the Iowa tuition grant and Iowa scholarship programs.

Sec. 14. **NEW SECTION. 261.34 APPROPRIATION.** Commencing July 1, 1984, there is appropriated from the general fund of the state to the commission for each fiscal year the sum of one million five hundred thousand (1,500,000) dollars for supplemental grants.

Sec. 15. This Act, being deemed of immediate importance, takes effect from and after its publication in the Waterloo Courier, a newspaper published in Waterloo, Iowa, and in the LeMars Daily Sentinel, a newspaper published in LeMars, Iowa.

Approved June 8, 1983

I hereby certify that the foregoing Act, House File 532 was published in the LeMars Daily Sentinel, LeMars, Iowa on June 14, 1983 and in the Waterloo Courier, Waterloo, Iowa on June 13, 1983.

MARY JANE ODELL, *Secretary of State*

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**CHAPTER 185**  
**FUNDS AVAILABLE FOR SCHOOL DISTRICTS**  
*H.F. 562*

**AN ACT** relating to funds available to school districts.

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

Section 1. Section 32.2, Code 1983, is amended to read as follows:

32.2 ACTIONS FOR PENALTY. ~~Such~~ The action or suit may be brought by and in the name of the state, on the relation of any a citizen thereof of the state, and ~~such the~~ penalty, when collected, less the reasonable cost and expense of action or suit and recovery, to be certified by the clerk of the district court of the county in which the offense is committed, shall be paid into the county treasury for the benefit of the school fund to the treasurer of state for deposit in the general fund of the state, and two or more penalties may be sued for and recovered in the same action or suit.

Sec. 2. Section 99.30, Code 1983, is amended to read as follows:

99.30 APPLICATION OF TAX. ~~The said tax collected shall be applied in payment of any toward the deficiency in the payment of costs of the action and abatement on behalf of the state to the extent of such deficiency which exist after the application thereto of the proceeds of the sale of personal property as hereinbefore provided, and the.~~ The remainder of said the tax together with the unexpended portion of the proceeds of the sale of personal property shall be distributed to the temporary school fund of the county paid to the treasurer of state for deposit in the general fund of the state, except that ten percent of the amount of the whole tax collected and of the whole proceeds of the sale of ~~said the~~ personal property, as provided in this chapter, shall be paid by the treasurer to the attorney representing the state in the injunction action, at the time of final judgment.

Sec. 3. Section 127.21, Code 1983, is amended to read as follows:

127.21 SCHOOL FUND PROCEEDS. Any balance of said the proceeds shall be paid by the sheriff to the county treasurer who shall credit the same to the county school fund treasurer of state for deposit in the general fund of the state.

Sec. 4. Section 279.33, Code 1983, is amended to read as follows:

279.33 ANNUAL SETTLEMENTS. At a regular or special meeting held in July prior to or on July not later than August 15, the board of each school corporation shall meet, examine the books of and settle with the secretary and treasurer for the year ending on the thirtieth day of preceding June preceding 30, and transact such other business as may properly come before it necessary. The treasurer at the time of such settlement shall furnish the board with a sworn statement from each depository showing the balance then on deposit in such the depository. Should If the secretary or treasurer fail to make proper reports for such the settlement, the board shall take action to secure the same obtain the balance information.

Sec. 5. Section 279.34, Code 1983, is amended to read as follows:

279.34 FINANCIAL STATEMENT—PUBLICATION. In each school district, the board shall, during the second week of July August of each year, publish by one insertion in at least one newspaper, if there is a newspaper published in said the district, a summarized statement verified by affidavit of the secretary of the board showing the receipts and disbursements of all funds for the preceding school year. In all such districts of more than one hundred twenty-five thousand population, the statement of disbursements is to show the names of the persons, firms, or corporations, and the total amount paid to each during the school year.

Sec. 6. Section 279.35, Code 1983, is amended to read as follows:

279.35 OTHER DISTRICTS—FILING STATEMENT. In every school district wherein in which no newspaper is published, the president and secretary of the board of directors thereof shall file the above statement required in section 279.34 with the area education agency administrator during the second week of July August of each year and shall post copies thereof of the statement in three conspicuous places in the district.

Sec. 7. Section 279.38, unnumbered paragraph 1, Code 1983, is amended to read as follows:

Boards of directors of school corporations may pay, out of funds available to them, reasonable annual dues to an the Iowa association of school boards. The financial condition and transactions of the Iowa association of school boards shall be audited in the same manner as school corporations as provided in section 11.18. In addition, annually the Iowa association of school boards shall publish a listing of the school districts and the annual dues paid by each and shall publish an accounting of all moneys expended for expenses incurred by and salaries paid to legislative representatives and lobbyists of the association.

Sec. 8. NEW SECTION. 297.33 LOAN AGREEMENTS. In order to make immediately available proceeds of the schoolhouse tax which has been approved by the voters as provided in section 278.1, subsection 7, the board of directors may, with or without notice, borrow money and enter into loan agreements in anticipation of the collection of the tax with a bank, investment banker, trust company, insurance company, or insurance group.

By resolution, the board shall provide for an annual levy which is within the limits of the tax approved by the voters to pay for the amount of the principal and interest due each year until maturity. The board shall file a certified copy of the resolution with the auditor of each county in which the district is located. The filing of the resolution with the auditor shall make it the duty of the auditor to annually levy the amount certified for collection until funds are realized to repay the loan and interest on the loan in full.

The loan must mature within the period of time authorized by the voters and shall bear interest at a rate which does not exceed the limits provided under chapter 74A. A loan agreement entered into pursuant to this section shall be in a form as the board of directors shall by resolution provide and the loan shall be payable as to both principal and interest from the proceeds of the annual levy of the voted tax pursuant to section 278.1, subsection 7, or so much thereof as will be sufficient to pay the loan and interest on the loan.

The proceeds of a loan must be deposited in a fund which is separate from other district funds. Warrants paid from this fund must be for purposes authorized by the voters as provided in section 278.1, subsection 7.

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

This section is supplemental and in addition to existing statutory authority to finance the purposes specified in section 278.1, subsection 7, and for the borrowing of money and execution of loan agreements in connection with that section and subsection, and is not subject to any other law. The fact that a school corporation may have previously borrowed money and entered into loan agreements under authority of this section does not prevent the school corporation from borrowing additional money and entering into further loan agreements if the aggregate of the amount payable under all of the loan agreements does not exceed the proceeds of the voted tax.

Sec. 9. Section 302.4, Code 1983, is amended to read as follows:

302.4 DIVISION AND APPRAISEMENT. The board of supervisors may, at such time as it may fix, and as preliminary to a sale, authorize the trustees of any a township, where the sixteenth section or land selected in lieu thereof of the sixteenth section has not been sold, to lay out the same section into such tracts as in their judgment will be for the best interests of the permanent school fund, conforming, as far as the interests of said the fund will permit, to the legal subdivisions of the United States surveys, and appraise each tract at what they believe to be its true value, and certify to said the board the divisions and appraisements made by them. Said The division and appraisement shall be approved or disapproved by said the board at its first meeting after such the report, and in case it disapproves the same, it may at once order another division and appraisement. If the board of supervisors approves, the county auditor shall make and keep a record of such the division, appraisement, and approval; but no school lands of any kind shall not be sold for less than the appraised value per acre, except as hereinafter provided; nor shall any. A member of the board of supervisors, county auditor, township trustee, or any a person who was engaged in the division and appraisement of said the land, shall not be directly or indirectly interested in the purchase thereof of the land; and any sale made, where such the parties or any of them are so interested have an interest in the land, shall be void.

Sec. 10. Section 302.6, Code 1983, is amended to read as follows:

302.6 SALE WITHOUT APPRAISEMENT. When the county board of supervisors of any county has once offered for sale any school lands held under section 302.1 in compliance with the requirements of this chapter, and they remain unsold, and it is unable to obtain therefor the appraised value thereof of the lands, and in the opinion of said the board, it is for the best interests of the permanent school fund that the same lands be sold for a less price, it may instruct the auditor to transmit to the secretary of state a certified copy of its proceedings in relation to the order of sale thereof of the land and subsequent proceedings in relation thereto to the sale, including the action of the township trustees, and the price per acre at which the land had been appraised, which transcript the. The secretary of state shall submit the transcript of the proceedings to the executive council; and if it approves of a sale at a less sum,

it shall certify ~~such~~ the approval to the auditor of the county from which ~~said~~ the transcript came, ~~which~~. The certificate shall be transcribed recorded in the minute book of the board of supervisors, and thereupon said the land may again be offered and sold to the highest bidder without again being appraised, after notice given as in case of sales in the first instance, without being again appraised.

Sec. 11. Section 302.8, Code 1983, is amended to read as follows:

302.8 SALE OF LANDS BID IN. When lands have been sold and bid in by the state in behalf of the permanent school fund upon a judgment in favor of ~~such~~ the fund, the land may be sold in ~~like~~ the same manner as other school lands, and when lands have been conveyed to the counties in which they are situated for the use of the permanent school fund, instead of to the state, ~~such~~ the conveyance ~~shall be~~ is valid and binding, and upon proper certificates of sales patents shall issue in ~~like~~ the same manner as ~~in cases where if~~ the conveyances ~~were~~ had been properly made to the state.

Sec. 12. Section 302.9, Code 1983, is amended to read as follows:

302.9 CASH OR COLLATERAL SECURITY. When, in the judgment of the board of supervisors, ~~any~~ school lands held under section 302.1 are of such a character that a sale upon partial credit would be unsafe or incompatible with the interest of the permanent school fund, and especially in the case of timbered lands, the board of supervisors may ~~in its discretion~~ exact the whole of require the entire purchase money in advance; or if ~~it~~ the board sells ~~such~~ the land upon a partial credit, as ~~hereinbefore prescribed~~, it shall require good collateral security for the payment of the part upon which credit is given.

Sec. 13. Section 302.10, Code 1983, is amended to read as follows:

302.10 UNIFORM INTEREST DATE. ~~In all cases where~~ If money is due to the permanent school fund, either for loans or deferred payments of the purchase price of land sold, the interest shall be made payable on the first day of January each year, and if the debtor fails to pay the interest within six months ~~thereafter~~ of the date it is due, the entire amount of both principal and interest shall become due, and the county auditor shall ~~make a report thereof~~ the nonpayment to the county attorney, who shall immediately commence action for the collection of the amount reported to him as due, and ~~this~~. This section is hereby declared to be a part of any a contract made by virtue of this chapter, whether expressed ~~therein~~ in the contract or not.

Sec. 14. Section 302.11, Code 1983, is amended to read as follows:

302.11 SCHOOL FUND ACCOUNTS—AUDIT OF LOSSES. The state comptroller shall keep the permanent school fund accounts in books provided for that purpose, separate and distinct from the revenue books. The auditor of state shall audit ~~all~~ losses to the permanent school or university fund ~~which shall have been occasioned~~ caused by the defalcation, mismanagement, or fraud of the agents or officers controlling and managing ~~the same~~, and for ~~this purpose~~ the fund. The auditor of state shall prescribe such regulations adopt rules for those officers as ~~may be necessary to ascertain~~ such the losses.

Sec. 15. Section 302.15, Code 1983, is amended to read as follows:

302.15 MANAGEMENT. ~~All property~~ Property and money ~~hereafter~~ accrued to the permanent school fund shall be managed and controlled by the state treasurer of state, and he ~~shall be~~ the treasurer of state is responsible for the safekeeping, investment, reinvestment and disbursement of the ~~same~~ property and money.

Sec. 16. Section 302.16, Code 1983, is amended to read as follows:

302.16 ACTIONS. ~~All actions~~ Actions for and in behalf of ~~said~~ the fund may be brought in the name of the state for the use of the permanent school fund, by the attorney general.

Sec. 17. Section 302.17, Code 1983, is amended to read as follows:

302.17 LIABILITY OF COUNTY. Each county ~~shall be~~ is liable for ~~all~~ losses upon loans of the permanent school fund, principal or interest, made in ~~such the~~ county, unless the loss was not occasioned by reason of ~~any~~ a default of its officers or by taking insufficient or imperfect securities, or from a failure to bid at an execution sale the full amount of the judgment and costs.

Sec. 18. Section 302.19, Code 1983, is amended to read as follows:

302.19 LOANS. The permanent school fund shall be loaned out or invested by the ~~state~~ treasurer of state as it comes into ~~his the~~ the treasurer's hands.

Sec. 19. Section 302.28, Code 1983, is amended to read as follows:

302.28 STATUTE OF LIMITATION. Lapse of time ~~shall in no case be~~ is not a bar to ~~any~~ action to recover ~~any a~~ part of the permanent school fund, ~~nor shall and it does not~~ prevent the introduction of evidence in ~~such an~~ action, except as provided in sections 614.29 to 614.38.

Sec. 20. Section 302.29, Code 1983, is amended to read as follows:

302.29 PAYMENTS. ~~All payments~~ Payments to the permanent school fund upon contracts, or loans of ~~any other another~~ nature, shall be made to the treasurer of the county upon a certificate from the auditor showing the amount due.

Sec. 21. Section 302.31, Code 1983, is amended to read as follows:

302.31 SCHOOL FUND ACCOUNT—SETTLEMENT. The auditor shall also keep ~~in his~~ office, in books to be provided for that purpose, an account to be known as the permanent school fund account, in which a memorandum of ~~all the~~ notes, mortgages, bonds, money, and assets of ~~every kind and description~~ which may come into ~~his the~~ the auditor's hands and those of the treasurer shall be entered, and separate accounts of principal and interest be kept; ~~and the~~. The county treasurer shall also keep a ~~like an~~ account and record of all school funds coming into ~~his the~~ the county treasurer's hands. Settlements of ~~such the~~ account shall be made with the board of supervisors at its January and June sessions, ~~which and the~~ settlements shall be recorded with the proceedings of the board.

Sec. 22. Section 302.32, Code 1983, is amended to read as follows:

302.32 NOTICE OF DEFAULT. When outstanding contracts for the sale of school lands or notes for money of the permanent school fund loaned, or interest ~~thereon on the~~ permanent school fund, are due, the auditor shall by mail at once notify the debtor to make payment ~~thereof~~ within three months.

Sec. 23. Section 302.34, Code 1983, is amended to read as follows:

302.34 BID AT EXECUTION SALE. Upon a sale of lands under an execution founded upon a permanent school fund claim or right, the auditor shall bid ~~such a~~ sum as required by the interests of the fund ~~require~~, and, if struck off to the state, it shall be thereafter treated ~~in all~~ respects the same as other lands belonging to ~~said~~ the fund.

Sec. 24. Section 302.35, Code 1983, is amended to read as follows:

302.35 SHERIFF'S DEED TO STATE. When lands have been bid in by the county for the state under foreclosure of permanent school fund mortgages and the time for redemption has expired, a sheriff's deed shall be issued to the state for the use and benefit of the permanent school fund. The county auditor shall file the ~~said~~ deed for record in the office of the county recorder who shall record the ~~same deed~~ without fee and return ~~the same it~~ when recorded to the county auditor who shall then forward ~~the same it~~ to the secretary of state. The secretary of state shall record the ~~said deed in his records~~ and then file ~~the same it~~ with the state comptroller.

Sec. 25. Section 302.38, Code 1983, is amended to read as follows:

302.38 EXCESS—LOSS BORNE BY COUNTY. ~~Any An~~ excess over the amount of the unpaid portion of the principal, costs of foreclosure, and interest on the principal ~~as above provided~~, shall inure to the county and be credited to the general county fund. If the lands ~~shall be~~ are sold for a less amount than the unpaid portion of the principal, the loss shall be sus-

tained by the county, and the board of supervisors shall at once order the amount of such the loss transferred from the general fund or temporary school fund of the county to the permanent school fund account.

Sec. 26. Section 302.39, Code 1983, is amended to read as follows:

302.39 REPORT AS TO SALES—INTEREST. County auditors shall report, on or before the first day of January 1 of each year, report to the state comptroller the amount of all the sales and resales made during the year previous year, of the sixteenth section, five-hundred-thousand-acre grant, escheat estates, and lands taken under foreclosure of permanent school fund mortgages, and the state comptroller shall charge the same them to the counties with interest from the date of such sale or resale to January 1, at the rate of three percent per annum.

Sec. 27. Section 302.42, Code 1983, is amended to read as follows:

302.42 REPORT AS TO RENTS. County By January 1 of each year, county auditors shall, upon the first day of January of each year, report to the state comptroller the amount of rents collected during the preceding year on unsold school lands and lands taken under foreclosure of permanent school fund mortgages then in the hands of the county treasurer, and the state comptroller shall include the amount so reported in his the semiannual apportionment of interest.

Sec. 28. Section 302.44, Code 1983, is amended to read as follows:

302.44 PENALTY AGAINST COUNTY AUDITOR. Any A county auditor failing or neglecting to perform any of the required duties which are required of him by the provisions of under this chapter, shall be is liable to a penalty of not less than one hundred nor more than five hundred dollars, to be recovered in an action brought in the district court by the board of supervisors, the. The judgment to shall be entered against the party and his the party's bondsmen, and the proceeds to go to the school fund shall be paid to the treasurer of state for deposit in the general fund of the state.

Sec. 29. Section 331.502, subsection 50, Code 1983, is amended to read as follows:

50. In the case of For payment of a permanent school fund mortgage, acknowledge satisfaction of the mortgage by execution of a written instrument referring to the mortgage as provided in section 655.1.

Sec. 30. Section 331.509, subsection 1, paragraph o, Code 1983, is amended to read as follows:

o. The reports of magistrates and other officers, including forfeited recognizances in their offices, fines, penalties, forfeitures imposed in their respective courts, and forfeited appearance bonds in criminal cases, all of which are payable to the county treasury for the benefit of the school fund treasurer of state to be deposited in the general fund of the state.

Sec. 31. Section 331.552, subsection 11, Code 1983, is amended by striking the subsection.

Sec. 32. Section 331.552, subsection 20, Code 1983, is amended to read as follows:

20. Maintain a permanent school fund account and records of school funds received as provided in section 302.31.

Sec. 33. Section 360.3, Code 1983, is amended to read as follows:

360.3 TRANSFER OF FUND. When there are funds in the hands of any a township clerk, raised under the provisions of this chapter which are not desired for the purposes for which they were raised, the funds may be transferred to the school general fund of any a school district or districts pro rata wherein same was in which the funds were raised, when a petition is presented to the trustees, signed by a majority of the qualified electors of said the township, as shown by the election register or registers of the last preceding primary or general election held in said the township, said. The transfer of funds to shall be made by the township clerk upon order of the trustees after the filing of said the petition with said the clerk.

Sec. 34. Section 442.3, Code 1983, is amended to read as follows:

**442.3 STATE FOUNDATION BASE.** The state foundation base for the school year beginning July 1, 1972, is seventy percent of the state cost per pupil. ~~For~~ Except as otherwise provided in this section, for each succeeding school year the state foundation base shall be increased by the amount of one percent of the state cost per pupil, up to a maximum of eighty percent of the state cost per pupil. However, for the school years beginning July 1, 1980, July 1, 1981, and July 1, 1982, the state foundation base shall be the same as the state foundation base for the school year beginning July 1, 1979. For the school year beginning July 1, 1984, the state foundation base is eighty percent of the state cost per pupil if the estimate of the ending fund balance of the state general fund for the fiscal year beginning July 1, 1984 and ending June 30, 1985, as estimated by the state comptroller in January, 1984, is equal to or greater than thirty million dollars. The district foundation base is the larger of the state foundation base or the amount per pupil which the district will receive from foundation property tax and state school foundation aid.

Sec. 35. Section 442.4, Code 1983, is amended by adding the following new subsection after subsection 3:

**NEW SUBSECTION. 3A.** For the school year beginning July 1, 1984 and each subsequent school year, if a school district's basic enrollment for the budget year is larger than its budget enrollment for the budget year, the district shall use its basic enrollment for the budget year in lieu of its budget enrollment for the budget year for computations required in this chapter.

Sec. 36. Section 442.4, subsection 4, Code 1983, is amended by striking the subsection and inserting in lieu thereof the following:

4. For the school year beginning July 1, 1984 and each succeeding school year, if an amount equal to the district cost per pupil for the budget year minus the amount included in the district cost per pupil for the budget year to compensate for the cost of special education support services for a school district for the budget year times the budget enrollment of the school district for the budget year is less than one hundred two percent times an amount equal to the district cost per pupil for the base year minus the amount included in the district cost per pupil for the base year to compensate for the cost of special education support services for a school district for the base year times the budget enrollment for the school district for the base year, the state comptroller shall increase the budget enrollment for the school district for the budget year to a number which will provide that one hundred two percent amount.

Sec. 37. Section 442.7, subsection 5, Code 1983, is amended by striking the subsection and inserting in lieu thereof the following:

5. Notwithstanding subsections 1 through 4, for the school year beginning July 1, 1984, if the estimate of the ending fund balance of the state general fund for the fiscal year beginning July 1, 1984 and ending June 30, 1985, as estimated by the state comptroller in January, 1984, is equal to or greater than thirty million dollars and the state foundation base increases to eighty percent pursuant to section 442.3, the state percent of growth, including the recomputations required under subsection 4, is six and two-tenths percent.

Sec. 38. Section 442.7, subsection 7, Code 1983, is amended by adding the following new paragraph:

**NEW PARAGRAPH.** For the budget school year beginning July 1, 1984, by adding to the basic allowable growth per pupil for the budget year an amount not to exceed the amount of moneys received by a school district under section 302.3 during the school year beginning July 1, 1982 and ending June 30, 1983, as certified by the board of directors to the state comptroller.

Sec. 39. Section 442.9, subsection 1, paragraph a, Code 1983, is amended to read as follows:

a. As used in this chapter, "district cost per pupil" for the school year beginning July 1, 1975, and subsequent school years means district cost per pupil in weighted enrollment. The district cost per pupil for the budget year is equal to the district cost per pupil for the base

year plus the allowable growth. However, district cost per pupil does not include additional allowable growth added for programs for gifted and talented children and for programs for returning dropouts under this chapter and does not include additional allowable growth established by the school budget review committee for a single school year only.

Sec. 40. Section 442.8, unnumbered paragraph 2, Code 1983, is amended to read as follows:

However, for the budget years beginning July 1, 1980, July 1, 1982, and July 1, 1983, and July 1, 1984, the state cost per pupil shall equal the base year's state cost per pupil plus the allowable growth for the budget year plus an adjustment to the state cost per pupil. For the budget years beginning July 1, 1980, July 1, 1982, and July 1, 1983, and July 1, 1984, the adjustment to the state cost per pupil is twenty dollars per pupil, thirteen dollars per pupil, and eight dollars per pupil, and eight dollars per pupil, respectively.

Sec. 41. Section 442.26, unnumbered paragraph 2, Code 1983, is amended by striking the unnumbered paragraph and inserting in lieu thereof the following:

All state aids paid under this chapter, unless otherwise stated, shall be paid in monthly installments beginning on September 15 of a budget year and ending on June 15 of the budget year and the installments shall be as nearly equal as possible as determined by the state comptroller, taking into consideration the relative budget and cash position of the state resources. However, the state aids paid to school districts under section 442.28 shall be paid in monthly installments beginning on December 15 and ending on June 15 of a budget year and state aids paid to school districts under section 442.38 shall be paid in monthly installments beginning on February 15 and ending on June 15 of a budget year.

Sec. 42. Section 442.39, unnumbered paragraph 1, Code 1983, is amended to read as follows:

In order to provide additional funds for school districts which send their resident pupils to another school district or to an area school for classes, which jointly employ and share the services of teachers under section 280.15, or which use the services of a teacher employed by another school district, a supplementary weighting plan for determining enrollment is adopted as follows:

Sec. 43. Section 442.39, subsection 2, Code 1983, is amended to read as follows:

2. Pupils attending classes in another school district or an area school, attending classes taught by a teacher who is employed jointly under section 280.15, or attending classes taught by a teacher who is employed by another school district, are assigned a weighting of one plus one-tenth times the percent of the pupil's school day during which the pupil attends classes in another district or area school, attends classes taught by a teacher who is jointly employed under section 280.15, or attends classes taught by a teacher who is employed by another school district.

Sec. 44. **NEW SECTION. 442.45 PROGRAMS FOR RETURNING DROPOUTS.** For the school year beginning July 1, 1984 and succeeding school years, boards of school districts, individually or jointly with boards of other school districts, requesting to use additional allowable growth for programs for returning dropouts, may annually submit comprehensive program plans for the programs and budget costs, including requests for additional allowable growth for funding the programs, to the department of public instruction as provided in this chapter. In addition to the requirements for program plans listed in section 442.32, the program plans shall include:

1. A provision for dropout prevention and integration of dropouts into the educational program of the district.
2. A provision for identifying dropouts.
3. A program for returning dropouts.

Program plans for dropouts shall identify the parts of the plan that will be implemented

first upon approval of the application. If a district is requesting to use additional allowable growth to finance the program, it shall not identify more than five percent of its budget enrollment for the budget year as returning dropouts.

Sec. 45. NEW SECTION. 442.46 DEFINED. "Returning dropouts" are resident pupils who have been enrolled in a public or nonpublic school in any of grades seven through twelve who withdrew from school for a reason other than transfer to another school or school district and who subsequently enrolled in public school in the district.

Sec. 46. NEW SECTION. 442.47 PLANS FOR RETURNING DROPOUTS. The board of directors of a school district requesting to use additional allowable growth for programs for returning dropouts 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 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. An unapproved request for a program may be resubmitted with modifications to the department not later than February 1. Not later than February 15, the department shall notify the state comptroller and the school budget review committee of the names of the school districts for which the 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. 47. NEW SECTION. 442.48 FUNDING FOR PROGRAMS FOR RETURNING DROPOUTS. The budget of an approved program for returning dropouts 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 442.7. Annually, the state comptroller shall establish a modified allowable growth for each such district equal to the difference between the approved budget for the program for returning dropouts for that district and the sum of the amount funded from the district cost of the school district plus funds received from other sources.

Sec. 48. Section 508.15, Code 1983, is amended to read as follows:

508.15 VIOLATION BY FOREIGN COMPANY. Companies organized and chartered by the laws of a foreign state or country, failing to file the evidence of investment and statement within the time fixed, shall forfeit and pay the sum of three hundred dollars, to be collected in an action in the name of the state for the use of the school fund and paid to the treasurer of state for deposit in the general fund of the state, and their right to transact further new business in this state shall immediately cease until the requirements of this chapter have been fully complied with.

Sec. 49. Section 511.7, Code 1983, is amended to read as follows:

511.7 RECOVERY OF PENALTIES. Actions brought to recover any of the penalties provided for in this chapter shall be instituted in the name of the state by the county attorney of the county, under the direction and authority of the commissioner of insurance, and may be brought in the district court of any county in which the company or association proceeded against is engaged in the transaction of business, or in which the offending person resides, if it is against ~~him~~ the person. The penalties, when recovered, shall be paid ~~into the state treasury for the use of the school fund~~ to the treasurer of state for deposit in the general fund of the state.

Sec. 50. Section 515.93, Code 1983, is amended to read as follows:

515.93 VIOLATIONS. ~~Any~~ A violation of the ~~provisions~~ of sections 515.91 and 515.92 shall for the first offense subject the company, association, or individual guilty thereof to a penalty of five hundred dollars, to be recovered in the name of the state, with costs, in an action in-

stituted by the county attorney, either in the county in which the company, association, or individual is located or transacts business, or in the county where the offense is committed, and ~~such the~~ penalty, when recovered, shall be paid into the school fund of the county in which ~~action is brought to the~~ treasurer of state for deposit in the general fund of the state. Every subsequent violation of ~~said the sections shall subject~~ subjects the company, association, or individual to a penalty of one thousand dollars, to be sued for, recovered, and disposed of in like manner.

Sec. 51. Section 534.12, subsection 4, Code 1983, is amended to read as follows:

4. REDEMPTION. ~~At any time~~ When funds are on hand for the purpose, the association shall have the right to ~~may~~ redeem by lot or otherwise, as the board of directors may ~~determine~~ determines, all or any part of any of its savings accounts on a dividend date by giving thirty days' notice by registered mail addressed to the account holders at their last addresses recorded on the books of the association. An association shall not redeem any of its share accounts when the association is in an impaired condition or when it has applications for withdrawal which have been on file more than thirty days and have not been reached for payment. The redemption price of a savings account shall be the full value of the account redeemed, as determined by the board of directors, but ~~in no event shall~~ the redemption value shall not be less than the withdrawal value. If the notice of redemption has been given, and if on or before the redemption date the funds necessary for the redemption have been set aside so as to be ~~and continue to be~~ available for redemptions, dividends upon the accounts called for redemption shall cease to accrue from and after the dividend date specified as the redemption date, and ~~all~~ rights with respect to those accounts shall terminate as of the redemption date, subject only to the right of the account holder of record to receive the redemption value without interest. ~~All savings~~ Savings accounts which have been validly called for redemption must be tendered for payment within ten years from the date of redemption designated in the redemption notice, or they shall be canceled and forfeited ~~for the use of the school fund of the county in which the association has its principal place of business~~ paid to the treasurer of state for deposit in the general fund of the state and all claims of the account holders against the association shall be ~~are~~ barred forever. Redemption shall not be made of any savings accounts which are held by a person who is a director and which are necessary to qualify the person to act as director.

Sec. 52. Section 535.5, Code 1983, is amended to read as follows:

535.5 PENALTY FOR USURY. If it ~~shall be~~ is ascertained in ~~any an~~ action brought on ~~any a~~ contract that a rate of interest has been contracted for, directly or indirectly, in money or in property, greater than is authorized by this chapter, the ~~same rate~~ shall work a forfeiture of eight cents on the hundred by the year upon the amount of the principal remaining unpaid upon ~~such the~~ contract at the time judgment is rendered thereon, and the court shall enter final judgment in favor of the plaintiff and against the defendant for the principal sum so remaining unpaid without costs, and also against the defendant and in favor of the state, ~~for the use of the school fund of the county in which the action is brought to be paid to the treasurer of state for deposit in the general fund of the state,~~ for the amount of the forfeiture; ~~and in no case where.~~ If unlawful interest is contracted for ~~shall~~ the plaintiff shall not have judgment for more than the principal sum, whether the unlawful interest ~~be~~ is incorporated with the principal or not.

Sec. 53. Section 586.1, subsection 4, Code 1983, is amended to read as follows:

4. Acknowledgments of deeds, mortgages, permanent school fund mortgages and contracts taken and certified before 1970 by any county auditor, deputy county auditor, or deputy clerk of the district court although such officer was not authorized to take ~~such the~~ acknowledgments at the time they were taken.

Sec. 54. Section 595.11, Code 1983, is amended to read as follows:

595.11 NONSTATUTORY SOLEMNIZATION—FORFEITURE. Marriages solemnized,

with the consent of parties, in any other manner other than as herein that prescribed in this chapter, are valid; but the parties thereto, and all persons aiding or abetting them, shall forfeit to the school pay to the treasurer of state for deposit in the general fund of the state the sum of fifty dollars each; but this shall not apply to the person conducting the marriage ceremony, if within fifteen days thereafter he the person makes the required return to the clerk of the district court.

Sec. 55. Section 602.55, Code 1983, is amended to read as follows:

602.55 FUNDS, REPORTS. Each month each judicial magistrate and district associate judge shall file with the clerk of the district court of the proper county a sworn, itemized statement of all cases disposed of and all funds received and disbursed per case, and at least monthly shall remit to the clerk all funds received. The clerk shall provide adequate clerical assistance to judicial magistrates and district associate judges to carry out this section. The clerk shall remit ninety percent of all fines and forfeited bail received from a magistrate or district associate judge to the city that was the plaintiff in any action, shall remit to the city ninety percent of all fines and forfeited bail received for improper use of handicapped parking spaces in violation of section 601E.6, subsection 2, when the violations occurred within the city, shall remit all fines and forfeited bail received from a magistrate or district associate judge for violation of a county ordinance except an ordinance relating to vehicle speed or weight restrictions, to the county treasurer of the county that was the plaintiff in any action for deposit in the general fund of the county, and shall provide that city or county with a statement showing the total number of the cases, the total of all fines and forfeited bail collected and the total of all cases dismissed. However, if a county ordinance provides a penalty for a violation which is also penalized under state law, all fines and forfeited bail collected for the violation of that ordinance shall be deposited paid to the treasurer of state for deposit in the school general fund of the state. The clerk shall remit the remaining ten percent of city fines and forfeited bail to the county treasurer for deposit in the county general fund. The clerk shall remit to the treasurer of the county state, for the benefit of the school deposit in the general fund of the state, all other fines and forfeited bail received from a magistrate. All fees and costs for the filing of a complaint or information or upon forfeiture of bail received from a magistrate shall be remitted monthly by the clerk as follows:

1. One-half to the treasurer of state to be credited to the general fund of the state.
2. One-third to the county treasurer to be credited to the general fund of the county.
3. One-sixth to the treasurer of state to be credited to the judicial retirement fund created in section 605A.4.

Sec. 56. Section 633.545, Code 1983, is amended to read as follows:

633.545 SALE—PROCEEDS. If within six months from the giving of such notice, no a claimant thereof appears, such does not appear, the property may be sold and the proceeds paid over by the personal representative to the state comptroller for the benefit of the permanent school fund.

Sec. 57. Section 644.15, Code 1983, is amended to read as follows:

644.15 PROCEEDS—FORFEITURE. The net proceeds of all sales made by the sheriff, and all money or bank notes paid over to the county treasurer, as directed in this chapter, shall remain in the hands of the county treasurer in trust for the owner, if any such shall apply the owner applies within one year from the time the same shall proceeds, moneys, or bank notes would have been paid over; but, However, if no owner shall appear appears within such that time, the money proceeds, moneys, or bank notes shall be forfeited, and the claim of the owner thereto is forever barred, in which event the money shall remain in the county treasury for the use of the common schools in said county be paid to the treasurer of state for deposit in the general fund of the state.

Sec. 58. Section 666.3, Code 1983, is amended to read as follows:

666.3 FINES AND FORFEITURES. All fines Fines and forfeitures, after deducting

~~therefrom~~ court costs, court expenses collectible through the clerk of the court, and fees of collection, if any, and not otherwise disposed of, shall ~~go into the treasury of the county where the same are collected for the benefit of the school fund~~ be paid to the treasurer of state for deposit in the general fund of the state.

Sec. 59. Section 666.6, unnumbered paragraph 1, Code 1983, is amended to read as follows:

~~The~~ Not later than January 15 of each year, the clerk of district court shall make an annual report in writing to the board of supervisors at the first regular meeting of the board in January ~~treasurer of state~~ of all forfeited recognizances in the clerk's office; of all fines, penalties, and forfeitures imposed in the district court, which by law go into the county treasury for the benefit of the school fund ~~are paid to the treasurer of state for deposit in the general fund of the state;~~ in what cause or proceeding, when and for what purpose, against whom and for what amount, rendered; whether the fines, penalties, forfeitures, and recognizances have been paid, remitted, canceled, or otherwise satisfied; if so, when, how, and in what manner, and if not paid, remitted, canceled, or otherwise satisfied, what steps have been taken to enforce the collection of the fines, penalties, forfeitures and recognizances. However, the report shall only contain information not already reported on a monthly basis.

Sec. 60. Notwithstanding section 442.7, subsection 7, paragraph a, if the state cost per pupil for the budget year beginning July 1, 1984 exceeds the district cost per pupil for the budget year beginning July 1, 1984, the basic allowable growth per pupil for the budget year shall equal one hundred percent of the product of the state cost per pupil for the base year times the state percent of growth for the budget year.

Sec. 61. Sections 127.22, 302.3, and 302.24, Code 1983, are repealed.

Sec. 62. Sections 4 through 8 and section 41 of this Act take effect July 1, 1983. Sections 1, 2, 3, 9 through 33, and 48 through 59 and 61 take effect July 1, 1984. The remaining sections of this Act take effect July 1, 1983 for computations required for payment of state aid and levying of property taxes under the state school foundation program for the school year beginning July 1, 1984.

Approved June 8, 1983

**CHAPTER 186**  
**ADMINISTRATION OF THE COURT SYSTEM**  
*S.F. 495*

**AN ACT** relating to the organization, administration, supervision and funding of the courts, including a recodification of court statutes, and providing penalties.

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

DIVISION I  
 THE COURTS  
 ARTICLE 1  
 JUDICIAL DEPARTMENT  
 PART 1

DEFINITIONS AND COMPOSITION

Sec. 1101. NEW SECTION. 602.1101 DEFINITIONS. As used in this chapter, unless the context otherwise requires:

1. "Book", "record", or "register" means any mode of permanent recording, including but not limited to, card files, microfilm, microfiche, and electronic records.
2. "Chief judge" means the district judge selected to serve as the chief judge of the judicial district pursuant to section 602.1210.
3. "Chief justice" means the chief justice of the supreme court selected pursuant to section 602.5103.
4. "Chief juvenile court officer" means a person appointed under section 602.1215.
5. "Court employee" or "employee of the judicial department" means an officer or employee of the judicial department except a judicial officer.
6. "Department" means the judicial department as defined in section 602.1102.
7. "District court administrator" means a person appointed pursuant to section 602.1213.
8. "Judicial officer" means a supreme court justice, a judge of the court of appeals, a district judge, a district associate judge, or a magistrate. The term also includes a person who is temporarily serving as a justice, judge, or magistrate as permitted by section 602.1612 or 602.2206.
9. "Magistrate" means a person appointed under article 7, part 4 to exercise judicial functions.
10. "Senior judge" means a person who qualifies as a senior judge under article 2, part 2.
11. "State court administrator" means the person appointed by the supreme court pursuant to section 602.1208.

Sec. 1102. NEW SECTION. 602.1102 JUDICIAL DEPARTMENT. The judicial department consists of all of the following:

1. The supreme court.
2. The court of appeals.
3. The district court.
4. The clerks of all of the courts of this state.
5. Juvenile court officers.
6. Court reporters.
7. All other court employees.

PART 2  
ADMINISTRATION

Sec. 1201. NEW SECTION. 602.1201 SUPERVISION AND ADMINISTRATION. The supreme court has supervisory and administrative control over the department and over all judicial officers and court employees.

Sec. 1202. NEW SECTION. 602.1202 JUDICIAL COUNCIL. A judicial council is established, consisting of the chief judges of the judicial districts, the chief judge of the court of appeals, and the chief justice who shall be the chairperson. The council shall convene not less than twice each year at times and places as ordered by the chief justice. The council shall advise the supreme court with respect to the supervision and administration of the department.

Sec. 1203. NEW SECTION. 602.1203 PERSONNEL CONFERENCES. The chief justice may order conferences of judicial officers or court employees on matters relating to the administration of justice or the affairs of the department.

Sec. 1204. NEW SECTION. 602.1204 PROCEDURES FOR DEPARTMENT.

1. The supreme court shall prescribe procedures for the orderly and efficient supervision and administration of the department. These procedures shall be executed by the chief justice.

2. The state court administrator may issue directives relating to the management of the department. The subject matters of these directives shall include, but need not be limited to, fiscal procedures, the judicial retirement system, and the collection and reporting of statistical and other data. The directives shall provide for an affirmative action plan which shall be based upon guidelines provided by the Iowa state civil rights commission. In addition, when establishing salaries and benefits the state court administrator shall not discriminate in the employment or pay between employees on the basis of gender by paying wages to employees at a rate less than the rate at which wages are paid to employees of the opposite gender for work of comparable worth. As used in this section "comparable worth" means the value of work as measured by the composite of the skill, effort, responsibility, and working conditions normally required in the performance of work.

3. The supreme court shall compile and publish all procedures and directives relating to the supervision and administration of the internal affairs of the department, and shall distribute a copy of the compilation and all amendments to each operating component of the department. Copies also shall be distributed to agencies referred to in section 18.97 upon request.

4. The supreme court shall accept bids for the printing of court forms from both public and private enterprises and shall attempt to contract with both public and private enterprises for a reasonable portion of the court forms.

Sec. 1205. NEW SECTION. 602.1205 PROCEDURES FOR COURTS.

1. The supreme court shall prescribe procedures for the orderly and efficient administration of the judicial business of the courts. These procedures shall be executed by the chief justice.

2. Procedures for the district court shall provide for a court session at least once each week in each county to be fixed in advance and announced in the form of a printed schedule. However, court sessions may be at intervals other than once each week if in the opinion of the chief judge more efficient operations in the district will result. The procedures shall also provide for additional sessions for the trial of cases in each county at a frequency which will promptly dispose of the cases that are ready for trial.

Sec. 1206. NEW SECTION. 602.1206 RULES FOR JUDGES AND ATTORNEYS.

1. The supreme court shall prescribe rules as necessary to supervise the conduct of attorneys and judicial officers. These rules shall be executed by the chief justice.

2. Supreme court rules shall be published as provided in section 14.12, subsection 7.

Sec. 1207. NEW SECTION. 602.1207 REPORT OF THE CONDITION OF THE JUDICIAL DEPARTMENT. The chief justice shall communicate the condition of the department by message to each general assembly, and may recommend matters the chief justice deems appropriate.

Sec. 1208. NEW SECTION. 602.1208 STATE COURT ADMINISTRATOR.

1. The supreme court, by majority vote, shall appoint a state court administrator and may remove the administrator for cause.

2. The state court administrator is the principal administrative officer of the judicial department, subject to the immediate direction and supervision of the chief justice.

3. The state court administrator shall employ staff as necessary to perform the duties of the administrator, subject to the approval of the supreme court and budget limitations. The administrator shall implement the comparable worth directives issued under section 602.1204, subsection 2 in all court employment decisions.

4. All judicial officers and court employees shall comply with procedures and requests of the state court administrator with respect to information and statistical data bearing on the state of the dockets of the courts, the progress of court business, and other matters reflecting judicial business and the expenditure of moneys for the maintenance and operation of the judicial system.

Sec. 1209. NEW SECTION. 602.1209 GENERAL DUTIES OF THE STATE COURT ADMINISTRATOR. The state court administrator shall:

1. Manage the judicial department.

2. Administer funds appropriated to the department.

3. Authorize the filling of vacant court-employee positions, review the qualifications of each person to be employed within the department, and assure that affirmative action goals are being met by the department. The state court administrator shall not approve the employment of a person when either the proposed terms and conditions of employment or the qualifications of the individual do not satisfy personnel policies of the department. The administrator shall implement the comparable worth directives issued under section 602.1204, subsection 2 in all court employment decisions.

4. Supervise the employees of the supreme court and court of appeals, and the clerk of the supreme court.

5. Administer the judicial retirement system as provided in article 2.

6. Collect and compile information and statistical data, and submit reports relating to judicial business and other matters relating to the department.

7. Formulate and submit recommendations for improvement of the judicial system, with reference to the structure of the department and its organization and methods of operation, the selection, compensation, number, and tenure of judicial officers and court employees, and other matters as directed by the chief justice or the supreme court.

8. Call conferences of district court administrators as necessary in the administration of the department.

9. Provide a secretary and clerical services for the board of examiners of shorthand reporters under article 4.

10. Act as executive secretary of the commission on judicial qualifications under article 3.

11. Act as custodian of the bonds and oaths of office of judicial officers and court employees.

12. Issue vouchers for the payment of per diem and expenses from funds appropriated for purposes of articles 3 and 4 and chapter 610.

13. Collect and account for fees paid to the board of examiners of shorthand reporters under article 4.

14. Collect and account for fees paid to the board of bar examiners under chapter 610.

15. Perform other duties as assigned by the supreme court, or the chief justice, or by law.

Sec. 1210. NEW SECTION. 602.1210 SELECTION OF CHIEF JUDGES. Not later than December 15 in each odd-numbered year the chief justice shall appoint chief judges of the judicial districts, subject to the approval of the supreme court. The chief judge of a judicial district shall be appointed from those district judges who are serving within the district. A chief judge shall serve for a two-year term and is eligible for reappointment. The supreme court, by majority vote, may remove a person from the position of chief judge. Vacancies in the office of chief judge shall be filled in the same manner. An order appointing a chief judge shall be filed with the clerk of the supreme court, who shall mail a copy to the clerk of the district court in each county in the judicial district.

Sec. 1211. NEW SECTION. 602.1211 DUTIES OF CHIEF JUDGES.

1. In addition to judicial duties, a chief judge of a judicial district shall supervise all judicial officers and court employees serving within the district. The chief judge shall by order fix the times and places of holding court, and shall designate the respective presiding judges, supervise the performance of all administrative and judicial business of the district, allocate the workloads of district associate judges and magistrates, and conduct judicial conferences to consider, study, and plan for improvement of the administration of justice.

2. A chief judge shall not attempt to direct or influence a judicial officer in a judicial ruling or decision.

3. A chief judge may appoint from among the other district judges of the district one or more assistants to serve throughout the judicial district. A chief judge may remove a person from the position of assistant. An assistant shall have administrative duties as specified in court rules or in the order of appointment. An appointment or removal shall be made by judicial order and shall be filed with the clerk of the district court in each county in the judicial district.

Sec. 1212. NEW SECTION. 602.1212 DISTRICT JUDICIAL CONFERENCES.

1. The district judges within a judicial district may convene as an administrative body as necessary to:

- a. Prescribe local court procedures, subject to the approval of the supreme court.
- b. Advise the chief judge respecting supervision and administration of the judicial district.
- c. Exercise other duties, as established by law or by the supreme court.

2. A district judicial conference shall act by majority vote of its members.

Sec. 1213. NEW SECTION. 602.1213 DISTRICT COURT ADMINISTRATOR.

1. The chief judge of a judicial district shall appoint a district court administrator and may remove the administrator for cause.

2. The district court administrator shall assist the chief judge in the supervision and administration of the judicial district.

3. The district court administrator shall assist the state court administrator in the implementation of policies of the department and in the performance of the duties of the state court administrator.

4. The district court administrator shall employ and supervise all employees of the district court except court reporters, clerks of the district court, employees of the clerks of the district court, juvenile probation officers, and employees of juvenile probation officers.

5. The district court administrator shall comply with policies of the department and the judicial district.

6. The supreme court shall establish the qualifications for appointment as a district court administrator.

Sec. 1214. NEW SECTION. 602.1214 CLERK OF THE DISTRICT COURT.

1. The district judges of each judicial election district shall by majority vote appoint persons to serve as clerks of the district court, one for each county within the judicial election district. A person does not qualify for appointment to the office of clerk of the district court unless the person is at the time of application a resident of the county in which the vacancy exists. A clerk of the district court may be removed from office for cause by a majority vote of the district judges of the judicial election district. Before removal, the clerk of the district court shall be notified of the cause for removal.

2. The clerk of the district court has the duties specified in article 9, and other duties as prescribed by law or by the supreme court.

3. The clerk of the district court shall assist the state court administrator and the district court administrator in carrying out the rules, directives, and procedures of the department and the judicial district.

4. The clerk of the district court shall comply with rules, directives, and procedures of the department and the judicial district.

Sec. 1215. NEW SECTION. 602.1214A RETENTION OF CLERKS OF THE DISTRICT COURT. A clerk of the district court shall stand for retention in office, in the county of the clerk's office, upon the petition of ten percent of all eligible and registered electors in the county to the state commissioner of elections, at the judicial election in 1988 and every four years thereafter, under sections 46.17 through 46.24. A clerk who is not retained in office is ineligible to serve as clerk, in the county in which the clerk was not retained, for the four years following the retention vote.

Sec. 1216. NEW SECTION. 602.1215 CHIEF JUVENILE COURT OFFICER.

1. The district judges within a judicial district, by majority vote, shall appoint a chief juvenile court officer and may remove the officer for cause.

2. The chief juvenile court officer is subject to the immediate supervision and direction of the chief judge of the judicial district.

3. The chief juvenile court officer, in addition to performing the duties of a juvenile court officer, shall supervise juvenile court officers and administer juvenile court services within the judicial district in accordance with law and with the rules, directives, and procedures of the department and the judicial district.

4. The chief juvenile court officer shall assist the state court administrator and the district court administrator in implementing rules, directives, and procedures of the department and the judicial district.

5. A chief juvenile court officer shall have other duties as prescribed by the supreme court or by the chief judge of the judicial district.

Sec. 1217. NEW SECTION. 602.1216 REMOVAL FOR CAUSE. Inefficiency, insubordination, incompetence, failure to perform assigned duties, inadequacy in performance of assigned duties, narcotics addiction, dishonesty, unrehabilitated alcoholism, negligence, conduct which adversely affects the performance of the individual or of the department, conduct unbecoming a public employee, misconduct, or any other just and good cause constitutes cause for removal.

### PART 3

#### BUDGETING AND FUNDING

Sec. 1301. NEW SECTION. 602.1301 FISCAL PROCEDURES.

1. The supreme court shall prepare an annual operating budget for the department, and shall submit a budget request to the general assembly for the fiscal period for which the general assembly is appropriating funds.

2. The chief justice shall include the department budget recommendations as part of the message on the condition of the department that is submitted under section 602.1207.

3. The state court administrator shall prescribe the procedures to be used by the operating components of the department with respect to the following:

- a. The preparation, submission, review, and revision of budget requests.
- b. The allocation and disbursement of funds appropriated to the department.
- c. The purchase of forms, supplies, equipment, and other property.
- d. Other matters relating to fiscal administration.

4. The state court administrator shall prescribe practices and procedures for the accounting and internal auditing of funds of the department, including uniform practices and procedures to be used by judicial officers and court employees with respect to all funds, regardless of source.

**Sec. 1302. NEW SECTION. 602.1302 STATE FUNDING.**

1. Except as otherwise provided by section 602.1303 or other applicable law, the expenses of operating and maintaining the department shall be paid out of the general fund of the state from funds appropriated by the general assembly for the department. State funding shall be phased in as provided in section 10301.

2. The state shall provide suitable office space for a public defender if established for a county.

3. The supreme court may accept federal funds to be used in the operation of the department, but shall not expend any of these funds except pursuant to appropriation of the funds by the general assembly.

**Sec. 1303. NEW SECTION. 602.1303 LOCAL FUNDING.**

1. A county or city shall provide the district court for the county with physical facilities, including heat, water, electricity, maintenance, and custodial services, as follows:

a. A county shall provide courtrooms, offices, and other physical facilities which in the judgment of the board of supervisors are suitable for the district court, and for judicial officers of the district court, the clerk of the district court, juvenile court officers, and other court employees.

b. If court is held in a city other than the county seat, the city shall provide courtrooms and other physical facilities which in the judgment of the city council are suitable.

2. A county shall pay the expenses of the members of the county magistrate appointing commission as provided in section 602.7501.

3. A county shall pay the compensation and expenses of the jury commission and assistants under chapter 608.

4. A county shall provide the district court with bailiff and other law enforcement services upon the request of a judicial officer of the district court.

5. A county shall pay the costs incurred in connection with the administration of juvenile justice under section 232.141.

6. A county shall pay the costs and expenses incurred in connection with grand juries.

7. A county or city shall pay the costs of its witnesses, depositions, and transcripts and the court fees and costs provided by law in criminal actions prosecuted by that county or city.

8. A county shall pay the fees and expenses allowed under sections 815.2 and 815.3, and shall pay the fees and expenses allowed under sections 815.5 and 815.6 with respect to witnesses for the prosecution.

**Sec. 1304. NEW SECTION. 602.1304 REVENUES.** Except as provided in article 9, all fees and other revenues collected by judicial officers and court employees shall be paid into the general fund of the state.

**Sec. 1305. NEW SECTION. 602.1305 DISTRIBUTION OF REVENUES OF THE DISTRICT COURT.** All fees, costs, forfeited bail, and other court revenues collected by the district court shall be distributed as provided in article 9.

PART 4  
PERSONNEL

Sec. 1401. NEW SECTION. 602.1401 PERSONNEL SYSTEM.

1. The supreme court shall establish, and may amend, a personnel system and a pay plan for court employees. The personnel system shall include a designation by position title, classification, and function of each position or class of positions within the department. Reasonable efforts shall be made to accommodate the individual staffing and management practices of the respective clerks of the district court. The personnel system, in the employment of court employees, shall not discriminate on the basis of race, creed, color, sex, national origin, religion, physical disability, or political party preference. The supreme court, in establishing the personnel system, shall implement the comparable worth directives issued by the state court administrator under section 602.1204, subsection 2.

2. The supreme court shall compile and publish all documents that establish the personnel system, and shall distribute a copy of the compilation and all amendments to each operating component of the department.

3. The state court administrator is the public employer of court employees for purposes of chapter 20, relating to public employment relations.

For purposes of chapter 20, certifications of employee organizations, which on July 1, 1983 represent employees who become court employees as a result of this Act, shall remain in effect when the employees become court employees and thereafter, unless a public employee files a petition under section 20.14, subsection 3, and the employee organization is decertified in an election held under section 20.15. However, collective bargaining negotiations shall be conducted by judicial district and the certified employee organizations which engage in bargaining shall negotiate by judicial district. The public employment relations board shall adopt rules pursuant to chapter 17A to implement this subsection.

4. The supreme court may establish reasonable classes of employees and a pay plan for the classes of employees as necessary to accomplish the purposes of the personnel system.

Sec. 1402. NEW SECTION. 602.1402 PERSONNEL CONTROL. The employment of court employees within an operating component of the judicial department is subject to prior authorization by the supreme court, and to approval by the state court administrator under section 602.1209.

PART 5

COMPENSATION OF JUDICIAL OFFICERS AND COURT EMPLOYEES

Sec. 1501. NEW SECTION. 602.1501 JUDICIAL SALARIES.

1. The chief justice and each justice of the supreme court shall receive the salary set by the general assembly.

2. The chief judge and each judge of the court of appeals shall receive the salary set by the general assembly.

3. The chief judge of each judicial district and each district judge shall receive the salary set by the general assembly.

4. District associate judges shall receive the salary set by the general assembly. However, an alternate district associate judge whose appointment is authorized under section 602.7303 shall receive a salary for each day of actual duty equal to a district associate judge's daily salary.

5. Magistrates shall receive the salary set by the general assembly, subject to section 602.7402.

Sec. 1502. NEW SECTION. 602.1502 STATE COURT ADMINISTRATION SALARIES.

1. The supreme court shall set the compensation of the state court administrator, deputy administrator, and research director within the funds appropriated by the general assembly.

2. The state court administrator, with the approval of the supreme court, shall set the salaries of assistants and employees of the office of the state court administrator within the funds appropriated by the general assembly.

Sec. 1503. NEW SECTION. 602.1503 APPELLATE COURT EMPLOYEE SALARIES.

1. The supreme court shall set the salary of the clerk of the supreme court within the funds appropriated by the general assembly.

2. The clerk of the supreme court, subject to the approval of the supreme court, shall set the salaries of deputies and employees in the offices of the clerk of the supreme court and the clerk of the court of appeals.

3. The state court administrator, subject to the approval of the supreme court, shall set the salaries of law clerks, secretaries, and other employees of the supreme court or the court of appeals.

Sec. 1504. NEW SECTION. 602.1504 DISTRICT COURT ADMINISTRATION SALARIES.

1. The chief judge of a judicial district shall set the salary of the district court administrator within the funds appropriated by the general assembly and in accordance with the pay plan established under section 602.1401.

2. The salaries of law clerks, secretaries, and other employees under the supervision of the district court administrator shall be set by the district court administrator, subject to the approval of the chief judge of the judicial district.

Sec. 1505. NEW SECTION. 602.1505 DISTRICT COURT CLERK OFFICES—SALARY LIMITATION.

1. The chief judge of each judicial district shall set the salaries of the clerks of the district court within the judicial district. A clerk of the district court shall not receive a salary in excess of the highest salary paid to the county auditor, the county treasurer, or the county recorder in the county in which the clerk serves.

2. The annual salary of a deputy to a clerk of the district court shall not exceed eighty percent of the annual salary of the clerk of the district court.

3. A clerk of the district court shall set the salaries of the deputy clerks and employees of that office, subject to subsection 2 and to the approval of the chief judge of the judicial district.

Sec. 1506. NEW SECTION. 602.1506 JUVENILE COURT OFFICERS AND STAFF.

1. The chief judge of the judicial district shall set the salaries for the chief juvenile court officer and other juvenile court officers employed in the district.

2. The chief juvenile court officer shall set the salaries of secretarial, clerical, and other staff employed by the juvenile court in the judicial district, subject to the approval of the chief judge of the judicial district.

Sec. 1507. NEW SECTION. 602.1507 COURT REPORTER SALARIES.

1. The supreme court shall set the salary of each full-time court reporter of the district court based on the reporter's experience within the funds appropriated by the general assembly. A salary increase under this subsection is effective on the employment anniversary of the court reporter.

2. Each district judge and district associate judge, upon appointing a full-time court reporter, shall certify the name and address of the reporter and the date upon which the reporter's term of service begins to the state court administrator.

3. Court reporters who are employed on an emergency basis in the district court shall be paid not more than their usual and customary fees, while employed by the court. Payments shall be made at least once each month.

4. Court reporters shall be paid compensation for transcribing their notes as provided in section 602.4202, but shall not work on outside depositions during the hours for which they are compensated as a court employee.

Sec. 1508. NEW SECTION. 602.1508 COMPENSATION OF REFEREES. Referees and other persons referred to in section 602.7602 shall receive a salary or other compensation as set by the supreme court.

Sec. 1509. NEW SECTION. 602.1509 EXPENSES.

1. When a judicial officer, court employee, or other person providing professional services to the courts is required to travel in the discharge of official duties, the person shall be paid actual and necessary expenses incurred in the performance of duties, not to exceed a maximum amount established by the supreme court. The supreme court shall prescribe procedures to establish the maximum amount, terms, and conditions for reimbursement of the expenses.

2. The supreme court may authorize juvenile court officers to receive a monthly allowance for use of an automobile in the discharge of official duties in lieu of receiving an expense reimbursement based on mileage.

Sec. 1510. NEW SECTION. 602.1510 BOND EXPENSE. The cost of a bond that is required of a judicial officer or court employee in the discharge of duties shall be paid by the department.

Sec. 1511. NEW SECTION. 602.1511 BOARD OF EXAMINERS FOR SHORTHAND REPORTERS. Members of the board of examiners for certified shorthand reporters appointed under article 4 shall receive actual and necessary expenses pursuant to section 602.1509 and per diem compensation for each day actually engaged in the discharge of duties.

Sec. 1512. NEW SECTION. 602.1512 COMMISSION ON JUDICIAL QUALIFICATIONS. The members of the commission on judicial qualifications established under section 602.3102, other than the judicial member, shall receive per diem compensation for each day that they are actually engaged in the performance of duties. All of the members shall be reimbursed for actual and necessary expenses pursuant to section 602.1509.

Sec. 1513. NEW SECTION. PER DIEM COMPENSATION. The supreme court shall set the per diem compensation under sections 602.1511 and 602.1512 at forty dollars per day.

#### PART 6

#### GENERAL PROVISIONS

Sec. 1601. NEW SECTION. 602.1601 JUDICIAL PROCEEDINGS PUBLIC. All judicial proceedings shall be public, unless otherwise specially provided by statute or agreed to by the parties.

Sec. 1602. NEW SECTION. 602.1602 SUNDAY—PERMISSIBLE ACTS. A court shall not be opened on Sunday and judicial business shall not be transacted on Sunday, except to:

1. Give instructions to a jury then deliberating on its verdict.
2. Receive a verdict or discharge a jury.
3. Exercise the powers of a magistrate in a criminal proceeding.
4. Perform other acts as provided by law.

Sec. 1603. NEW SECTION. 602.1603 JUDGE TO BE ATTORNEY. A person is not eligible for, and shall not hold the office of supreme court justice, court of appeals judge, district judge, or district associate judge unless admitted to the practice of law in this state.

Sec. 1604. NEW SECTION. 602.1604 JUDGES SHALL NOT PRACTICE LAW. While holding office, a supreme court justice, court of appeals judge, district judge, or district associate judge shall not practice as an attorney or counselor or give advice in relation to any action pending or about to be brought in any of the courts of the state. A person whose appointment as an alternate district associate judge is authorized under section 602.7303 may practice law except when actually serving as a district associate judge.

Sec. 1605. NEW SECTION. 602.1605 SPECIAL CONDITIONS FOR MAGISTRATES.

1. A magistrate shall not accept any compensation, fee, or reward from or on behalf of anyone for services rendered in the conduct of official business except the compensation provided by law.

2. If a magistrate who practices law appears as counsel for a client in a matter that is within the jurisdiction of a magistrate, that matter shall be heard only by a district judge or a district associate judge. A disqualification under this section shall be had upon motion of the magistrate or of any party, either orally or in writing, and the clerk of the district court shall reassign the matter to a proper judicial officer.

Sec. 1606. NEW SECTION. 602.1606 JUDICIAL OFFICER DISQUALIFIED. A judicial officer is disqualified from acting in a proceeding, except upon the consent of all of the parties, if any of the following circumstances exists:

1. The judicial officer has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding.

2. The judicial officer served as a lawyer in the matter in controversy, or a lawyer with whom the judicial officer previously practiced law served during that association as a lawyer concerning the matter, or the judicial officer or such lawyer has been a material witness concerning the matter.

3. The judicial officer knows that the officer, individually or as a fiduciary, or the officer's spouse or a person related to either of them by consanguinity or affinity within the third degree or the spouse of such a person has a financial interest in the subject matter in controversy or in a party to the proceeding, or has any other interest that could be substantially affected by the outcome of the proceeding.

4. The judicial officer or the officer's spouse, or a person related to either of them by consanguinity or affinity within the third degree or the spouse of such a person, is a party to the proceeding, or an officer, director, or trustee of a party, or is acting as a lawyer in the proceeding, or is known by the judicial officer to have an interest that could be substantially affected by the outcome of the proceeding, or is, to the judicial officer's knowledge, likely to be a material witness in the proceeding.

A judicial officer shall disclose to all parties in a proceeding any existing circumstances in subsections 1 through 4 before the parties consent to the judicial officer's presiding in the proceeding.

Sec. 1607. NEW SECTION. 602.1607 COURT EMPLOYEES SHALL NOT PRACTICE LAW. A full-time court employee shall not practice as an attorney or counselor of law.

Sec. 1608. NEW SECTION. 602.1608 SALARIES EXCLUSIVE. Court employees shall not accept any compensation, fee, or reward for services rendered in connection with duties of court employment except the compensation provided by law.

Sec. 1609. NEW SECTION. 602.1609 COMPLIANCE WITH GIFT LAW. Judicial officers and court employees shall comply with rules adopted by the supreme court under section 68B.11 with respect to the reporting of gifts received. Violations are subject to the criminal penalties provided in that section.

Sec. 1610. NEW SECTION. 602.1610 MANDATORY RETIREMENT.

1. Judicial officers shall cease to hold office upon reaching the mandatory retirement age.

a. The mandatory retirement age is seventy-five years for all justices of the supreme court and district judges holding office on July 1, 1965.

b. The mandatory retirement age is seventy-two years for all justices of the supreme court, judges of the court of appeals, and district judges appointed to office after July 1, 1965.

c. The mandatory retirement age is seventy-two years for all district associate judges and judicial magistrates.

2. The mandatory retirement age for employees of the judicial department is as provided in section 97B.46.

**Sec. 1611. NEW SECTION. 602.1611 JUDICIAL RETIREMENT PROGRAMS.**

1. Justices of the supreme court, judges of the court of appeals and district judges are members of either the judicial retirement system or the Iowa public employees' retirement system, as determined under section 97B.69 and article 2, part 1.

2. District associate judges who were municipal court judges prior to July 1, 1973, and who are members of the judicial retirement system under article 2 shall remain members of the system. Other district associate judges are members of the Iowa public employees' retirement system, except that alternate district associate judges whose appointment is authorized under section 602.7303 are not members of either retirement system.

3. Magistrates may elect to be members of the Iowa public employees' retirement system upon filing in writing with the Iowa department of job service as provided in section 97B.41, subsection 3, paragraph b, subparagraph (6).

**Sec. 1612. NEW SECTION. 602.1612 TEMPORARY SERVICE BY RETIRED JUDGES.**

1. Justices of the supreme court, judges of the court of appeals, district judges, and district associate judges who are retired by reason of age or who are drawing benefits under section 602.2106, and senior judges who have retired under section 602.2207 or who have relinquished senior judgeship under section 602.2208, subsection 1, may with their consent be assigned by the supreme court or by the chief judge in the case of district associate judges to temporary judicial duties on a court in this state. A retired justice or judge shall not be assigned to temporary judicial duties on any court superior to the highest court to which that justice or judge had been appointed prior to retirement, and shall not be assigned for temporary duties with the supreme court or the court of appeals except in the case of a temporary absence of a member of one of those courts.

2. A retired justice or judge shall not engage in the practice of law unless the justice or judge files an election to practice law with the clerk of the supreme court. Upon electing to practice law, the justice or judge is ineligible for assignment to temporary judicial duties at any time.

3. While serving under temporary assignment, a retired justice or judge shall be paid the compensation and expense reimbursement provided by law for justices or judges on the court to which assigned, but shall not receive annuity payments under the judicial retirement system and a district associate judge covered under chapter 97B shall receive monthly benefits under that chapter only if the district associate judge has attained the age of seventy years.

4. A retired justice or judge may be authorized by the order of assignment to appoint a temporary court reporter, who shall receive the compensation and expense reimbursement provided by law for a regular court reporter in the court to which the justice or judge is assigned.

5. An order of assignment shall be filed in the office of the clerk of the court on which the justice or judge is to serve.

**Sec. 1613. NEW SECTION. 602.1613 COURT EMPLOYEE RETIREMENT.** Court employees are members of the Iowa public employees' retirement system under chapter 97B, except as otherwise provided in that chapter.

**ARTICLE 3**

**DISCIPLINE AND REMOVAL OF JUDICIAL OFFICERS**

**PART 1**

**SUPREME COURT ACTION**

**Sec. 3101. NEW SECTION. 602.3101 AUTHORITY.** The supreme court may retire, discipline, or remove a judicial officer from office for cause as provided in this part.

Sec. 3102. NEW SECTION. 602.3102 COMMISSION ON JUDICIAL QUALIFICATIONS.

1. A seven-member "Commission on Judicial Qualifications" is established. The commission consists of one district judge and two members who are practicing attorneys in Iowa and who do not belong to the same political party, to be appointed by the chief justice; and four electors of the state who are not attorneys, no more than two of whom belong to the same political party, to be appointed by the governor, subject to confirmation by the senate. The commission members shall serve for six-year terms, are ineligible for a second term, and except for the judicial member shall not hold any other office of and shall not be employed by the United States or the state of Iowa or its political subdivisions. Members appointed by the chief justice shall serve terms beginning January 1 of the year for which the appointments are made and members appointed by the governor shall serve staggered terms beginning and ending as provided by section 69.19. Vacancies shall be filled by appointment by the chief justice or governor as provided in this subsection, for the unexpired portion of the term.

2. If the judicial member is the subject of a charge before the commission, the chief justice shall appoint a district judge of another judicial district to act as the judicial member of the commission until the person charged is exonerated, or for the unexpired portion of the term if the person charged is not exonerated. If the judicial member is a resident judge of the same judicial district as the judicial officer who is the subject of a charge before the commission, the chief justice shall appoint a district judge of another judicial district to act as the judicial member during that proceeding.

3. The commission shall elect its own chairperson, and the state court administrator or a designee of the state court administrator is the executive secretary of the commission.

Sec. 3103. NEW SECTION. 602.3103 OPERATION OF COMMISSION. A quorum of the commission is four members. Only those commission members that are present at commission meetings or hearings may vote. An application by the commission to the supreme court to retire, discipline, or remove a judicial officer, or an action by the commission which affects the final disposition of a complaint, requires the affirmative vote of at least four commission members. Notwithstanding chapter 28A and chapter 68A, all records, papers, proceedings, meetings, and hearings of the commission are confidential, but if the commission applies to the supreme court to retire, discipline, or remove a judicial officer, the application and all of the records and papers in that proceeding are public documents.

Sec. 3104. NEW SECTION. 602.3104 PROCEDURE BEFORE COMMISSION.

1. Charges before the commission shall be in writing but may be simple and informal. The commission shall investigate each charge as indicated by its gravity. If the charge is groundless, it shall be dismissed by the commission. If the charge appears to be substantiated but does not warrant application to the supreme court, the commission may dispose of it informally by conference with or communication to the judicial officer involved. If the charge appears to be substantiated and if proved would warrant application to the supreme court, notice shall be given to the judicial officer and a hearing shall be held before the commission. The commission may employ investigative personnel, in addition to the executive secretary, as it deems necessary.

2. In case of a hearing before the commission, written notice of the charge and of the time and place of hearing shall be mailed to the judicial officer at the officer's residence at least twenty days prior to the time set for hearing. Hearing shall be held in the county where the judicial officer resides unless the commission and the judicial officer agree to a different location. The judicial officer shall continue to perform judicial duties during the pendency of the charge, unless otherwise ordered by the commission. The commission has subpoena power on behalf of the state and the judicial officer, and disobedience of the commission's subpoena is

punishable as contempt in the district court for the county in which the hearing is held. The attorney general shall prosecute the charge before the commission on behalf of the state. The judicial officer may defend and has the right to participate in person and by counsel, to cross-examine, to be confronted by the witnesses, and to present evidence in accordance with the rules of civil procedure. A complete record shall be made of the evidence by a court reporter. In accordance with its findings on the evidence, the commission shall dismiss the charge or make application to the supreme court to retire, discipline, or remove the judicial officer.

Sec. 3105. NEW SECTION. 602.3105 RULES. The commission shall prescribe rules for its operation and procedure.

Sec. 3106. NEW SECTION. 602.3106 PROCEDURE BEFORE SUPREME COURT.

1. If the commission submits an application to the supreme court to retire, discipline, or remove a judicial officer, the commission shall promptly file in the supreme court a transcript of the hearing before the commission. The statutes and rules relative to proceedings in appeals of equity suits apply.

2. The attorney general shall prosecute the proceedings in the supreme court on behalf of the state, and the judicial officer may defend in person and by counsel.

3. Upon application by the commission, the supreme court may do either of the following:

a. Retire the judicial officer for permanent physical or mental disability which substantially interferes with the performance of judicial duties.

b. Discipline or remove the judicial officer for persistent failure to perform duties, habitual intemperance, willful misconduct in office, conduct which brings judicial office into disrepute, or substantial violation of the canons of judicial ethics. Discipline may include suspension without pay for a definite period of time not to exceed twelve months.

4. If the supreme court finds that the application should be granted in whole or in part, it shall render the decree that it deems appropriate.

Sec. 3107. NEW SECTION. 602.3107 CIVIL IMMUNITY. The making of charges before the commission, the giving of evidence or information before the commission or to an investigator employed by the commission, and the presentation of transcripts, extensions of evidence, briefs, and arguments in the supreme court are privileged in actions for defamation.

#### PART 2

#### OTHER PROCEEDINGS

Sec. 3201. NEW SECTION. 602.3201 IMPEACHMENT. Judicial officers may be removed from office by impeachment pursuant to chapter 68.

#### ARTICLE 4

#### CERTIFICATION AND REGULATION OF SHORTHAND REPORTERS

#### PART 1

#### CERTIFICATION

Sec. 4101. NEW SECTION. 602.4101 BOARD OF EXAMINERS.

1. A five-member board of examiners of shorthand reporters is established, consisting of three certified shorthand reporters and two persons who are not certified shorthand reporters and who shall represent the general public. Members shall be appointed by the supreme court. A certified member shall be actively engaged in the practice of certified shorthand reporting and shall have been so engaged for five years preceding appointment, the last two of which shall have been in Iowa. Professional associations or societies composed of certified shorthand reporters may recommend the names of potential board members to the supreme court, but the supreme court is not bound by the recommendations. A board member shall not be required to be a member of a professional association or society composed of certified shorthand reporters.

2. The state court administrator or a designee of the state court administrator shall act as secretary to the board.

Sec. 4102. NEW SECTION. 602.4102 TERMS OF OFFICE. Appointments shall be for three-year terms and each term shall commence on July 1 of the year in which the appointment is made. Vacancies shall be filled for the unexpired term by appointment by the supreme court. Members shall serve a maximum of three terms or nine years, whichever is less.

Sec. 4103. NEW SECTION. 602.4103 PUBLIC MEMBERS. The public members of the board may participate in administrative, clerical, or ministerial functions incident to giving the examination, but shall not determine the content of the examination or determine the correctness of the answers.

Sec. 4104. NEW SECTION. 602.4104 MEETINGS. The board of examiners shall fix stated times for the examination of the candidates and shall hold at least one meeting each year at the seat of government. A majority of the members of the board constitutes a quorum.

Sec. 4105. NEW SECTION. 602.4105 APPLICATIONS. Applications for certification shall be on forms prescribed and furnished by the board and the board shall not require that the application contain a photograph of the applicant. An applicant shall not be denied certification because of age, citizenship, sex, race, religion, marital status, or national origin although the application may require citizenship information. The board may consider the past felony record of an applicant only if the felony conviction relates directly to the practice of certified shorthand reporting. Character references may be required, but shall not be obtained from certified shorthand reporters.

Sec. 4106. NEW SECTION. 602.4106 FEES.

1. The supreme court shall set the fees for examination and for certification. The fee for examination shall be based on the annual cost of administering the examinations. The fee for certification shall be based upon the administrative costs of sustaining the board, which shall include but shall not be limited to the cost for per diem, expenses, and travel for board members, and office facilities, supplies, and equipment.

2. The state court administrator shall collect and account for all fees payable to the board.

Sec. 4107. NEW SECTION. 602.4107 EXAMINATIONS. The board may administer as many examinations per year as necessary, but shall administer at least one examination per year. The scope of the examinations and the methods of procedure shall be prescribed by the board. A written examination may be conducted by representatives of the board. Examinations in theory shall be in writing and the identity of the person taking the examination shall be concealed until after the examination papers have been graded. For examinations in practice, the identity of the person taking the examination also shall be concealed as far as possible. Applicants who fail the examination once may take the examination at the next scheduled time. Thereafter, the applicant may be allowed to take the examination at the discretion of the board. An applicant who has failed the examination may request in writing information from the board concerning the examination grade and subject areas or questions which the applicant failed to answer correctly, and the board shall provide the information. However, if the board administers a uniform, standardized examination, the board is only required to provide the examination grade and other information concerning the applicant's examination results that is available to the board.

## PART 2 REGULATION

Sec. 4201. NEW SECTION. 602.4201 UNLAWFUL USE OF TITLE. A person who is certified by the board is a certified shorthand reporter. A person who is not certified by the board shall not assume the title of certified shorthand reporter, or use the abbreviation C.S.R., or any words, letters, or figures to indicate that the person is a certified shorthand reporter.

Sec. 4202. NEW SECTION. 602.4202 TRANSCRIPT FEE. Certified shorthand reporters are entitled to receive compensation for transcribing their official notes as set by rule of the supreme court, to be paid for in all cases by the party ordering the transcription.

Sec. 4203. NEW SECTION. 602.4203 REVOCATION OR SUSPENSION. A certification may be revoked or suspended if the person is guilty of any of the following acts or offenses:

1. Fraud in procuring a license.
2. Professional incompetency.
3. Knowingly making misleading, deceptive, untrue, or fraudulent representations in the practice of shorthand reporting, or engaging in unethical conduct or in a practice that is harmful or detrimental to the public. Proof of actual injury need not be established.
4. Habitual intoxication or addiction to the use of drugs.
5. Conviction of a felony related to the practice of shorthand reporting or conviction of a felony that would affect the ability to practice shorthand reporting. A copy of the record of conviction or plea of guilty is conclusive evidence.
6. Fraud in representations relating to skill or ability.
7. Use of untruthful or improbable statements in advertisements.

#### PART 3

#### PENAL PROVISIONS

Sec. 4301. NEW SECTION. 602.4301 MISUSE OF CONFIDENTIAL INFORMATION—PENALTY.

1. A member of the board shall not disclose information relating to the following:
  - a. Criminal history or prior misconduct of the applicant.
  - b. The contents of the examination.
  - c. Examination results other than final scores except for information about the results of an examination which is given to the person who took the examination.
2. A member of the board who willfully communicates or seeks to communicate information referred to in subsection 1, or a person who willfully requests, obtains, or seeks to obtain information referred to in subsection 1, is guilty of a simple misdemeanor.

Sec. 4302. NEW SECTION. 602.4302 VIOLATIONS PUNISHED. A person who violates any provision of this article is guilty of a simple misdemeanor.

#### ARTICLE 5

#### SUPREME COURT

#### PART 1

#### GENERAL PROVISIONS

Sec. 5101. NEW SECTION. 602.5101 JUSTICES—QUORUM.

1. The supreme court consists of nine justices. A majority of the justices sitting constitutes a quorum, but less than three justices is not a quorum.
2. Justices of the supreme court shall be nominated and appointed and shall stand for retention in office as provided in chapter 46. Justices of the supreme court shall qualify for office as provided in chapter 63.

Sec. 5102. NEW SECTION. 602.5102 JURISDICTION.

1. The supreme court has appellate jurisdiction only in cases in chancery, and constitutes a court for the correction of errors at law. The jurisdiction of the supreme court is coextensive with the state.
2. A civil or criminal action or special proceeding filed with the supreme court for appeal or review, may be transferred by the supreme court to the court of appeals by issuing an order of transfer. The jurisdiction of the supreme court in the matter ceases upon the filing of that order by the clerk of the supreme court. A matter which has been transferred to the court of appeals pursuant to order of the supreme court is not thereafter subject to the jurisdiction of the supreme court, except as provided in subsection 4.

3. The supreme court shall prescribe rules for the transfer of matters to the court of appeals. These rules may provide for the selective transfer of individual cases and may provide for the transfer of cases according to subject matter or other general criteria. Rules relating to the transfer of cases are subject to section 602.5202. A rule shall not provide for the transfer of a matter other than by an order of transfer under subsection 2.

4. A party to an appeal decided by the court of appeals may, as a matter of right, file an application with the supreme court for further review. An application for further review shall not be granted by the supreme court unless the application was filed within twenty days following the filing of the decision of the court of appeals. The court of appeals shall extend the time for filing of an application if the court of appeals determines that a failure to timely file an application was due to the failure of the clerk of the court of appeals to notify the prospective applicant of the filing of the decision. If an application for further review is not acted upon by the supreme court within thirty days after the application was filed, the application is deemed denied, the supreme court loses jurisdiction, and the decision of the court of appeals is conclusive.

5. The supreme court shall prescribe rules of appellate procedure which shall govern further review by the supreme court of decisions of the court of appeals. These rules shall contain, but need not be limited to, a specification of the grounds upon which further review may, in the discretion of the supreme court, be granted. These rules are subject to section 602.5202.

Sec. 5103. NEW SECTION. 602.5103 CHIEF JUSTICE. The justices of the supreme court shall select one justice as chief justice, to serve during that justice's term of office. The chief justice is eligible for reselection. The chief justice shall appoint one of the other justices to act during the absence or inability of the chief justice to act, and when so acting the appointee has all the rights, duties, and powers of the chief justice.

Sec. 5104. NEW SECTION. 602.5104 DIVISIONS—FULL COURT.

1. The supreme court may be divided into divisions of three or more justices in the manner it prescribes by rule. The divisions may hold open court separately and cases may be submitted to each division separately, in accordance with these rules.

2. The supreme court shall prescribe rules for the submission of a case or petition for rehearing whenever differences arise between members of divisions or whenever the chief justice orders or directs the submission of the question or petition for rehearing by the whole court.

3. The supreme court shall prescribe rules to provide for the submission of cases to the entire bench or to the separate divisions. These rules are subject to section 602.5202.

Sec. 5105. NEW SECTION. 603.5105\* TIME AND PLACE COURT MEETS. The supreme court shall hold court at the seat of state government and elsewhere as the court orders, and at the times the court orders.

Sec. 5106. NEW SECTION. 602.5106 OPINIONS—REPORTS.

1. The decisions of the court on all questions passed upon by it, including motions and points of practice, shall be specifically stated, and shall be accompanied with an opinion upon those which are deemed of sufficient importance, together with any dissents, which dissents may be stated with or without an opinion. All decisions and opinions shall be in writing and filed with the clerk, except that rulings upon motions may be entered upon the announcement book.

2. The records and reports for each case shall show whether a decision was made by a full bench, and whether any, and if so which, of the judges dissented from the decision.

3. The supreme court may publish reports of its official opinions, or it may direct that publication of the opinions by a private publisher shall be considered the official reports.

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\*602.5105 probably intended.

4. If the decision, in the judgment of the court, is not of sufficient general importance to be published, it shall be so designated, in which case it shall not be included in the reports, and no case shall be reported except by order of the full bench.

Sec. 5107. NEW SECTION. 602.5107 DIVIDED COURT. When the supreme court is equally divided in opinion, the judgment of the court below shall stand affirmed, but the decision of the supreme court is of no further force or authority. Opinions may be filed in these cases.

Sec. 5108. NEW SECTION. 602.5108 ATTENDANCE OF SHERIFF OF POLK COUNTY. The court may require the attendance and services of the sheriff of Polk county at any time.

## PART 2

### RULES OF PROCEDURE

Sec. 5201. NEW SECTION. 602.5201 RULES GOVERNING ACTIONS AND PROCEEDINGS.

1. The supreme court may prescribe all rules of pleading, practice, evidence, and procedure, and the forms of process, writs, and notices, for all proceedings in all courts of this state, for the purposes of simplifying the proceedings and promoting the speedy determination of litigation upon its merits. Rules are subject to section 602.5202.

2. Rules of appellate procedure relating to appeals to and review by the supreme court, discretionary review by the courts of small claims actions, review by the supreme court by writ of certiorari to inferior courts, appeal to or review by the court of appeals of a matter transferred to that court by the supreme court, and further review by the supreme court of decisions of the court of appeals, shall be known as "Rules of Appellate Procedure", and shall be published as provided in section 14.12, subsection 7.

Sec. 5202. NEW SECTION. 602.5202 RULE-MAKING PROCEDURE.

1. The procedures in this section apply to rules prescribed by the supreme court under section 602.5201, and to any other rule-making authority which is specifically conditioned upon or made subject to this section.

2. Rules and forms prescribed by the supreme court shall be reported by the court to the chairperson and ranking member of the senate judiciary committee, the chairperson and ranking member of the house judiciary and law enforcement committee, and the legislative council within twenty days of the issuance of the rules or forms.

3. After sixty days, rules and forms reported, as provided in subsection 2, shall take effect as of that date or as of the date provided in the court's report, if later, and shall be enrolled in substantially the same manner as Acts are enrolled and shall be filed with the secretary of state and bound with the Acts of the general assembly, provided that no request for delay has been made pursuant to subsection 4.

4. Upon the vote of a majority of its members, the legislative council may, within sixty days of receiving a report pursuant to subsection 2, delay the effective date of a rule or form until July 1 following the date of their submission, with such changes, if any, that may have been enacted by the general assembly, and thereafter all laws in conflict are of no force or effect.

## PART 3

### ADMINISTRATION

Sec. 5301. NEW SECTION. 602.5301 CLERK OF SUPREME COURT.

1. The supreme court shall appoint a clerk of the supreme court and may remove the clerk for cause.

2. The clerk of the supreme court shall have an office at the seat of government, shall keep a complete record of the proceedings of the court, and shall not allow an opinion filed in the office to be removed. Opinions shall be open to examination and, upon request, may be copied and certified. The clerk promptly shall announce by mail to one of the attorneys on each side any ruling made or decision rendered, shall record every opinion rendered as soon as filed,

shall mail a copy of each opinion rendered to each attorney of record and to each party not represented by counsel, and shall perform all other duties pertaining to the office of clerk.

3. The clerk of the supreme court shall collect and account to the state court administrator for all fees received by the supreme court.

4. The clerk of the supreme court shall give bond as provided in chapter 64.

Sec. 5302. NEW SECTION. 602.5302 DEPUTY CLERK—STAFF.

1. The clerk of the supreme court may appoint a deputy clerk of the supreme court. In the absence or disability of the clerk, the deputy shall perform the duties of the clerk.

2. The clerk of the supreme court may employ necessary staff, as authorized by the supreme court.

Sec. 5303. NEW SECTION. 602.5303 SUPREME COURT FEES.

1. The supreme court shall by rule prescribe fees for the services of the court and clerk of the supreme court.

2. Rules prescribed under this section are subject to section 602.5202.

3. If any of the fees are not paid in advance, execution may issue for them, except for fees payable by the county or the state.

Sec. 5304. NEW SECTION. 602.5304 SUPREME COURT STAFF.

1. The supreme court may appoint not more than nine attorneys or graduates of a reputable law school to act as legal assistants to the justices of the supreme court.

2. The supreme court may employ other professional and clerical staff as necessary to accomplish the judicial duties of the court.

Sec. 5305. NEW SECTION. 602.5305 LIMITATION ON EXPENSES. A justice of the supreme court may choose whether to reside at the seat of government or elsewhere. The court administrator\* may approve necessary travel and actual expenses, incurred by a justice of the supreme court for attendance at oral arguments and judicial conferences, not to exceed the maximum amount established by the supreme court pursuant to section 602.1509.

#### ARTICLE 6

#### COURT OF APPEALS

#### PART 1

#### GENERAL PROVISIONS

Sec. 6101. NEW SECTION. 602.6101 COURT OF APPEALS. The Iowa court of appeals is established as an intermediate court of appeals. The court of appeals is a court of record.

Sec. 6102. NEW SECTION. 602.6102 JUDGES—QUORUM.

1. The court of appeals consists of five judges; three judges of the court of appeals constitute a quorum.

2. Judges of the court of appeals shall be nominated and appointed and shall stand for retention in office as provided in chapter 46. Judges of the court of appeals shall qualify for office as provided in chapter 63.

3. A person appointed as a judge of the court of appeals must satisfy all requirements for a justice of the supreme court.

Sec. 6103. NEW SECTION. 602.6103 JURISDICTION.

1. The jurisdiction of the court of appeals is coextensive with the state. The court of appeals has appellate jurisdiction only in cases in chancery, and constitutes a court for the correction of errors at law.

2. The court of appeals has subject matter jurisdiction to review the following matters:

a. Civil actions and special civil proceedings, whether at law or in equity.

b. Criminal actions.

c. Postconviction remedy proceedings.

d. A judgment of a district judge in a small claims action.

\*According to enrolled Act

3. The jurisdiction of the court of appeals with respect to actions and parties is limited to those matters for which an appeal or review proceeding properly has been brought before the supreme court, and for which the supreme court pursuant to section 602.5102 has entered an order transferring the matter to the court of appeals.

4. The court of appeals and judges of the court may issue writs and other process necessary for the exercise and enforcement of the court's jurisdiction, but a writ, order, or other process issued in a matter that is not before the court pursuant to an order of transfer issued by the supreme court is void.

Sec. 6104. NEW SECTION. 602.6104 SESSIONS—LOCATION. The court of appeals shall meet at the seat of state government 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. 6105. NEW SECTION. 602.6105 CHIEF JUDGE.

1. At the first meeting in each odd-numbered year the judges of the court of appeals by majority vote shall designate one judge as chief judge, to serve for a two-year term. A vacancy in the office of chief judge shall be filled for the remainder of the unexpired term by majority vote of the judges of the court of appeals, after any vacancy on the court has been filled.

2. The chief judge shall supervise the business of the court and shall preside when present at a session of the court.

3. If the chief judge desires to be relieved of the duties of chief judge while retaining the status of judge of the court of appeals, the chief judge shall notify the chief justice and the other judges of the court of appeals. The office of chief judge shall be deemed vacant, and shall be filled as provided in this section.

4. In the absence of the chief judge, the duties of the chief judge shall be exercised by the judge next in precedence. Judges of the court of appeals other than the chief judge have precedence according to the length of time served on that court. Of several judges having equal periods of time served, the eldest has precedence.

Sec. 6106. NEW SECTION. 602.6106 DECISIONS OF THE COURT—FINALITY.

1. The court of appeals may affirm, modify, vacate, set aside, or reverse any judgment, order, or decree of the district court or other tribunal which is under the jurisdiction of the court, and may remand the cause and direct the entry of an appropriate judgment, order, or decree, or require further proceedings to be had as is just. If the judges are equally divided on the ultimate decision, the judgment, order, or decree shall be affirmed.

2. A decision of the court of appeals is final and shall not be reviewed by any other court except upon the granting by the supreme court of an application for further review as provided in section 602.5102. Upon the filing of the application, the judgment and mandate of the court of appeals is stayed pending action of the supreme court or until the expiration of the time specified in section 602.5102, subsection 4.

Sec. 6107. NEW SECTION. 602.6107 RULES. The court of appeals, subject to the approval of the supreme court, may prescribe rules for the conduct of business of the court of appeals. Rules prescribed shall not abridge, enlarge, or modify a substantive right.

Sec. 6108. NEW SECTION. 602.6108 WHEN DECISIONS EFFECTIVE. A decision of the court of appeals shall be in writing, and shall be effective, except as provided in section 602.6106, subsection 2, when the decision of the court is filed with the clerk of the supreme court.

Sec. 6109. NEW SECTION. 602.6109 PROCESS—STYLE—SEAL.

1. Process of the court of appeals shall be styled: "In the Court of Appeals of Iowa".

2. The supreme court may adopt a seal for the court of appeals. Upon adoption, the clerk of the supreme court shall file a facsimile and description of the design in the office of the secretary of state. Judicial notice shall be taken of the official seal of the court of appeals.

Sec. 6110. NEW SECTION. 602.6110 RECORDS. The records of the court of appeals shall be kept by the clerk of the supreme court, and at the same place as, but segregated from the records of the supreme court. Records of the court of appeals shall be maintained in the same manner as records of the supreme court under article 5.

Sec. 6111. NEW SECTION. 602.6111 PUBLICATION OF OPINIONS. The state court administrator shall cause the publication of opinions of the judges of the court of appeals in accordance with rules prescribed by the supreme court. Section 602.5106 applies to decisions of the court of appeals. The state court administrator shall cause the publication of abstracts of all decisions for which written opinions are not published.

Sec. 6112. NEW SECTION. 602.6112 FEES—COSTS. Costs to be collected and awarded in the court of appeals shall be as prescribed from time to time by the supreme court. Fees and costs may be awarded to a party to the appeal in the discretion of the court of appeals. A fee shall not be charged for the docketing of a matter in the court of appeals upon transfer from the supreme court.

## PART 2 ADMINISTRATION

Sec. 6201. NEW SECTION. 602.6201 CLERK OF COURT.

1. The clerk of the supreme court or a deputy of that clerk shall act as clerk of the court of appeals. The clerk of the court of appeals shall keep a complete record of the proceedings of that court, shall collect the fees and costs prescribed by the supreme court, and shall account for all receipts and disbursements of the court of appeals.

2. The clerk of the supreme court, subject to the approval of the supreme court, may employ additional staff for the performance of duties relating to the court of appeals.

Sec. 6202. NEW SECTION. 602.6202 SECRETARY TO JUDGE. Each judge of the court of appeals may employ one personal secretary.

Sec. 6203. NEW SECTION. 602.6203 LAW CLERKS. The court of appeals may employ not more than five attorneys or graduates of a reputable law school to act as legal assistants to the court.

Sec. 6204. NEW SECTION. 602.6204 PHYSICAL FACILITIES. The state court administrator shall obtain suitable facilities for the court of appeals at the seat of state government. To the extent practicable, the court administrator shall utilize existing supreme court facilities.

Sec. 6205. NEW SECTION. 602.6205 LIMITATION ON EXPENSES.

1. Each judge of the court of appeals shall be provided personal office space and equipment, and facilities for a secretary and law clerk at the seat of state government only. Each judge may choose whether to reside at the seat of government or elsewhere. The court administrator may approve necessary travel and actual expenses, incurred by a judge of the court of appeals for attendance at oral arguments and judicial conferences, not to exceed the maximum amount established by the supreme court pursuant to section 602.1509.

2. State funds shall not be used for securing or maintaining facilities for court of appeals judges or employees at any place other than the seat of state government.

## ARTICLE 7 DISTRICT COURT

### PART 1 GENERAL PROVISIONS

Sec. 7101. NEW SECTION. 602.7101 UNIFIED TRIAL COURT. A unified trial court is established. This court is the "Iowa District Court". The district court has exclusive, general, and original jurisdiction of all actions, proceedings, and remedies, civil, criminal, probate, and juvenile, except in cases where exclusive or concurrent jurisdiction is conferred upon some other court, tribunal, or administrative body. The district court has all the power usually possessed and exercised by trial courts of general jurisdiction, and is a court of record.

Sec. 7102. NEW SECTION. 602.7102 APPEALS AND WRITS OF ERROR. The district court has jurisdiction in appeals and writs of error taken in civil and criminal actions and special proceedings authorized to be taken from tribunals, boards, or officers under the laws of this state, and has general supervision thereof, in all matters, to prevent and correct abuses where no other remedy is provided.

Sec. 7103. NEW SECTION. 602.7103 COURT IN CONTINUOUS SESSION. The district court of each judicial district shall be in continuous session in all of the several counties comprising the district.

Sec. 7104. NEW SECTION. 602.7104 JUDICIAL OFFICERS.

1. The jurisdiction of the Iowa district court shall be exercised by district judges, district associate judges, and magistrates.

2. Judicial officers of the district court shall not sit together in the trial of causes nor upon the hearings of motions for new trials. They may hold court in the same county at the same time.

Sec. 7105. NEW SECTION. 602.7105 PLACES OF HOLDING COURT—MAGISTRATE SCHEDULES.

1. Courts shall be held at the places in each county designated by the chief judge of the judicial district, except that the determination of actions, special proceedings, and other matters not requiring a jury may be done at some other place in the district with the consent of the parties.

2. In any county having two county seats, court shall be held at each, and, in the county of Pottawattamie, court shall be held at Avoca, as well as at the county seat.

3. The chief judge of a judicial district shall designate times and places for magistrates to hold court to ensure accessibility of magistrates at all times throughout the district. The schedule of times and places of availability of magistrates and any schedule changes shall be disseminated by the chief judge to the peace officers within the district.

Sec. 7106. NEW SECTION. 602.7106 SESSIONS NOT AT COUNTY SEATS—EFFECT—DUTY OF CLERK. When court is held at a place that is not the county seat, all of the provisions of the Code relating to district courts are applicable, except as follows: All proceedings in the court have, within the territory over which the court has jurisdiction, the same force and effect as though ordered in the court at the county seat, but transcripts of judgments and decrees, levies of writs of attachment upon real estate, mechanics' liens, lis pendens, sales of real estate, redemption, satisfaction of judgments and mechanics' liens, and dismissals or decrees in lis pendens, together with all other matters affecting titles to real estate, shall be certified by the deputy clerk to the clerk of district court at the county seat who shall immediately enter them upon the records at the county seat.

Sec. 7107. NEW SECTION. 602.7107 JUDICIAL DISTRICTS. For all judicial purposes except as provided in section 602.7109, the state is divided into eight judicial districts as follows:

1. The first district consists of the counties of Dubuque, Delaware, Clayton, Allamakee, Winneshiek, Chickasaw, Fayette, Buchanan, Black Hawk, Howard, and Grundy.

2. The second district consists of the counties of Mitchell, Floyd, Butler, Bremer, Worth, Winnebago, Hancock, Cerro Gordo, Franklin, Wright, Humboldt, Pocahontas, Sac, Calhoun, Webster, Hamilton, Carroll, Greene, Hardin, Marshall, Story, and Boone.

3. The third district consists of the counties of Kossuth, Emmet, Dickinson, Osceola, Lyon, O'Brien, Clay, Palo Alto, Cherokee, Buena Vista, Plymouth, Sioux, Woodbury, Ida, Monona, and Crawford.

4. The fourth district consists of the counties of Harrison, Shelby, Audubon, Pottawattamie, Cass, Mills, Montgomery, Fremont, and Page.

5. The fifth district consists of the counties of Guthrie, Dallas, Polk, Jasper, Madison, Warren, Marion, Adair, Adams, Union, Clarke, Lucas, Taylor, Ringgold, Decatur, and Wayne.

6. The sixth district consists of the counties of Tama, Benton, Linn, Jones, Iowa, and Johnson.

7. The seventh district consists of the counties of Jackson, Clinton, Cedar, Scott, and Muscatine.

8. The eighth district consists of the counties of Poweshiek, Mahaska, Keokuk, Washington, Monroe, Wapello, Jefferson, Appanoose, Davis, Van Buren, Louisa, Henry, Des Moines, and Lee.

Sec. 7108. NEW SECTION. 602.7108 REASSIGNMENT OF PERSONNEL. The chief justice of the supreme court shall assign judicial officers and court employees from one judicial district to another, on a continuing basis if need be, in order to handle the judicial business in all districts promptly and efficiently at all times.

Sec. 7109. NEW SECTION. 602.7109 JUDICIAL ELECTION DISTRICTS.

1. Judicial election districts are established for purposes of nomination, appointment, and retention of district judges and for other purposes specifically provided by law.

2. The judicial election districts are as follows:

a. Election district 1A consists of the counties of Dubuque, Delaware, Clayton, Allamakee, and Winneshiek.

b. Election district 1B consists of the counties of Chickasaw, Fayette, Buchanan, Black Hawk, Howard, and Grundy.

c. Election district 2A consists of the counties of Mitchell, Floyd, Butler, Bremer, Worth, Winnebago, Hancock, Cerro Gordo, and Franklin.

d. Election district 2B consists of the counties of Wright, Humboldt, Pocahontas, Sac, Calhoun, Webster, Hamilton, Carroll, Greene, Hardin, Marshall, Story, and Boone.

e. Election district 3A consists of the counties of Kossuth, Emmet, Dickinson, Osceola, Lyon, O'Brien, Clay, Palo Alto, Cherokee, and Buena Vista.

f. Election district 3B consists of the counties of Plymouth, Sioux, Woodbury, Ida, Monona, and Crawford.

g. Election district 4 consists of the fourth judicial district, as established by section 602.7107.

h. Election district 5A consists of the counties of Guthrie, Dallas, Jasper, Madison, Warren, and Marion.

i. Election district 5B consists of the counties of Adair, Adams, Union, Clarke, Lucas, Taylor, Ringgold, Decatur, and Wayne.

j. Election district 5C consists of Polk county.

k. Election district 6 consists of the sixth judicial district, as established by section 602.7107.

l. Election district 7 consists of the seventh judicial district, as established by section 602.7107.

m. Election district 8A consists of the counties of Poweshiek, Mahaska, Keokuk, Washington, Monroe, Wapello, Jefferson, Appanoose, Davis, and Van Buren.

n. Election district 8B consists of the counties of Louisa, Henry, Des Moines, and Lee.

## PART 2

### DISTRICT JUDGES

Sec. 7201. NEW SECTION. 602.7201 OFFICE OF DISTRICT JUDGE—APPORTIONMENT.

1. District judges shall be nominated and appointed and shall stand for retention in office as provided in chapter 46. District judges shall qualify for office as provided in chapter 63.

2. A district judge must be a resident of the judicial election district in which appointed and retained. Subject to the provision for reassignment of judges under section 602.7108, a

district judge shall serve in the district of the judge's residence while in office, regardless of the number of judgeships to which the district is entitled under subsection 3.

3. The number of judgeships to which each of the judicial election districts is entitled is determined according to the following formula:

a. In an election district where the largest county contains two hundred thousand or more population, there is one judgeship per seven hundred twenty-five combined civil and criminal filings or major fraction thereof. However, the seat of government is entitled to one additional judgeship.

b. In an election district where the largest county contains eighty-five thousand or more population, but less than two hundred thousand, there is one judgeship per six hundred twenty-five combined civil and criminal filings or major fraction thereof.

c. In an election district where the largest county contains forty-five thousand or more population, but less than eighty-five thousand, there is one judgeship per five hundred twenty-five combined civil and criminal filings or major fraction thereof.

d. In an election district where the largest county contains less than forty-five thousand population, there is one judgeship per four hundred seventy-five combined civil and criminal filings or major fraction thereof.

e. Notwithstanding paragraph a, b, c, or d, each election district is entitled to not less than one judgeship for each forty thousand population or major fraction thereof contained in the election district.

f. The filings included in the determinations to be made under this subsection shall include juvenile court filings after July 1, 1985, shall not include small claims or nonindictable misdemeanors, and shall not include either civil actions for money judgment where the amount in controversy does not exceed three thousand dollars or indictable misdemeanors, which were assigned to district associate judges and judicial magistrates as shown on their administrative reports, but shall include appeals from decisions of judicial magistrates, district associate judges, and district judges sitting as judicial magistrates. The figures on filings shall be the average for the latest available previous three-year period and when current census figures on population are not available, figures shall be taken from the state department of health computations.

4. For purposes of this section, a vacancy means the death, resignation, retirement, or removal of a district judge, or the failure of a district judge to be retained in office at the judicial election, or an increase in judgeships under this section.

5. In those judicial election districts having more district judges than the number of judgeships specified by the formula in subsection 3, vacancies shall not be filled.

6. In those judicial election districts having fewer or the same number of district judges as the number of judgeships specified by the formula in subsection 3, vacancies in the number of district judges shall be filled as they occur.

7. In those judicial districts that contain more than one judicial election district, a vacancy in a judicial election district shall not be filled if the total number of district judges in all judicial election districts within the judicial district equals or exceeds the aggregate number of judgeships to which all of the judicial election districts of the judicial district are authorized.

8. Vacancies shall not be filled in a judicial election district which becomes entitled to fewer judgeships under subsection 3, but an incumbent district judge shall not be removed from office because of a reduction in the number of authorized judgeships.

9. During February of each year, and at other times as appropriate, the state court administrator shall make the determinations required under this section, and shall notify the appropriate nominating commissions and the governor of appointments that are required.

10. Notwithstanding the formula for determining the number of judgeships in this section, the number of district judges shall not exceed ninety-nine during the period commencing July 1, 1983 and ending as the general assembly shall specify.

Sec. 7202. NEW SECTION. 602.7202 JURISDICTION. District judges have the full jurisdiction of the district court, including the respective jurisdictions of district associate judges and magistrates. While exercising the jurisdiction of magistrates, district judges shall employ magistrates' practice and procedure.

Sec. 7203. NEW SECTION. 602.7203 PREPARATION AND SIGNING OF RECORD—ALTERATIONS.

1. The clerk of district court shall from time to time make a record of all proceedings of the district court, which, when correct, shall be signed by the judge.

2. Delay in the preparation and signing of the record of court proceedings shall not prevent the issuance of an execution and other proceedings may be had in the same manner as though the record had been signed.

3. A record shall not be amended or impaired by the clerk of the district court, or by any other officer of the court, or by any other person, except pursuant to the order of the district court or some other court of competent authority.

4. Entries made and signed, unless amended or expunged as provided in subsection 3, may be altered only to correct an evident mistake.

### PART 3

#### DISTRICT ASSOCIATE JUDGES

Sec. 7301. NEW SECTION. 602.7301 NUMBER AND APPORTIONMENT OF DISTRICT ASSOCIATE JUDGES. There shall be one district associate judge in counties having a population, according to the most recent federal decennial census, of more than thirty-five thousand and less than eighty thousand; two in counties having a population of more than eighty thousand and less than one hundred twenty-five thousand; three in counties having a population of more than one hundred twenty-five thousand and less than two hundred thousand; and four in counties having a population of two hundred thousand or above. A district associate judge appointed pursuant to section 602.7302 or 602.7303 shall not be counted for purposes of this section.

Sec. 7302. NEW SECTION. 602.7302 APPOINTMENT OF DISTRICT ASSOCIATE JUDGE IN LIEU OF MAGISTRATES.

1. In a county having an apportionment of three or more magistrates, the chief judge of the judicial district, subject to the limitations of this section, may designate by order that a district associate judge be appointed pursuant to this section in lieu of magistrates appointed under section 602.7403. The order of substitution may be made only upon the affirmative vote of a majority of the district judges in that judicial election district and only upon a finding by a majority of those district judges that the substitution would provide more speedy and efficient performance of judicial business within that judicial election district. An order of substitution shall not take effect unless a copy of the order is received by the chairperson of the county magistrate appointing commission no later than the thirty-first day of March of the year in which the substitution is to take effect. A copy of the order also shall be sent to the state court administrator.

2. For a county in which a substitution order is in effect, the number of magistrates actually appointed pursuant to section 602.7403 shall be reduced by three for each district associate judge substituted under this section. Upon a subsequent reduction in the apportionment of magistrates to the county, the magistrate appointing commission shall further reduce the number of magistrates appointed.

3. a. Except as provided in subsections 1 and 2, a substitution shall not increase or decrease the number of magistrates authorized by this article.

b. A substitution pursuant to this section shall not be made if the effect would be to remove a magistrate from office prior to the expiration of the magistrate's term.

c. A substitution shall not be made where the apportionment of magistrates to a county is insufficient to permit the full reduction in appointments of magistrates as required by subsection 2.

4. If an apportionment by the state court administrator pursuant to section 602.7401 reduces the number of magistrates in the county to less than three, or if a majority of the district judges in the judicial election district determines that a substitution is no longer desirable, then the substituted office shall be terminated. However, a reversion pursuant to this subsection, irrespective of cause, shall not take effect until the substitute district associate judge fails to be retained in office at a judicial election or otherwise leaves office, whether voluntarily or involuntarily. Upon the termination of office of that district associate judge, appointments shall be made pursuant to section 602.7403 as necessary to reestablish terms of office as provided in section 602.7403, subsection 4.

**Sec. 7303. NEW SECTION. 602.7303 ALTERNATE DISTRICT ASSOCIATE JUDGE.**

1. In a county having only one district associate judge, the county magistrate appointing commission, by majority vote, may authorize that an alternate district associate judge be appointed.

2. A person whose appointment is authorized under this section shall be designated as an alternate and is subject to this section.

3. An alternate district associate judge shall serve initial and regular terms and shall stand for retention in office in the same manner as regular district associate judges. However, a vacancy in the office of alternate district associate judge shall not be filled unless the conditions of subsection 1 are satisfied after the vacancy occurs.

4. The chief judge of the judicial district may order that the alternate temporarily sit in place of the regular district associate judge while the latter is unable to act. The words "unable to act" mean a temporary absence from court duties, including a reasonable vacation period.

5. The appointment of an alternate district associate judge does not affect the rights, duties, or remuneration of the regularly appointed district associate judge, and the appointment of an alternate does not affect the number or apportionment of district associate judges authorized by this part.

**Sec. 7304. NEW SECTION. 602.7304 APPOINTMENT OF DISTRICT ASSOCIATE JUDGES.**

1. The district associate judges authorized by sections 602.7301, 602.7302, and 602.7303 shall be appointed by the district judges of the judicial election district from persons nominated by the county magistrate appointing commission.

2. In November of any year in which an impending vacancy is created because a district associate 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 district associate 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 district associate 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 district associate 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 district associate 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 district associate judge, the district judges in the judicial election district shall, by majority vote, appoint one of those nominees to fill the vacancy.

5. 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. 7305. NEW SECTION. 602.7305 TERM, RETENTION, QUALIFICATIONS.

1. District associate judges shall serve initial terms and shall stand for retention in office within the judicial election districts of their residences at the judicial election in 1982 and every four years thereafter, under sections 46.17 to 46.24.

2. A person does not qualify for appointment to the office of district associate judge unless the person is at the time of application a resident of the county in which the vacancy exists, and unless the person is licensed to practice law in Iowa, and unless the person will be able, measured by the person's age at the time of appointment, to complete the initial term of office plus a four-year term of office prior to reaching age seventy-two.

3. A district associate judge must be a resident of the county in which the office is held during the entire term of office. A district associate judge shall serve within the judicial district in which appointed, as directed by the chief judge, and is subject to reassignment under section 602.7108.

4. District associate judges shall qualify for office as provided in chapter 63 for district judges.

Sec. 7306. NEW SECTION. 602.7306 JURISDICTION, PROCEDURE, APPEALS.

1. District associate judges have the jurisdiction provided in section 602.7405 for magistrates, and when exercising that jurisdiction shall employ magistrates' practice and procedure.

2. District associate judges also have jurisdiction in civil actions for money judgment where the amount in controversy does not exceed three thousand dollars, jurisdiction of indictable misdemeanors, and the jurisdiction provided in section 602.8101 when designated as a judge of the juvenile court. While presiding in these subject matters a district associate judge shall employ district judges' practice and procedure.

3. When a district judge is unable to serve as a result of temporary incapacity, a district associate judge may, by order of the chief judge of the judicial district enrolled in the records of the clerk of the district court, temporarily exercise any judicial authority within the jurisdiction of a district judge during the time of incapacity with respect to the matters or classes of matters specified in that order.

4. Appeals from judgments or orders of district associate judges while exercising the jurisdiction of magistrates shall be governed by the laws relating to appeals from judgments and orders of magistrates. Appeals from judgments or orders of district associate judges while exercising any other jurisdiction shall be governed by the laws relating to appeals from judgments or orders of district judges.

**PART 4  
MAGISTRATES**

**Sec. 7401. NEW SECTION. 602.7401 NUMBER AND APPORTIONMENT.**

1. One hundred ninety-one magistrates shall be apportioned among the counties as provided in this section. Magistrates appointed pursuant to section 602.7402 shall not be counted for purposes of this section.

2. During February of each odd-numbered year, the state court administrator shall apportion magistrate offices among the counties in accordance with the following criteria:

a. The number and type of proceedings contained in the administrative reports required by section 602.7606.

b. The existence of either permanent, temporary, or seasonal populations not included in the current census figures.

c. The geographical area to be served.

d. Any inordinate number of cases over which magistrates have jurisdiction that were pending at the end of the preceding year.

e. The number and types of juvenile proceedings handled by district associate judges.

3. Notwithstanding subsection 2, each county shall be allotted at least one resident magistrate.

4. During March of each odd-numbered year, the state court administrator shall give notice to the clerks of the district court and to the chief judges of the judicial districts of the number of magistrates to which each county is entitled.

**Sec. 7402. NEW SECTION. 602.7402 ADDITIONAL MAGISTRATE ALLOWED.** In those counties which are allotted one magistrate under section 602.7401 or which are restricted to one magistrate by section 602.7302, the county magistrate appointing commission may, by majority vote, decide to appoint one additional magistrate. If a county appoints an additional magistrate under this section, each of the two magistrates shall receive one-half of the regular salary of a magistrate.

**Sec. 7403. NEW SECTION. 602.7403 APPOINTMENT AND QUALIFICATION OF MAGISTRATES.**

1. In April of each year in which magistrates' terms expire, the county magistrate appointing commission shall appoint, except as otherwise provided in section 602.7302, the number of magistrates apportioned to the county by the state court administrator under section 602.7401, and may appoint an additional magistrate when allowed by section 602.7402. The commission shall not appoint more magistrates than are authorized for the county by this article.

2. The magistrate appointing commission for each county shall prescribe the contents of an application for an appointment pursuant to this section. The commission shall publicize notice of any vacancy to be filled in at least two publications in the official county newspaper. The commission shall accept applications for a minimum of fifteen days prior to making an appointment, and shall make available during that period of time any printed application forms the commission prescribes.

3. Within thirty days following receipt of notification of a vacancy in the office of magistrate, the commission shall appoint a person to the office to serve the remainder of the unexpired term. For purposes of this section, vacancy means a death, resignation, retirement,

or removal of a magistrate, or an increase in the number of positions authorized.

4. The term of office of a magistrate is two years, commencing July 1 of each odd-numbered year.

5. The commission shall promptly certify the names and addresses of appointees to the clerk of the district court and to the chief judge of the judicial district. The clerk of the district court shall certify to the state court administrator the names and addresses of these appointees.

6. Before assuming office, a magistrate shall subscribe and file in the office of the state court administrator the oath of office specified in section 63.6.

7. Annually, the state court administrator shall cause a school of instruction to be conducted for magistrates, and each magistrate shall attend prior to the time of taking office unless excused by the chief justice for good cause. A magistrate appointed to fill a vacancy shall attend the first school of instruction that is held following the appointment, unless excused by the chief justice for good cause.

Sec. 7404. NEW SECTION. 602.7404 QUALIFICATIONS.

1. A magistrate shall be an elector of the county of appointment during the magistrate's term of office. A magistrate shall serve within the judicial district in which appointed, as directed by the chief judge, provided that the chief judge may assign a magistrate to hold court outside of the county of the magistrate's residence only if it is necessary for the orderly administration of justice. A magistrate is subject to reassignment under section 602.7108.

2. A person is not qualified for appointment as a magistrate unless the person can complete the entire term of office prior to reaching age seventy-two.

3. A person is not required to be admitted to the practice of law in this state as a condition of being appointed to the office of magistrate, but the magistrate appointing commission shall first consider applicants who are admitted to practice law in this state when selecting persons for the office of magistrate.

Sec. 7405. NEW SECTION. 602.7405 JURISDICTION - PROCEDURE.

1. Magistrates have jurisdiction of simple misdemeanors, including traffic and ordinance violations, and preliminary hearings, search warrant proceedings, and small claims. They also have jurisdiction to exercise the powers specified in sections 644.2 and 644.12, and to hear complaints or preliminary informations, issue warrants, order arrests, make commitments, and take bail. They also have jurisdiction of first offense violations of section 321.281 but only to the extent that they may approve trial informations, conduct arraignments, accept guilty pleas if the defendant is represented by legal counsel, sentence those pleading guilty and make appropriate orders authorized by section 321.283.

2. The criminal procedure before magistrates is as provided in chapters 804, 806, 808, 811, 820 and 821 and rules of criminal procedure 1, 2, 5, 7, 8, and 32 to 56. The civil procedure before magistrates shall be as provided in chapters 631 and 648.

PART 5

MAGISTRATE APPOINTING COMMISSIONS

Sec. 7501. NEW SECTION. 602.7501 COMPOSITION OF COUNTY MAGISTRATE APPOINTING COMMISSIONS.

1. A magistrate appointing commission is established in each county. The commission shall be composed of the following members:

a. A district judge designated by the chief judge of the judicial district to serve until a successor is designated.

b. Three members appointed by the board of supervisors, or the lesser number provided in section 602.7503, subsection 1.

c. Two attorneys elected by the attorneys in the county, or the lesser number provided in section 602.7504, subsection 1.

2. The clerk of the district court shall maintain a permanent record of the name, address, and term of office of each commissioner.

3. A member of a magistrate appointing commission shall be reimbursed for actual and necessary expenses reasonably incurred in the performance of official duties. Reimbursements are payable out of the court expense fund of the county in which the member serves, upon certification of the expenses to the county auditor by the clerk of the district court. The district judges of each judicial district may prescribe rules for the administration of this subsection.

Sec. 7502. NEW SECTION. 602.7502 MEMBER OF COMMISSION NOT TO BE APPOINTED TO OFFICE. A member of a county magistrate appointing commission shall not be appointed to the office of magistrate, and shall not be nominated for or appointed to the office of district associate judge.

Sec. 7503. NEW SECTION. 602.7503 COMMISSIONERS APPOINTED BY A COUNTY.

1. The board of supervisors of each county shall appoint three electors to the magistrate appointing commission for the county for six-year terms beginning January 1, 1979 and each sixth year thereafter. However, if there is only one attorney elected pursuant to section 602.7504, the county board of supervisors shall only appoint two commissioners, and if no attorney is elected, the board of supervisors shall only appoint one commissioner.

2. The board of supervisors shall not appoint an attorney or an active law enforcement officer to serve as a commissioner.

3. The county auditor shall certify to the clerk of the district court the name, address, and expiration date of term for all appointees of the board of supervisors.

Sec. 7504. NEW SECTION. 602.7504 COMMISSIONERS ELECTED BY ATTORNEYS.

1. The resident attorneys of each county shall elect two resident attorneys of the county to the magistrate appointing commission for six-year terms beginning on January 1, 1979, and each sixth year thereafter. An election shall be held in December preceding the commencement of new terms. The attorneys in a county may elect only one commissioner if there is only one who is qualified and willing to serve and if there are no resident attorneys in a county or none is willing to serve as a commissioner, none shall be elected.

2. A county attorney shall not be elected to the commission.

3. An attorney is eligible to vote in elections of magistrate appointing commissioners within a county if eligible to vote under sections 46.7 and 46.8, and if a resident of the county.

4. When an election of magistrate appointing commissioners is to be held, the clerk of the district court for each county shall cause to be mailed to each eligible attorney a ballot that is in substantially the following form:

BALLOT

County Magistrate Appointing Commission

To be cast by the resident members of the bar of ..... county.

Vote for (state number) for ..... county judicial magistrate appointing commissioner(s) for term commencing .....

To be counted, this ballot must be completed and mailed or delivered to clerk of the district court, ....., no later than December 31, 19.... (or the appropriate date in case of an election to fill a vacancy).

Sec. 7505. NEW SECTION. 602.7505 VACANCY. A vacancy in the office of magistrate appointing commissioner shall be filled for the unexpired term in the same manner as the original appointment was made.

#### PART 6

#### DISTRICT COURT ADMINISTRATION

Sec. 7601. NEW SECTION. 602.7601 COURT ATTENDANTS.

1. The district court administrator of each judicial district shall employ and supervise court attendants as authorized by the chief judge.

2. A court attendant shall assist judicial officers during proceedings in court and shall perform other duties as prescribed by the supreme court or by the chief judge of the judicial district.

Sec. 7602. NEW SECTION. 602.7602 REFEREES AND SPECIAL MASTERS. A person who is appointed as a referee or special master, or who otherwise is appointed by a court pursuant to law or court rule to exercise a judicial function, is subject to the supervision of the judicial officer making the appointment.

Sec. 7603. NEW SECTION. 602.7603 COURT REPORTERS.

1. Each district judge shall appoint a court reporter who shall, upon the request of a party in a civil or criminal case, report the evidence and proceedings in the case, and perform all duties as provided by law.

2. Each district associate judge may appoint a court reporter, subject to the approval of the chief judge of the judicial district.

3. If a district judge determines that it is necessary to employ an additional court reporter because of an extraordinary volume of work, or because of the temporary illness or incapacity of a regular court reporter, the district judge may appoint a temporary court reporter who shall serve as required by the district judge.

4. If a regularly appointed court reporter becomes disabled, the judge may appoint a competent substitute to act during the disability of the regular reporter or until a successor is appointed, but a substitute shall not act for a period longer than one year unless the substitute is or becomes a certified shorthand reporter within that one year, and a substitute shall not be reappointed at the end of the one-year period unless the substitute is or becomes a certified shorthand reporter within that one year.

5. Except as provided in subsection 4, a person shall not be appointed to the position of court reporter of the district court unless the person has been certified as a shorthand reporter by the board of examiners under article 4.

6. Each court reporter shall take an oath faithfully to perform the duties of office, which shall be filed in the office of the clerk of district court.

7. A court reporter may be removed for cause with due process by the judicial officer making the appointment.

Sec. 7604. NEW SECTION. 602.7604 DOCKETS.

1. The clerk of the district court shall furnish a magistrate, district associate judge, or district judge acting as a magistrate, with a docket in which the officer shall enter all proceedings except small claims. The docket shall be indexed and shall contain for each case the title and nature of the action, the place of hearing, appearances, and notations of the documents filed with the judicial officer, the proceedings in the case and orders made, the verdict and judgment including costs, any satisfaction of the judgment, whether the judgment was certified to the clerk of the district court, whether an appeal was taken, and the amount of any appeal bond.

2. The chief judge of a judicial district may order that criminal proceedings which are

within the jurisdictions of magistrates and district associate judges be combined into centralized dockets for the county if the chief judge determines that administration could be improved by this procedure. When so ordered, a centralized docket shall be maintained in lieu of individual dockets, and the clerk of the district court shall compile a centralized docket in the manner prescribed for an individual docket. The chief judge may assign actions and proceedings on centralized dockets to judicial officers having jurisdiction as the chief judge deems necessary.

Sec. 7605. NEW SECTION. 602.7605 FUNDS, REPORTS. Each magistrate, and each district associate judge and district judge acting as a magistrate, shall file once each month with the clerk of the district court an itemized statement of all cases disposed of and all funds received and disbursed per case, and at least monthly shall remit all funds received to the clerk. The clerk shall provide adequate clerical assistance to judicial officers to carry out this section.

Sec. 7606. NEW SECTION. 602.7606 ADMINISTRATIVE REPORTS. Each magistrate, and each district associate judge and district judge acting as a magistrate, shall report all judicial business handled to the clerk of the district court and to the chief judge of the judicial district. Reports shall be in the form and filed at the times prescribed by the state court administrator. The administrator may require the clerk to forward copies of individual reports or require a consolidated report for the county.

Sec. 7607. NEW SECTION. 602.7607 CONTROL OF RECORDS— VACANCIES. Whenever a magistrate, or a district associate judge or district judge acting as a magistrate, leaves office, all funds, dockets, and records relating to the vacated office shall be delivered by the judicial officer to the clerk who issued the docket.

#### PART 7

#### SPECIAL PROVISIONS

Sec. 7701. NEW SECTION. 602.7701 CIRCUIT COURT RECORDS.

1. The district court shall succeed to and have jurisdiction over the records of the circuit court, and may enforce all judgments, decrees, and orders of the circuit court in the same manner and to the same extent as it exercises jurisdiction over its own records, and, for the purposes of the issuance of process and any other acts necessary to the enforcement of the orders, judgments, and decrees of the circuit court, the records of the circuit court shall be deemed records of the district court.

2. Transcripts and process from the judgments, decrees, and records of the circuit court shall be issued by the clerk of the district court, and under the seal of the clerk's office.

Sec. 7702. NEW SECTION. 602.7702 COUNTIES BORDERING ON MISSOURI RIVER. The jurisdiction of the courts of the state in all civil and criminal actions and proceedings, shall extend in counties bordering on the Missouri river to the boundary of the state as provided in the compact with the state of Nebraska, and to all lands and territory lying along the river which have been adjudged by the United States supreme court or the supreme court of this state to be within the state of Iowa, and to the other lands and territory along the river over which the courts of this state have exercised jurisdiction.

#### ARTICLE 8

#### JUVENILE COURT

#### PART 1

#### THE COURT

Sec. 8101. NEW SECTION. 602.8101 JUVENILE COURT.

1. A juvenile court is established in each county. The juvenile court is within the district court and has the jurisdiction provided in chapter 232.

2. The jurisdiction of the juvenile court may be exercised by any district judge, and by any district associate judge who is designated by the chief judge as a judge of the juvenile court.

3. The chief judge shall designate one or more of the district judges and district associate judges to act as judges of the juvenile court for a county. The chief judge may designate a juvenile court judge to preside in more than one county.

4. The designation of a judicial officer as a juvenile court judge does not deprive the officer of other judicial functions. Any district judge may act as a juvenile court judge during the absence or inability to act, or upon the request, of the designated juvenile court judge.

5. The juvenile court is always open for the transaction of business, but the hearing of a matter that requires notice shall be had at a time and place fixed by the juvenile court judge.

Sec. 8102. NEW SECTION. 602.8102 COURT RECORDS.

1. The juvenile court is a court of record, and its proceedings, orders, findings, and decisions shall be entered in books that are kept for that purpose and that are identified as juvenile court records.

2. The clerk of the district court is the clerk of the juvenile court for the county.

3. The clerk shall, if practicable, notify a convenient juvenile court officer in advance when a child is to be brought before the court.

Sec. 8103. NEW SECTION. 602.8103 REFEREE—PROCEDURE.

1. The judge of the juvenile court may appoint and may remove for cause with due process a juvenile court referee. The referee shall be an attorney admitted to practice law in this state, and shall be qualified for duties by training and experience.

2. The referee shall have the same jurisdiction to conduct juvenile court proceedings and to issue orders, findings, and decisions as the judge of the juvenile court, except that the referee shall not issue warrants. However, the appointing judge may limit the referee's exercise of juvenile court jurisdiction.

3. The parties to a proceeding heard by the referee are entitled to a review by the judge of the juvenile court of the referee's order, finding, or decision, if the review is requested within ten days after the entry of the referee's order, finding, or decision. A request for review does not automatically stay the referee's order, finding, or decision. The review is on the record only, unless the judge, upon request or upon the judge's own motion, orders otherwise. In the interests of justice, the judge may allow a rehearing at any time.

Sec. 8104. NEW SECTION. 602.8104 PHYSICIANS AND NURSES.

1. In a county having a population of one hundred twenty-five thousand or more, the judges of the juvenile court may appoint a physician and a nurse, prescribe their duties, and remove them.

2. Appointees shall receive salaries and shall be reimbursed for expenses incurred in the performance of duties, as prescribed by the supreme court.

PART 2

PROBATION AND COURT SERVICES

Sec. 8201. NEW SECTION. 602.8201 ADMINISTRATION AND SUPERVISION.

1. Probation and other juvenile court services within a judicial district shall be administered and supervised by the chief juvenile court officer.

2. The juvenile court officers and other personnel employed in juvenile court service offices are subject to the supervision of the chief juvenile court officer.

3. The chief juvenile court officer may employ, shall supervise, and may remove for cause with due process secretarial, clerical, and other staff within juvenile court service offices as authorized by the chief judge.

Sec. 8202. NEW SECTION. 602.8202 JUVENILE COURT OFFICERS.

1. Subject to the approval of the chief judge of the judicial district, the chief juvenile court

officer shall appoint juvenile court officers to serve the juvenile court. Juvenile court officers may be required to serve in two or more counties within the judicial district.

2. Juvenile court officers shall be selected, appointed, and removed in accordance with rules, standards, and qualifications prescribed by the supreme court.

3. Juvenile court officers have the duties prescribed in chapter 232, subject to the direction of the judges of the juvenile court. A judge of the juvenile court shall not attempt to direct or influence a juvenile court officer in the performance of the officer's duties.

4. A juvenile court officer has the powers of a peace officer while engaged in the discharge of duties.

#### ARTICLE 9

##### CLERK OF DISTRICT COURT

Sec. 9101. NEW SECTION. 602.9101 OFFICE OF THE CLERK OF THE DISTRICT COURT.

1. The office of clerk of the district court is an appointive office, as provided in section 602.1214.

2. A person appointed to the office of clerk shall qualify by taking the oath of office as provided in section 63.10 and giving bond as provided in chapter 64.

3. The clerk may employ deputies, assistants, and clerks when authorized under section 602.1402 and when authorized by the chief judge of the judicial district. The clerk is responsible for the acts of these employees. Each first deputy shall give bond as provided in chapter 64.

Sec. 9102. NEW SECTION. 602.9102 GENERAL DUTIES. The clerk shall:

1. Keep the office of the clerk at the county seat.

2. Attend sessions of the district court.

3. Keep the records, papers, and seal, and record the proceedings of the district court as provided by law under the direction of the chief judge of the judicial district.

4. Upon the death of a judge of the district court, give written notice to the state comptroller of the date of death. The clerk shall also give written notice of the death of a justice of the supreme court or a judge of the court of appeals or the district court who resides in the clerk's county to the state commissioner of elections, as provided in section 46.12.

5. When money in the amount of five hundred dollars or more is paid to the clerk to be paid to another person and the money is not disbursed within thirty days, notify the person who is entitled to the money or for whose account the money is paid or the attorney of record of the person. The notice shall be given by certified mail within forty days of the receipt of the money to the last known address of the person or the person's attorney and a memorandum of the notice shall be made in the proper record. If the notice is not given, the clerk and the clerk's sureties are liable for interest at the rate specified in section 535.2, subsection 1 on the money from the date of receipt to the date that the money is paid to the person entitled to it or the person's attorney.

6. On each process issued, indicate the date that it is issued, the clerk's name who issued it, and the seal of the court.

7. Upon return of an original notice to the clerk's office, enter in the appearance or combination docket information to show which parties have been served the notice and the manner and time of service.

8. When entering a lien or indexing an action affecting real estate in the clerk's office, enter the year, month, day, hour, and minute when the entry is made. The clerk shall mail a copy of a mechanic's lien to the owner of the building, land, or improvement which is charged with the lien as provided in section 572.8.

9. Enter in the appearance docket a memorandum of the date of filing of all petitions, demurrers, answers, motions, or papers of any other description in the cause. A pleading of any description is not considered filed in the cause or taken from the clerk's office until the memorandum is made. The memorandum shall be made before the end of the next working day. Thereafter, when a demurrer or motion is sustained or overruled, a pleading is made or amended, or the trial of the cause, rendition of the verdict, entry of judgment, issuance of execution, or any other act is done in the progress of the cause, a similar memorandum shall be made of the action, including the date of action and the number of the book and page of the record where the entry is made. The appearance docket is an index of each suit from its commencement to its conclusion.

10. When title to real estate is finally established in a person by a judgment or decree of the district court or by decision of an appellate court or when the title to real estate is changed by judgment, decree, will, proceeding, or order in probate, certify the final decree, judgment, or decision under seal of the court to the auditor of the county in which the real estate is located.

11. Keep for public inspection a certified copy of each act of the general assembly and furnish a copy of the act upon payment of a fee as provided in section 3.15.

12. At the order of a justice of the supreme court, docket without fee any civil or criminal case transferred from a military district under martial law as provided in section 29A.45.

13. Carry out duties as a member of a nominations appeal commission as provided in section 44.7.

14. Maintain a bar admission list as provided in section 46.8.

15. Notify the county commissioner of registration of persons who become ineligible to register to vote because of criminal convictions, mental retardation, or legal declarations of incompetency and of persons whose citizenship rights have been restored as provided in section 48.30.

16. When the auditor is a party to an election contest, carry out duties on behalf of the auditor and issue subpoenas as provided in sections 62.7 and 62.11.

17. Approve the bonds of the members of the board of supervisors as provided in section 64.19.

18. File the bonds and oaths of the members of the board of supervisors as provided in section 64.23.

19. Keep a book of the record of official bonds and record the official bonds of magistrates as provided in section 64.24.

20. Carry out duties relating to proceedings for the removal of a public officer as provided in sections 66.4 and 66.17.

21. Approve the surety bonds of persons accepting appointment as notaries public in the county as provided in section 77.4, subsection 2.

22. Carry out duties as a trustee for incompetent dependents entitled to benefits under chapters 85 and 85A and report annually to the district court concerning money and property received or expended as a trustee as provided under sections 85.49 and 85.50.

23. Carry out duties relating to enforcing orders of the occupational safety and health review commission as provided in section 88.9, subsection 2.

24. Certify the imposition of a mulct tax against property creating a public nuisance to the auditor as provided in section 99.28.

25. Carry out duties relating to the judicial review of orders of the occupational safety and health review commission as provided in section 104.10, subsection 2.

26. With sufficient surety, approve an appeal bond for judicial review of an order or action of the state conservation commission relating to dams and spillways as provided in section 112.8.

27. Docket an appeal from the fence viewer's decision or order as provided in section 113.23.

28. Certify to the recorder the fact that a judgment has been rendered upon an appeal of a fence viewer's order as provided in section 113.24.

29. Hold as a public record a list of the names and addresses of persons licensed as real estate salespersons and brokers and the name of persons whose licenses were suspended or revoked during the year reported as provided in section 117.42.

30. Approve bond sureties and enter in the lien index the undertakings of bonds for abatement relating to the illegal manufacture, sale, or consumption of alcoholic liquors as provided in sections 123.76, 123.79, and 123.80.

31. Carry out duties relating to a judgment of forfeiture ordering the sale or other disposition of a conveyance used in the illegal transportation of liquor or distribution of a controlled substance as provided in chapter 127.

32. Carry out duties as county registrar of vital statistics as provided in chapter 144.

33. Furnish to the state department of health a certified copy of a judgment suspending or revoking a professional license as provided in section 147.66.

34. Receive and file a bond given by the owner of a distrained animal to secure its release pending resolution of a suit for damages as provided in sections 188.22 and 188.23.

35. Send notice of the conviction, judgment, and sentence of a person violating the uniform controlled substances laws to the state board or officer who issued a license or registered the person to practice a profession or to conduct business as provided in section 204.412.

36. Carry out duties relating to the commitment of a mentally retarded person as provided in sections 222.37 through 222.40.

37. Keep a separate docket of proceedings of cases relating to the mentally retarded as provided in section 222.57.

38. Order the commitment of a voluntary public patient to the state psychiatric hospital under the circumstances provided in section 225.16.

39. Refer persons applying for voluntary admission to a community mental health center for a preliminary diagnostic evaluation as provided in section 225C.16, subsection 2.

40. Make a copy of the warrant and return of service submitted by the sheriff relating to the return of a mental patient from a state hospital to stand trial and mail the warrant and return to the superintendent of the hospital as provided in section 226.28.

41. Carry out duties relating to the involuntary commitment of mentally impaired persons as provided in chapter 229.

42. Serve as clerk of the juvenile court and carry out duties as provided in chapter 232 and article 8.

43. Submit to the director of the division of child and family services of the department of social services a duplicate of the findings of the district court related to adoptions as provided in section 235.3, subsection 7.

44. Certify to the warden of the penitentiary or men's reformatory or to the superintendent of the Iowa correctional institution for women the number of days that have been credited toward completion of an inmate's sentence as provided in section 246.38.

45. Report to the board of parole and the director of the division of corrections of the department of social services the criminal statistics as provided in sections 247.29 through 247.31.

46. Carry out duties relating to the pardons, commutations, remission of fines and forfeitures, and restoration of citizenship as provided in sections 248.9 and 248.17.

47. Forward support payments received under section 252A.6 to the department of social services and furnish copies of orders and decrees awarding support to parties receiving welfare assistance as provided in section 252A.13.
48. Carry out duties relating to the provision of medical care and treatment for indigent persons as provided in chapter 255.
49. Enter a judgment based on the transcript of an appeal to the state board of public instruction against the party liable for payment of costs as provided in section 290.4.
50. Certify the final order of the district court upon appeal of an assessment within a secondary road assessment district to the auditor as provided in section 311.24.
51. Forward to the department of transportation a copy of the record of each conviction or forfeiture of bail of a person charged with the violation of the laws regulating the operation of vehicles on public roads as provided in sections 321.281 and 321.491.
52. Send to the department of transportation licenses and permits surrendered by a person convicted of being a habitual offender of traffic and motor vehicle laws as provided in section 321.559.
53. If a person fails to satisfy a judgment relating to motor vehicle financial responsibility within sixty days, forward to the director of the department of transportation a certified copy of the judgment as provided in section 321A.12.
54. Approve a bond of a surety company or a bond with at least two individual sureties owning real estate in this state as proof of financial responsibility as provided in section 321A.24.
55. Carry out duties under the Iowa motor vehicle dealers licensing Act as provided in sections 322.10 and 322.24.
56. Carry out duties relating to the enforcement of motor fuel tax laws as provided in sections 324.66 and 324.67.
57. Carry out duties relating to the platting of land as provided in sections 409.9, 409.11, and 409.22.
58. Upon order of the director of revenue, issue a commission for the taking of depositions as provided in section 421.17, subsection 8.
59. Mail to the director of revenue a copy of a court order relieving an executor or administrator from making an income tax report on an estate as provided in section 422.23.
60. With acceptable sureties, approve the bond of a petitioner for a tax appeal as provided in section 422.29, subsection 2.
61. Certify the final decision of the district court in an appeal of the tax assessments as provided in section 441.39. Costs of the appeal to be assessed against the board of review or a taxing body shall be certified to the treasurer as provided in section 441.40.
62. Certify a final order of the district court relating to the apportionment of tax receipts to the auditor as provided in section 449.7.
63. Carry out duties relating to the inheritance tax as provided in chapter 450.
64. Deposit funds held by the clerk in an approved depository as provided in 453.1.
65. Carry out duties relating to appeals and certification of costs relating to levee and drainage districts as provided in sections 455.96 through 455.105.
66. Carry out duties relating to the condemnation of land as provided in chapter 472.
67. Forward civil penalties collected for violations relating to the siting of electric power generators to the treasurer of state as provided in section 476A.14, subsection 1.
68. Certify a copy of a decree of dissolution of a business corporation to the secretary of state and the recorder of the county in which the corporation is located as provided in section 496A.100.

69. With acceptable sureties, approve the bond of a petitioner filing an appeal for review of an order of the commissioner of insurance as provided in section 502.606 or 507A.7.
70. Certify a copy of a decree of dissolution of a nonprofit corporation to the secretary of state and the recorder in the county in which the corporation is located as provided in section 504A.62.
71. Carry out duties relating to the enforcement of decrees and orders of reciprocal states under the Iowa unauthorized insurers Act as provided in section 507A.11.
72. Certify copies of a decree of involuntary dissolution of a state bank to the secretary of state and the recorder of the county in which the bank is located as provided in section 524.1311, subsection 4.
73. Certify copies of a decree dissolving a credit union as provided in section 533.21, subsection 4.
74. Refuse to accept the filing of papers to institute legal action under the Iowa consumer credit code if proper venue is not adhered to as provided in section 537.5113.
75. Receive payment of money due to a person who is absent from the state if the address or location of the person is unknown as provided in section 538.5.
76. Carry out duties relating to the appointment of the Iowa state commerce commission as receiver for agricultural commodities on behalf of a warehouse operator whose license is suspended or revoked as provided in section 543.3.
77. Certify the signature of the recorder on the transcript of any instrument affecting real estate as provided in section 558.12.
78. Certify an acknowledgment of a written instrument relating to real estate as provided in section 558.20.
79. Collect on behalf of, and pay to the auditor the fee for the transfer of real estate as provided in section 558.66.
80. With acceptable sureties, endorse a bond sufficient to settle a dispute between adjoining owners of a common wall as provided in section 563.11.
81. Carry out duties relating to cemeteries as provided in sections 566.4, 566.7, and 566.8.
82. Carry out duties relating to liens as provided in chapters 570, 571, 572, 574, 580, 581, 582, and 584.
83. Accept applications for and issue marriage licenses as provided in chapter 595.
84. Carry out duties relating to the dissolution of a marriage as provided in chapter 598.
85. Carry out duties relating to the custody of children as provided in chapter 598A.
86. Carry out duties relating to adoptions as provided in chapter 600.
87. Enter upon the clerk's records actions taken by the court at a location which is not the county seat as provided in section 602.7106.
88. Maintain a record of the name, address, and term of office of each member of the county magistrate appointing commission as provided in section 602.7501.
89. Certify to the state court administrator the names and addresses of the magistrates appointed by the county magistrate appointing commission as provided in section 602.7403.
90. Furnish an individual or centralized docket for the magistrates of the county as provided in section 602.7604.
91. Serve as an ex officio jury commissioner and notify appointive commissioners of their appointment as provided in sections 608.1 and 608.5.
92. Carry out duties relating to the selection of jurors as provided in chapter 609.
93. Carry out duties relating to the revocation or suspension of an attorney's authority to practice law as provided in chapter 610.
94. File and index petitions affecting real estate as provided in sections 617.10 through 617.15.

95. Designate the newspapers in which the notices pertaining to the clerk's office shall be published as provided in section 618.7.
96. With acceptable surety, approve a bond of the plaintiff in an action for the payment of costs which may be adjudged against the plaintiff as provided in section 621.1.
97. Issue subpoenas for witnesses as provided in section 622.63.
98. Carry out duties relating to trials and judgments as provided in sections 624.8 through 624.21 and 624.37.
99. Collect jury fees and court reporter fees as required by chapter 625.
100. When the judgment is for recovery of money, compute the interest from the date of verdict to the date of payment of the judgment as provided in section 625.21.
101. Carry out duties relating to executions as provided in chapter 626.
102. Carry out duties relating to the redemption of property as provided in sections 628.13, 628.18, and 628.20.
103. Record statements of expenditures made by the holder of a sheriff's sale certificate in the encumbrance book and lien index as provided in section 629.3.
104. Carry out duties relating to small claim actions as provided in chapter 631.
105. Carry out duties of the clerk of the probate court as provided in chapter 633.
106. Carry out duties relating to the administration of small estates as provided in sections 635.1, 635.7, 635.9, and 635.11.
107. Carry out duties relating to the attachment of property as provided in chapter 639.
108. Carry out duties relating to garnishment as provided in chapter 642.
109. With acceptable surety, approve bonds of the plaintiff desiring immediate delivery of the property in an action of replevin as provided in sections 643.7 and 643.12.
110. Carry out duties relating to the disposition of lost property as provided in chapter 644.
111. Carry out duties relating to the recovery of real property as provided in section 646.23.
112. Endorse the court's approval of a restored record as provided in section 647.3.
113. When a judgment of foreclosure is entered, file with the recorder an instrument acknowledging the foreclosure and the date of decree and upon payment of the judgment, file an instrument with the recorder acknowledging the satisfaction as provided in sections 655.4 and 655.5.
114. Carry out duties relating to the issuance of a writ of habeas corpus as provided in sections 663.9, 663.43, and 663.44.
115. Accept and docket an application for postconviction review of a conviction as provided in section 663A.3.
116. Report all fines, forfeited recognizances, penalties, and forfeitures as provided in section 602.9106, subsection 3 and section 666.6.
117. Issue a warrant for the seizure of a boat or raft as provided in section 667.2.
118. Carry out duties relating to the changing of a person's name as provided in chapter 674.
119. Notify the state registrar of vital statistics of a judgment determining the paternity of an illegitimate child as provided in section 675.36.
120. Enter a judgment made by confession and issue an execution of the judgment as provided in section 676.4.
121. With acceptable surety, approve the bond of a receiver as provided in section 680.3.
122. Carry out duties relating to the assignment of property for the benefit of creditors as provided in chapter 681.
123. Carry out duties relating to the certification of surety companies and the investment of trust funds as provided in chapter 682.

124. Maintain a separate docket for petitions requesting that the record and evidence in a judicial review proceeding be closed as provided in section 692.5.

125. Furnish a disposition of each criminal complaint or information filed in the district court to the department of public safety as provided in section 692.15.

126. Carry out duties relating to the issuance of warrants to persons who fail to appear to answer citations as provided in section 805.5.

127. Provide for a traffic and scheduled violations office for the district court and service the locked collection boxes at weigh stations as provided in section 805.7.

128. Issue a summons to corporations to answer an indictment as provided in section 807.5.

129. Carry out duties relating to the disposition of seized property as provided in sections 809.2 and 809.3.

130. Docket undertakings of bail as liens on real estate and enter them upon the lien index as provided in section 811.4.

131. Hold the amount of forfeiture and judgment of bail in the clerk's office for sixty days as provided in section 811.6.

132. Carry out duties relating to appeals from the district court as provided in chapter 814.

133. Certify costs and fees payable by the state as provided in section 815.1.

134. Notify the director of the division of adult corrections of the department of social services of the commitment of a convicted person as provided in section 901.7.

135. Carry out duties relating to deferred judgments, probations, and restitution as provided in sections 907.4 and 907.8, and chapter 910.

136. Carry out duties relating to the impaneling and proceedings of the grand jury as provided in R.Cr.P. 3, Ia. Ct. Rules, 2nd ed.

137. Issue subpoenas upon application of the prosecuting attorney and approval of the court as provided in R.Cr.P. 5, Ia. Ct. Rules, 2nd ed.

138. Issue summons or warrants to defendants as provided in R.Cr.P. 7, Ia. Ct. Rules, 2nd ed.

139. Carry out duties relating to the change of venue as provided in R.Cr.P. 10, Ia. Ct. Rules, 2nd ed.

140. Issue blank subpoenas for witnesses at the request of the defendant as provided in R.Cr.P. 14, Ia. Ct. Rules, 2nd ed.

141. Carry out duties relating to the entry of judgment as provided in R.Cr.P. 22, Ia. Ct. Rules, 2nd ed.

142. Carry out duties relating to the execution of a judgment as provided in R.Cr.P. 24, Ia. Ct. Rules, 2nd ed.

143. Carry out duties relating to the trial of simple misdemeanors as provided in R.Cr.P. 32 through 56, Ia. Ct. Rules, 2nd ed.

144. Serve notice of an order of judgment entered as provided in R.C.P. 82, Ia. Ct. Rules, 2nd ed.

145. If a party is ordered or permitted to plead further by the court, serve notice to attorneys of record as provided in R.C.P. 86, Ia. Ct. Rules, 2nd ed.

146. Maintain a motion calendar as provided in R.C.P. 117, Ia. Ct. Rules, 2nd ed.

147. Provide notice of a judgment, order, or decree as provided in R.C.P. 120, Ia. Ct. Rules, 2nd ed.

148. Issue subpoenas as provided in R.C.P. 155, Ia. Ct. Rules, 2nd ed.

149. Tax the costs of taking a deposition as provided in R.C.P. 157, Ia. Ct. Rules, 2nd ed.

150. With acceptable sureties, approve a bond filed for change of venue under R.C.P. 167, Ia. Ct. Rules, 2nd ed.

151. Transfer the papers relating to a case transferred to another court as provided in R.C.P. 173, Ia. Ct. Rules, 2nd ed.

152. Maintain a ready calendar list as provided in R.C.P. 181.1, Ia. Ct. Rules, 2nd ed.

153. Assess costs related to a continuance motion as provided in R.C.P. 182, Ia. Ct. Rules, 2nd ed.

154. Carry out duties relating to the impaneling of jurors as provided in R.C.P. 187 through 190, Ia. Ct. Rules, 2nd ed.

155. Furnish a referee, auditor, or examiner with a copy of the order of appointment as provided in R.C.P. 207, Ia. Ct. Rules, 2nd ed.

156. Mail a copy of the referee's, auditor's, or examiner's report to the attorneys of record as provided in R.C.P. 214, Ia. Ct. Rules, 2nd ed.

157. Carry out duties relating to the entry of judgments as provided in R.C.P. 223, 226, 227.1, 228, and 229, Ia. Ct. Rules, 2nd ed.

158. Carry out duties relating to defaults and judgments on defaults as provided in R.C.P. 231, 232, and 233, Ia. Ct. Rules, 2nd ed.

159. Notify the attorney of record if exhibits used in a case are to be destroyed as provided in R.C.P. 253.1, Ia. Ct. Rules, 2nd ed.

160. Docket the request for a hearing on a sale of property as provided in R.C.P. 290, Ia. Ct. Rules, 2nd ed.

161. With acceptable surety, approve the bond of a citizen commencing an action of quo warranto as provided in R.C.P. 300, Ia. Ct. Rules, 2nd ed.

162. Carry out duties relating to the issuance of a writ of certiorari as provided in R.C.P. 306 through 319, Ia. Ct. Rules, 2nd ed.

163. Carry out duties relating to the issuance of an injunction as provided in R.C.P. 320 through 330, Ia. Ct. Rules, 2nd ed.

164. Carry out other duties as provided by law.

Sec. 9103. NEW SECTION. 602.9103 GENERAL POWERS. The clerk may:

1. Administer oaths and take affirmations as provided in section 78.1.

2. Reproduce original records of the court by any reasonably permanent legible means including, but not limited to, reproduction by photographing, photostating, microfilming, and computer cards. The reproduction shall include proper indexing. The reproduced record has the same authenticity as the original record.

3. After the original record is reproduced and after approval of a majority of the judges of the district court by court order, destroy the original records including, but not limited to, dockets, journals, scrapbooks, files, and marriage license applications. The order shall state the specific records which are to be destroyed. An original court file shall not be destroyed until after ten years from the date a decree or judgment entry is signed and entered of record and after the contents have been reproduced, but if the matter is dismissed with prejudice before judgment or decree, the original file may be destroyed one year from the date of the dismissal and after its reproduction is authorized and completed as provided in this subsection. As used in this subsection and subsection 4, "destroy" includes the transmission of the original records which are of general historical interest to any recognized historical society or association.

4. Destroy the following original records without prior court order or reproduction except as otherwise provided in this subsection:

a. Records including, but not limited to, dockets, journals, scrapbooks, and files including court reporters' notes, forty years after final disposition of the case. However, judgments, decrees, stipulations, records in criminal proceedings, probate records, and orders of court shall not be destroyed unless they have been reproduced as provided in subsection 2.

b. Administrative records, after five years, including, but not limited to, warrants, subpoenas, clerks' certificates, statements, praecipis, and depositions.

c. Records, dockets, and court files of civil and criminal actions heard in the municipal court which were transferred to the clerk, other than juvenile and adoption proceedings, after a period of twenty years from the date of filing of the actions.

d. Original court files on dissolutions of marriage, one year after dismissal by the parties or under R.C.P. 215, Ia. Ct. Rules, 2nd ed.

e. Small claims files, one year after dismissal with or without prejudice.

f. Uniform traffic citations in the magistrate court or traffic and scheduled violations office, one year after final disposition.

5. Invest money which is paid to the clerk to be paid to any other person in a savings account of a supervised financial organization as defined in section 537.1301, subsection 41, except a credit union operating pursuant to chapter 533. The provisions of chapter 453 relating to the deposit and investment of public funds apply to the deposit and investment of the money except that a supervised financial organization other than a credit union may be designated as a depository and the money shall be available upon demand. The interest earnings shall be paid into the general fund of the state, except as otherwise provided by law.

**Sec. 9104. NEW SECTION. 602.9104 RECORDS AND BOOKS.**

1. The records of the court consist of the original papers filed in all proceedings.

2. The following books shall be kept by the clerk:

a. A record book which contains the entries of the proceedings of the court and which has an index referring to each proceeding in each cause under the names of the parties, both plaintiff and defendant, and under the name of each person named in either party.

b. A judgment docket which contains an abstract of the judgments having separate columns for the names of the parties, the date of the judgment, the damages recovered, costs, the date of the issuance and return of executions, the entry of satisfaction, and other memoranda. The docket shall have an index containing the information specified in paragraph a.

c. A fee book in which is listed in detail the costs and fees in each action or proceeding under the title of the action or proceeding. The fee book shall also have an index containing the information specified in paragraph a.

d. A sale book in which the following matters relating to a judgment under which real property is sold, are entered after the return of execution:

- (1) The title of the action.
- (2) The date of judgment.
- (3) The amount of damages recovered.
- (4) The total amount of costs.
- (5) The officer's return in full.

The sale book shall have an index containing the information specified in paragraph a.

e. An encumbrance book in which the sheriff shall enter a statement of the levy of each attachment on real estate.

f. An appearance docket in which the titles of all actions or special proceedings shall be entered. The actions or proceedings shall be numbered consecutively in the order in which they commence and shall include the full names of the parties, plaintiffs and defendants, as contained in the petition or as subsequently made parties by a pleading, proceeding, or order. The entries provided for in this paragraph and paragraphs b and c may be combined in one book, the combination docket, which shall also have an index containing the information specified in paragraph a.

- g. A lien book in which an index of all liens in the court are kept.
- h. A record of official bonds as provided in section 64.24.
- i. An inheritance tax and lien book as provided in section 450.13.
- j. A cemetery record as provided in section 566.4.
- k. A hospital lien docket as provided in section 582.4.
- l. A marriage license book as provided in section 595.6.
- m. A book of surety company certificates and revocations as provided in section 682.13.
- n. A book in which the deposits of funds, money, and securities kept by the clerk are recorded as provided in section 682.37.

Sec. 9105. NEW SECTION. 602.9105 FEES—COLLECTION AND DISPOSITION.

- 1. The clerk shall collect the following fees:
  - a. For filing a petition, appeal, or writ of error and docketing them, twenty-five dollars. Four dollars of the fee shall be deposited in the court revenue distribution account established under section 602.9108, and twenty-one dollars of the fee shall be paid into the state treasury. Of the amount paid to the state treasury, one dollar shall be deposited in the judicial retirement fund established in section 602.2104 to be used to pay retirement benefits of the judicial retirement system, and the remainder shall be deposited in the general fund of the state. In counties having a population of one hundred thousand or over, an additional five dollars shall be charged and collected, to be known as the journal publication fee and used for the purposes provided for in section 618.13.
  - b. For an attachment, two dollars.
  - c. For a cause tried by jury, five dollars.
  - d. For a cause tried by the court, two dollars and fifty cents.
  - e. For an equity case, three dollars.
  - f. For an injunction or other extraordinary process or order, five dollars.
  - g. For a cause continued on application of a party by affidavit, two dollars.
  - h. For a continuance, one dollar.
  - i. For entering a final judgment or decree, one dollar and fifty cents.
  - j. For taxing costs, one dollar.
  - k. For issuing an execution or other process after judgment or decree, two dollars.
  - l. For filing, entering, and endorsing a mechanic's lien, three dollars, and if a suit is brought, the fee is taxable as other costs in the action.
  - m. For a certificate and seal, two dollars.
  - n. For filing and docketing a transcript of judgment from another county, one dollar.
  - o. For entering a rule or order, one dollar.
  - p. For issuing a writ or order, not including subpoenas, two dollars.
  - q. For issuing a commission to take depositions, two dollars.
  - r. For entering a sheriff's sale of real estate, two dollars.
  - s. For entering a judgment by confession, two dollars.
  - t. For entering a satisfaction of a judgment, one dollar.
  - u. For a copy of records or papers filed in the clerk's office, transcripts, and making a complete record, fifty cents for each one hundred words.
  - v. For taking and approving a bond and sureties on the bond, two dollars.
  - w. For receiving and filing a declaration of intention and issuing a duplicate, two dollars. For making, filing, and docketing the petition of an alien for admission as a citizen of the United States and for the final hearing, four dollars; and for entering the final order and the issuance of the certificate of citizenship, if granted, four dollars.
  - x. In addition to the fees required in paragraph w, the petitioner shall, upon the filing of a petition to become a citizen of the United States, deposit with the clerk money sufficient to

cover the expense of subpoenaing and paying the legal fees of witnesses for whom the petitioner may request a subpoena, and upon the final discharge of the witnesses they shall receive, if they demand it from the clerk, the customary and usual witness fees from the moneys collected, and the residue, if any, except the amount necessary to pay the cost of serving the subpoenas, shall be returned by the clerk to the petitioner.

y. For a certificate and seal to an application to procure a pension, bounty, or back pay for a soldier or other person, no charge.

z. For making out a transcript in a criminal case appealed to the supreme court, for each one hundred words, fifty cents.

aa. In criminal cases, the same fees for the same services as in civil cases, to be paid by the county or city initiating the action as provided in section 602.9109. When judgment is rendered against the defendant, costs collected from the defendant shall be paid to the county or city initiating the action to the extent necessary for reimbursement for fees paid.

bb. For issuing a marriage license, fifteen dollars. The clerk of the district court shall remit to the treasurer of state five dollars for each marriage license issued. The treasurer of state shall deposit the funds received in the general fund of the state. For issuing an application for an order of the district court authorizing the issuance of a license to marry prior to the expiration of three days from the date of filing the application for the license, five dollars.

cc. For certifying a change in title of real estate, two dollars.

dd. In addition to all other fees, for making a complete record in cases where a complete record is required by law or directed by an order of the court, for every one hundred words, twenty cents.

ee. For providing transcripts, certificates, other documents, and services in probate matters, the fees specified in section 633.31.

ff. The jury fee and court reporter fee specified in chapter 625.

gg. Other fees provided by law.

2. The fees collected by the clerk as provided in subsection 1 shall be deposited in the court revenue distribution account established under section 602.9108, except as otherwise provided by that section or by applicable law.

3. The clerk shall keep an accurate record of the fees collected in a fee book, and make a quarterly report of the fees collected to the supreme court.

4. The clerk shall pay to the treasurer of state on the first Monday which is not a holiday in January and July of each year all fees which have come into the clerk's possession since the date of the preceding payment, which do not belong to the clerk's office, and which are unclaimed. The clerk shall give the treasurer the title of the cause and style of the court in which the suit is pending, the names of the witnesses, jurors, officers, or other persons involved in the action, and the amount of money to which each of the persons is entitled. The treasurer of state shall deposit the funds in the general fund of the state as state revenue, provided that fees so deposited shall be paid to the persons entitled to them upon proper and timely demand. If payment of a fee is demanded, with proper proof, by the person entitled to it within five years from the date that the money is paid to the treasurer, the comptroller shall issue a warrant to pay the claim. If a person entitled to unclaimed fees does not demand payment within the five years, all rights to the fees or interest in the fees are waived and payment shall not be made.

**Sec. 9106. NEW SECTION. 602.9106 CERTAIN FEES—COLLECTION AND DISPOSITION.**

1. Notwithstanding section 602.9105, the fee for the filing and docketing of a complaint or information for a simple misdemeanor shall be six dollars, provided that a fee for filing and docketing a complaint or information shall not be collected in cases of overtime parking.

2. The clerk shall remit ninety percent of all fines and forfeited bail received from a magistrate or district associate judge to the city that was the plaintiff in any action, and shall provide that city with a statement showing the total number of cases, the total of all fines and forfeited bail collected, and the total of all cases dismissed. The clerk shall deposit the remaining ten percent in the court revenue distribution account established under section 602.9108.

3. The clerk shall remit all other fines and forfeited bail received from a magistrate to the treasurer of state for distribution under section 602.9107.

4. All fees and costs for the filing of a complaint or information or upon forfeiture of bail received from a magistrate shall be distributed by the clerk as follows:

a. One-half shall be remitted monthly by the clerk to the treasurer of state to be credited to the general fund of the state.

b. One-third shall be deposited in the court revenue distribution account established under section 602.9108.

c. One-sixth shall be remitted monthly by the clerk to the treasurer of state to be credited to the judicial retirement fund established under section 602.2104.

Sec. 9107. NEW SECTION. 602.9107 SCHOOL FUND REVENUES— APPROPRIATION.

1. The treasurer of state shall certify to the state comptroller the amounts received from a clerk of the district court under sections 32.2, 99.30, 127.20, 302.44, 508.15, 511.7, 515.93, 534.12, 535.5, 595.11, 602.9106, subsection 3, 644.15, and 666.3.

2. The state comptroller shall remit the amounts certified under subsection 1 on a semi-annual basis to the respective county treasurers for the benefit of the temporary school fund. If the total amount certified to the state comptroller under subsection 1 for a fiscal year is less than the total amount certified during the fiscal year beginning July 1, 1984, the state comptroller shall prorate the amounts paid to school districts. Commencing in the fiscal year beginning July 1, 1984, the maximum amount a school district is entitled to receive during a fiscal year is the amount paid to the school district under this section during the fiscal year beginning July 1, 1983.

3. Any amount collected under section 602.9106, subsection 3 that is in excess of the amount to which a school district is entitled under subsection 2 shall be deposited in the general fund of the state.

4. There is appropriated to the state comptroller as much of the revenues received under section 602.9106, subsection 3 as is necessary for the distributions required under subsection 2.

Sec. 9108. NEW SECTION. 602.9108 COURT REVENUE DISTRIBUTION ACCOUNT.

1. The clerk of the district court shall establish and maintain a court revenue distribution account. The clerk shall deposit in this account all fees and other receipts that are specifically required by law to be deposited in the court revenue distribution account. The account shall not be used for any other purpose.

2. Revenue deposited in the court revenue distribution account shall be distributed as follows:

a. Of the revenue received by the clerk during the fiscal year commencing July 1, 1983 and ending June 30, 1984, the clerk shall remit eighty percent to the county treasurer and twenty percent to the treasurer of state.

b. Of the revenue received by the clerk during the fiscal year commencing July 1, 1984 and ending June 30, 1985, the clerk shall remit sixty percent to the county treasurer and forty percent to the treasurer of state.

c. Of the revenue received by the clerk during the fiscal year commencing July 1, 1985 and ending June 30, 1986, the clerk shall remit forty percent to the county treasurer and sixty percent to the treasurer of state.

d. Of the revenue received by the clerk during the fiscal year commencing July 1, 1986 and ending June 30, 1987, the clerk shall remit twenty percent to the county treasurer and eighty percent to the treasurer of state.

e. The clerk shall remit all revenue received on or after July 1, 1987, to the treasurer of state.

3. The clerk of the district court shall account for and distribute revenue deposited in the court revenue distribution account on a monthly basis. Not later than the fifteenth day of each calendar month, the clerk shall distribute all revenues received during the preceding calendar month according to the applicable formula as stated in subsection 2. Each distribution shall be accompanied by a statement disclosing the total amount of revenue received during the accounting period, any adjustments of gross revenue figures that are necessary to reflect changes in the balance of the court revenue distribution account, including but not limited to reductions resulting from the dishonor of checks previously accepted by the clerk, and the amount distributed to each recipient under subsection 2.

4. Revenue distributed to the treasurer of state under this section shall be deposited in the general fund of the state. Revenue distributed to a county under this section shall be deposited in the county general fund.

Sec. 9109. NEW SECTION. 602.9109 SETTLEMENT OF ACCOUNTS OF CITIES AND COUNTIES.

1. A city or a county shall pay court costs and other fees payable to the clerk of the district court for services rendered upon receipt of a statement from the clerk disclosing the amount due.

2. No later than the fifteenth day of each calendar month the clerk of the district court shall deliver to the county auditor a statement disclosing all of the following:

a. The specific amounts of statutory fees and costs that are payable by the county to the clerk for services rendered by the clerk or other state officers or employees during the preceding month in connection with each civil or criminal action, and the total of all of these fees and costs.

b. Any amounts collected by the clerk of the district court during the preceding month as costs in an action when these amounts are payable by law to the county as reimbursement for costs incurred by the county in connection with a civil or criminal action, and the total of all of these amounts.

3. If the amount owed by the county under subsection 2, paragraph a for a calendar month is greater than the amount due to the county under subsection 2, paragraph b for that month, the county shall remit the difference to the clerk of the district court no later than the last day of the month in which the statement under subsection 2 is received.

4. If the amount due to the county under subsection 2, paragraph b for a calendar month is greater than the amount owed by the county under subsection 2, paragraph a for that month, the clerk of the district court shall remit the difference to the county treasurer no later than the last day of the month in which the statement under subsection 2 is delivered.

5. The clerk of the district court shall submit a statement to the city clerk of a city for statutory fees and costs that are payable by the city for services rendered by the clerk of the district court or other state officers or employees in connection with civil or criminal actions. The city shall pay amounts due within thirty days after the date the statement is mailed.

6. The clerk of the district court shall remit to a city within thirty days after receipt any amounts collected by the clerk as costs in an action when these amounts are payable by law to the city as reimbursement for costs incurred by the city in connection with a civil or criminal action.

7. Amounts not paid as required under subsection 3, 4, 5, or 6 shall bear interest for each day of delinquency at the rate in effect as of the day of delinquency for time deposits of public funds for eighty-nine days, as established under section 453.6.

## DIVISION II

### COORDINATING AMENDMENTS

Sec. 10001. Section 2.42, Code 1983, is amended by adding the following new subsection:  
**NEW SUBSECTION. 16.** Authority to review proposed rules and forms submitted by the supreme court pursuant to section 684.18.

Sec. 10002. Section 4.1, Code 1983, is amended by adding the following new subsections:  
**NEW SUBSECTION. COURT EMPLOYEE.** "Court employee" and "employee of the judicial department" include every officer or employee of the judicial department except a judicial officer.

**NEW SUBSECTION. JUDICIAL OFFICER.** "Judicial officer" means a supreme court justice, a judge of the court of appeals, a district judge, a district associate judge, or a magistrate. The term also includes a person who is temporarily serving as a justice, judge, or magistrate as permitted by section 602.1612 or 602.2206.

**NEW SUBSECTION.** "Magistrate" means a judicial officer appointed under division I, article 7, part 4 of chapter 602.

Sec. 10003. Section 12.9, Code 1983, is amended to read as follows:

**12.9 ANNUAL REPORT OF FILING FEES.** The treasurer of state shall annually report to the governor and the general assembly the total amount of fees and costs received by the treasurer of state under ~~section 602.55, subsection 1, and section 331.705, subsection 1, paragraphs "a" to "ad"~~ sections 602.9105, 602.9106, 602.9107, and 602.9108 for the fiscal year ending June 30. The report shall be submitted within ninety days following the completion of the fiscal year.

Sec. 10004. Section 14.10, subsection 4, Code 1983, is amended to read as follows:

4. A list of elective state officers and deputies, supreme court justices, ~~and appellate court judges of the court of appeals,~~ and members of the general assembly shall be published annually with the session laws.

Sec. 10005. Section 17A.2, subsection 1, Code 1983, is amended to read as follows:

1. "Agency" means each board, commission, department, officer or other administrative office or unit of the state. "Agency" does not mean the general assembly, the ~~courts~~ judicial department or any of its components, the governor or a political subdivision of the state or its offices and units. Unless provided otherwise by statute, no less than two-thirds of the members eligible to vote of a multimember agency shall constitute a quorum authorized to act in the name of the agency.

Sec. 10006. Section 17A.13, subsection 1, Code 1983, is amended to read as follows:

1. Agencies have all subpoena powers conferred upon them by their enabling acts or other statutes. In addition, prior to the commencement of a contested case by the notice referred to in section 17A.12, subsection 1, an agency having power to decide contested cases ~~has authority to~~ may subpoena books, papers, records and any other real evidence necessary for the agency to determine whether it should institute a contested case proceeding. After the commencement of a contested case, each agency having power to decide contested cases ~~has authority to~~ may administer oaths and ~~to~~ issue subpoenas in those cases. Discovery procedures applicable to civil actions are available to all parties in contested cases before an agency. Evidence obtained in discovery may be used in the hearing before the agency if that evidence would otherwise be admissible in the agency hearing. Agency subpoenas shall be issued to a party on request ~~and shall not be subject to the distance limitation of section 622.68.~~ On contest, the court shall sustain the subpoena or similar process or demand to the

extent that it is found to be in accordance with the law applicable to the issuance of subpoenas or discovery in civil actions. In proceedings for enforcement, the court shall issue an order requiring the appearance of the witness or the production of the evidence or data within a reasonable time under penalty of punishment for contempt in cases of willful failure to comply.

Sec. 10007. Section 17A.20, Code 1983, is amended to read as follows:

17A.20 APPEALS. An aggrieved or adversely affected party to the judicial review proceeding may obtain a review of any final judgment of the district court under this chapter by appeal to the supreme court. The appeal shall be taken as in other civil cases, although the appeal may be taken regardless of the amount involved.

Sec. 10008. Section 18.97, subsection 15, paragraph e, Code 1983, is amended to read as follows:

e. ~~Court~~ State court administrator.

Sec. 10009. Section 18.97, subsection 15, Code 1983, is amended by adding the following new paragraph:

NEW PARAGRAPH. Each district court administrator.

Sec. 10010. Section 18.117, unnumbered paragraph 2, Code 1983, is amended to read as follows:

This section ~~shall~~ does not apply to officials and employees of the state whose mileage is paid by other than state agencies and; ~~except for the provisions relating to mileage reimbursement, this section shall~~ does not apply to elected officers of the state, judges of the district court, judges of the court of appeals or judges of the supreme court judicial officers, or court employees.

Sec. 10011. Section 19A.3, subsection 12, Code 1983, is amended to read as follows:

12. All ~~judges judicial officers and all employees of the courts~~ court employees.

Sec. 10012. Section 20.4, subsection 7, Code 1983, is amended to read as follows:

7. ~~Judges of the supreme court, district judges, district associate judges and judicial magistrates, and the employees of such judges and courts.~~ Judicial officers, and confidential, professional, or supervisory employees of the judicial department.

Sec. 10013. Section 25A.6, Code 1983, is amended to read as follows:

25A.6 APPLICABLE RULES. In suits under this chapter, the forms of process, writs, pleadings, and actions, and the practice and procedure, shall be in accordance with the rules of civil procedure ~~promulgated and adopted by the supreme court of the state.~~ The same provisions for counterclaims, setoff, interest upon judgments, and payment of judgments, ~~shall be~~ are applicable as in other suits brought in the district courts of the state court. However, no writ of execution shall issue against the state or any state agency by reason of ~~any~~ a judgment under this chapter.

Sec. 10014. Section 32.2, Code 1983, is amended to read as follows:

32.2 ACTIONS FOR PENALTY. ~~Such~~ The action or suit may be brought by and in the name of the state, on the relation of ~~any a~~ a citizen thereof of the state, and ~~such the~~ penalty, when collected, less the reasonable cost and expense of action or suit and recovery, to be certified by the clerk of the district court of the county in which the offense is committed, shall be paid into the county treasury for the benefit of the school fund to the treasurer of state for distribution under section 602.9107, and two or more penalties may be sued for and recovered in the same action or suit.

Sec. 10015. Section 39.17, unnumbered paragraph 1, Code 1983, is amended to read as follows:

There shall be elected in each county at the general election to be held in the year 1976 and every four years thereafter, a clerk of the district court, an auditor and a sheriff ~~who shall,~~ each to hold office for a term of four years.

Sec. 10016. Section 44.7, Code 1983, is amended to read as follows:

44.7 HEARING BEFORE COMMISSIONER. Objections filed with the commissioner shall be considered by the county auditor, ~~clerk of the district court~~ county treasurer, and county

attorney, and a majority decision shall be final; but if the objection is to the certificate of nomination of one or more of the above named county officers, ~~said the officer or officers so~~ objected to shall not pass upon ~~such the~~ objection, but their places shall be filled, respectively, by the ~~county treasurer~~ chairperson of the board of supervisors, the sheriff, and the county recorder.

Sec. 10017. Section 46.5, Code 1983, is amended by adding the following new unnumbered paragraph:

**NEW UNNUMBERED PARAGRAPH.** When a vacancy in an office of an elective judicial nominating commissioner occurs, the clerk of the supreme court shall arrange for the publication of a notice stating the existence of the vacancy and the manner in which the vacancy will be filled in those publications which the clerk of the supreme court deems likely to give reasonable notice to the eligible voting members of the bar of the district in which the vacancy occurs. The election of a district judicial nominating commissioner or the close of nominations for a state judicial nominating commissioner shall not occur until thirty days after the publication of the notice.

Sec. 10018. Section 46.7, Code 1983, is amended to read as follows:

**46.7 ELIGIBILITY TO VOTE.** To be eligible to vote in elections of judicial nominating commissioners, a member of the bar must ~~have registered in writing with the clerk of the district court of the county of his residence at the last bar registration preceding such election~~ be a resident of the state of Iowa and of the appropriate congressional district or judicial election district as shown by the member's most recent filing with the supreme court for the purposes of showing compliance with the court's continuing legal education requirements. A judge who has been admitted to the bar of the state of Iowa shall be considered a member of the bar.

Sec. 10019. Section 46.8, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

**46.8 CERTIFIED LIST.** On June 1 of each year the clerk of the supreme court shall certify a list of the names, addresses, and years of admission of members of the bar who are eligible to vote for state and district judicial nominating commissioners. The clerk of the supreme court shall provide a copy of the list of the members for a county to the clerk of the district court for that county.

Sec. 10020. Section 46.9, unnumbered paragraph 4, Code 1983, is amended to read as follows:

Vote for (state number) for Iowa State (or Iowa . . . . . Judicial District) judicial nominating commissioner(s) for term commencing . . . . .

\_\_\_\_\_ JOHN DOE CANDIDATE'S NAME  
\_\_\_\_\_ RICHARD ROE CANDIDATE'S NAME

\_\_\_\_\_ . . . . .  
\_\_\_\_\_ . . . . .

Sec. 10021. Section 46.15, unnumbered paragraph 2, Code 1983, is amended to read as follows:

Vacancies in the court of appeals shall be filled by appointment by the governor from a list of nominees submitted by the state judicial nominating commission. ~~Three~~ Five nominees shall be submitted for each vacancy. If the governor fails to make an appointment within thirty days after a list of nominees has been submitted, the appointment shall be made from the list of nominees by the chief justice of the supreme court.

Sec. 10022. Section 46.16, subsection 1, unnumbered paragraph 1, Code 1983, is amended to read as follows:

Subject to the ~~provisions of sections 605.24 and 605.25~~ 602.1610 and 602.1612 and to removal for cause:

Sec. 10023. Section 46.20, Code 1983, is amended to read as follows:

46.20 DECLARATION OF CANDIDACY. At least ninety days prior to the judicial election preceding expiration of his or her the initial or regular term of office, a judge of the supreme court, court of appeals or district court including district associate judges, or a clerk of the district court who is required to stand for retention under section 602.1214A may file a declaration of candidacy with the state commissioner of elections, whereupon such judge shall to stand for retention or rejection at that election. If a judge or clerk fails to file such the declaration, his or her the office shall be vacant at the end of his or her the term. District associate judges filing such a the declaration shall stand for retention in the judicial election district of their residence.

Sec. 10024. Section 46.21, Code 1983, is amended to read as follows:

46.21 CONDUCT OF ELECTIONS. At least fifty-five days prior to 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, and clerks of the district court to be voted on in such 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?

JOHN DOE YES \_\_\_\_\_ NO \_\_\_\_\_  
RICHARD ROE YES \_\_\_\_\_ NO \_\_\_\_\_

COURT OF APPEALS

Shall the following judges of the Court of Appeals be retained in office?

JOHN DOE YES \_\_\_\_\_ NO \_\_\_\_\_  
RICHARD ROE YES \_\_\_\_\_ NO \_\_\_\_\_

DISTRICT COURT

Shall the following judge or associate judge of the District Court be retained in office?

JOHN SMITH YES \_\_\_\_\_ NO \_\_\_\_\_

Shall the following clerk of the District Court be retained in office?

JANE DOE YES \_\_\_\_\_ NO \_\_\_\_\_

Sec. 10025. Section 46.24, Code 1983, is amended to read as follows:

46.24 RESULTS OF ELECTION. A judge of the supreme court, court of appeals, or district court including a district associate 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 at its meeting on Monday 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.

The state board of canvassers shall, at the time of canvassing the vote cast at a general election, open and canvass all of the returns for the judicial election. Each judge of the supreme court, court of appeals or district court including a district associate judge, or a clerk of the district court who has received more affirmative than negative votes shall receive from the state board of canvassers an appropriate certificate so stating.

Sec. 10026. NEW SECTION. 49.48 The state commissioner of elections shall prescribe a notice to inform voters that the top of the ballot contains the form for retaining or removing judicial officers and for ratifying or defeating proposed constitutional amendments. The notice shall be conspicuously attached to the voting machine or to the ballot.

Sec. 10027. Section 64.6, Code 1983, is amended by adding the following new subsection:  
NEW SUBSECTION. Clerks of the district court and first deputy clerks, ten thousand dollars.

Sec. 10028. Section 64.8, Code 1983, is amended to read as follows:

64.8 BONDS OF COUNTY OFFICERS. The bonds of members of the boards of supervisors, clerks of the district courts, county attorneys, recorders, auditors, sheriffs and assessors shall each be in a penal sum of not less than ten thousand dollars each per annum.

Sec. 10029. Section 64.11, Code 1983, is amended to read as follows:

64.11 EXPENSE OF BONDS PAID BY COUNTY. If ~~any~~ a county treasurer, ~~clerk of the district court,~~ county attorney, recorder, auditor, sheriff, medical examiner, ~~members of member of the soldiers relief commission, members member~~ of the board of supervisors, engineer, steward or matron shall elect elects to furnish a bond with any association or incorporation as surety as provided in this chapter, the reasonable cost of ~~such~~ the bond shall be paid by the county where the bond is filed.

Sec. 10030. Section 64.19, Code 1983, is amended by adding the following new subsection:  
NEW SUBSECTION. By the state court administrator in case of district court clerks and first deputy clerks.

Sec. 10031. Section 64.23, subsection 1, Code 1983, is amended to read as follows:

1. For all state officers, elective or appointive, except those of the secretary of state and judicial ~~magistrate~~ magistrates, with the secretary of state. Bonds and official oaths of judicial magistrates and court personnel shall be filed in the office of the ~~district court clerk~~ state court administrator.

Sec. 10032. Section 66.19, Code 1983, is amended to read as follows:

66.19 TEMPORARY OFFICER. Upon ~~such~~ a suspension, the board or person authorized to fill a vacancy in the office shall temporarily fill the office by appointment. In case of a suspension of a ~~clerk or~~ sheriff, the district court may ~~supply such place by appointment~~ designate an acting sheriff until a temporary ~~appointment shall be made~~ sheriff is appointed. ~~Such orders~~ Orders of suspension and temporary appointment of county and township officers shall be certified to the county auditor, and be by him entered for entry in the election book; those of city officers, certified to the clerk and entered upon the records; in case of other officers, to the person or body making the original appointment.

Sec. 10033. Section 68.1, Code 1983, is amended to read as follows:

68.1 IMPEACHMENT DEFINED. An impeachment is a written accusation against the governor, or a judge of the ~~supreme or district court~~ judicial officer, or other state officer, by the house of representatives before the senate, of a misdemeanor or malfeasance in office.

Sec. 10034. Section 69.3, Code 1983, is amended to read as follows:

69.3 POSSESSION OF OFFICE. When a vacancy occurs in a public office, possession shall be taken of the office room, the books, papers, and all things pertaining ~~thereto~~ to the office, to be held until the qualification of a successor, as follows: Of the office of the county auditor, by the ~~clerk of the district court~~ county treasurer; of the ~~clerk or~~ county treasurer, by the county auditor; of any of the state officers, by the governor, or, in ~~his~~ the absence or inability of the governor at the time of the occurrence, as follows: Of the secretary of state, by the treasurer of state; of the auditor of state, by the secretary of state; of the treasurer of state, by the secretary of state and auditor of state, who shall make an inventory of the money and warrants ~~therein~~ in the office, sign ~~the same~~ them, and transmit ~~it~~ the inventory to the governor; and the secretary of state shall take the keys of the safe and desks, after depositing the books,

papers, money and warrants therein in them, and the auditor of state shall take the key of to the office room.

Sec. 10035. Section 69.8, subsection 3, Code 1983, is amended by striking the subsection.

Sec. 10036. Section 69.8, subsection 5, Code 1983, is amended to read as follows:

5. BOARD OF SUPERVISORS. In the membership of the board of supervisors, by the clerk of the district court treasurer, auditor, and recorder.

Sec. 10037. Section 69.8, subsection 6, Code 1983, is amended by striking the subsection.

Sec. 10038. Section 79.12, Code 1983, is amended to read as follows:

79.12 WARRANTS PROHIBITED. ~~No A~~ warrant shall be issued requiring any a peace officer to go beyond the boundaries of the state at public expense shall not be issued except with the approval of a judge of the district court judge.

Sec. 10039. Section 85.49, unnumbered paragraph 1, Code 1983, is amended to read as follows:

When a minor or mentally incompetent dependent is entitled to weekly benefits under this chapter, chapter 85A or chapter 85B, payment shall be made to the clerk of the district court for the county in which the injury occurred, who shall act as trustee, and the money coming into the clerk's hands shall be expended for the use and benefit of the person entitled thereto to it under the direction and orders of a district judge of the district court, in which such county is located. The clerk of the district court, as such trustee, shall qualify and give bond in such an amount as the district judge may direct directs, which may be increased or diminished from time to time as the court may deem best. The cost of such bond shall be paid by the county as the court may direct by written order directed to the auditor of the county who shall issue a warrant therefor upon the treasurer of the county. If the domicile or residence of such the minor or mentally incompetent dependent be is within the state but in a county other than that in which the injury to the employee occurred the industrial commissioner may order and direct that weekly benefits to such minors or incompetents be paid to the clerk of the district court of the county wherein they shall be domiciled or reside of domicile or residence.

Sec. 10040. Section 85.50, unnumbered paragraph 2, Code 1983, is amended to read as follows:

Every A clerk of the district court of every county upon his completion of his term of office shall, or upon his resignation, removal resigning or being removed from office or otherwise becoming disqualified as such clerk, shall make an accounting and final report to be approved by a judge of the district court for said county the chief judge of the judicial district and all funds and other property shall be delivered to the successor in the office of such clerk of the district court.

Sec. 10041. Section 91.10, Code 1983, is amended to read as follows:

91.10 POWER TO SECURE EVIDENCE. The labor commissioner and his the commissioner's deputy shall have the power to may issue subpoenas, administer oaths, and take testimony in all matters relating to the duties required of them. No witness shall be compelled by such subpoena to attend at a greater distance than that provided for in section 622.68. Witnesses subpoenaed and testifying before the commissioner or his the commissioner's deputy shall be paid the same fees as witnesses under section 622.69, such payment to be made out of the funds appropriated to the bureau of labor.

Sec. 10042. Section 97B.1, subsection 3, paragraph b, subparagraph (6), Code 1983, is amended to read as follows:

(6) Part-time judicial magistrates appointed pursuant to either section 602.50 or section 602.58 unless such magistrates Magistrates other than those who elect by filing an application with the department to be covered under the provisions of this chapter.

Sec. 10043. Section 99.30, Code 1983, is amended to read as follows:

99.30 APPLICATION OF TAX. The said tax collected shall be applied in payment of any

toward the deficiency in the payment of costs of the action and abatement on behalf of the state to the extent of such deficiency which exist after the application thereto of the proceeds of the sale of personal property as hereinbefore provided, and the. The remainder of said the tax together with the unexpended portion of the proceeds of the sale of personal property shall be distributed to the temporary school fund of the county paid to the clerk of court who shall remit the amount to the treasurer of state for distribution under section 602.9107, except that ten percent of the amount of the whole tax collected and of the whole proceeds of the sale of said the personal property, as provided in this chapter, shall be paid by the treasurer to the attorney representing the state in the injunction action, at the time of final judgment.

Sec. 10044. Section 125.76, Code 1983, is amended to read as follows:

125.76 APPOINTMENT OF COUNSEL FOR APPLICANT. The applicant, if not the county attorney, may apply for the appointment of counsel if financially unable to employ an attorney to assist the applicant in presenting evidence in support of the application for commitment. If the applicant applies for the appointment of counsel, the application shall include the submission of a financial statement as defined in required under section ~~336B.1~~ 815.9.

Sec. 10045. Section 125.94, Code 1983, is amended to read as follows:

125.94 SUPREME COURT RULES. The supreme court may prescribe rules of pleading, practice, and procedure and the forms of process, writs, and notices under section 602.5201, for all commitment proceedings in a court of this state under this chapter. ~~Any~~ The rules so prescribed shall be drawn for the purpose of simplifying and expediting the proceedings, so far as is consistent with the rights of the parties involved. The rules shall not abridge, enlarge, or modify the substantive rights of a party to a commitment proceeding under this chapter.

Sec. 10046. Section 127.17, Code 1983, is amended to read as follows:

127.17 COSTS. When ~~any such a~~ conveyance is requisitioned by the state department of justice, ~~said the~~ department shall pay to the clerk of the district court, the court costs and the expense incurred by the county or the sheriff in keeping ~~said the~~ conveyance.

Sec. 10047. Section 127.20, Code 1983, is amended to read as follows:

127.20 SALE OF CONVEYANCE. Prior to placing the conveyance for sale to the general public, the sheriff shall permit ~~any an~~ owner or lien holder having a property interest of fifty percent or more in the conveyance the opportunity to purchase the property interest forfeited. If ~~such the~~ owner or lien holder does not exercise ~~his or her an~~ option under this section or if ~~no such an~~ owner or lien holder exists ~~does not exist~~, the conveyance shall be sold at public auction with the proceeds first being applied to the owners and lien holders who have not had their property interest forfeited and then applied to the expenses of keeping the conveyance and court costs, and any remaining funds shall be conveyed by the clerk of court to the treasurer of state for distribution under section 602.9107.

Sec. 10048. Section 144.36, subsection 1, Code 1983, is amended to read as follows:

1. A certificate recording each marriage performed in this state shall be filed with the state registrar. The clerk of the district court shall prepare the certificate on the form furnished by the state registrar upon the basis of information obtained from the parties to be married, who shall attest to the information by their signatures. The clerk of the district court in each county shall keep a record book for marriages. The form of marriage record books shall be uniform throughout the state and shall be prescribed by the state department. ~~Marriage record books shall be provided at county expense.~~ A properly indexed permanent record of marriage certificates upon microfilm, electronic computer, or data processing equipment may be kept instead in lieu of marriage record books.

Sec. 10049. Section 144.37, unnumbered paragraph 2, Code 1983, is amended to read as follows:

The clerk of the district court in each county shall keep a record book for divorcee dissolutions. The form of divorcee dissolution record books shall be uniform throughout the state and shall be prescribed by the state department. Divorcee record books shall be provided at county expense. A properly indexed record of divorcee dissolution upon microfilm, electronic computer, or data processing equipment may be kept instead in lieu of divorcee dissolution record books.

Sec. 10050. Section 144.46, Code 1983, is amended to read as follows:

144.46 FEE FOR COPY OF RECORD. The department by rule shall establish fees based on the average administrative cost which shall be collected by the state registrar or the clerk of the district court for each certified copy or short form certification of certificates or records, or for a search of the files or records when no copy is made, or when no record is found on file. Fees collected by the state registrar under this section shall be deposited in the general fund of the state if the service is performed by the department or in the general fund of the county if the service is performed by the county or local registrar. Fees collected by the clerk of the district court shall be deposited in the court revenue distribution account established under section 602.9108. A fee shall not be collected from a political subdivision or agency of this state.

Sec. 10051. Section 204.502, subsection 1, paragraph b, unnumbered paragraph 1, Code 1983, is amended to read as follows:

A warrant shall issue only upon sworn testimony of an officer or employee of the board duly designated and having knowledge of the facts alleged, before the district or municipal court judge judicial officer, establishing the grounds for issuing the warrant. If the judge judicial officer is satisfied that grounds for the application exist or that there is probable cause to believe they exist, he the officer shall issue a warrant identifying the area, premises, building, or conveyance to be inspected, the purpose of the inspection, and, if appropriate, the type of property to be inspected, if any.

Sec. 10052. Section 204.502, subsection 1, paragraph d, Code 1983, is amended to read as follows:

d. The judge judicial officer who has issued a warrant under this section shall require that there be attached to the warrant a copy of the return, and of all papers filed in connection with the return, and shall file them with the clerk of the district or municipal court for the district county in which the inspection was made.

Sec. 10053. Section 229.40, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

229.40 RULES FOR PROCEEDINGS. Proceedings under this chapter are subject to rules prescribed by the supreme court under section 602.5201.

Sec. 10054. Section 232.2, subsections 8 and 29, Code 1983, are amended to read as follows:

8. "Court" means the juvenile court established in chapter 231 under section 602.8101.

29. "Juvenile probation court officer" or "probation officer" means a person appointed as a juvenile probation court officer under section 231.8 division I, article 8 of chapter 602 and a chief juvenile court officer appointed under section 602.1215.

Sec. 10055. Sections 232.2, subsections 24, 31, and 40, 232.19, subsection 1, paragraph d, 232.29, subsection 1, paragraph e, 232.46, subsections 1 and 3, 232.48, subsection 1, 232.51, 232.82, subsection 2, 232.87, subsections 2 and 3, 232.96, subsection 6, 232.97, subsection 1, 232.111, subsections 1 and 2, and 232.125, subsection 2, Code 1983, are amended by striking the terms "juvenile probation officer" and "probation officer" wherever either or both of those terms appear and inserting in lieu of each of those terms the words "juvenile court officer".

**Sec. 10056. NEW SECTION. 232.3 CONCURRENT COURT PROCEEDINGS.**

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, or 633.

2. The juvenile court with jurisdiction of the pending action under this chapter, however, may, upon the request of a party to the action or on its own motion, authorize the party to litigate concurrently in another court a specific issue relating to the custody, guardianship, or placement of the child who is the subject of the action. Before authorizing a party to litigate a specific issue in another court, the juvenile court shall give all parties to the action an opportunity to be heard on the proposed authorization. The juvenile court may request but shall not require another court to exercise jurisdiction and adjudicate a specific issue relating to the custody, guardianship, or placement of the child.

Sec. 10057. Sections 232.147, subsection 3, paragraph a, and 232.149, subsection 3, paragraph b, Code 1983, are amended by striking the term "juvenile probation officers" wherever the term appears and inserting in lieu thereof the words "juvenile court officers".

Sec. 10058. Section 232.152, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

**232.152 RULES OF JUVENILE PROCEDURE.** Proceedings under this chapter are subject to rules prescribed by the supreme court under section 602.5201.

Sec. 10059. Section 247.29, Code 1983, is amended to read as follows:

**247.29 CRIMINAL STATISTICS.** The clerk of the district court shall, on or before July 15 of each year, report to the supreme court, the board of parole, and the director of the division of corrections of the department of social services all of the following information for the preceding fiscal year:

1. ~~The number of convictions of all criminal offenses in that court, in his county, for the year ending June 30 preceding, the character of each offense, the sentence imposed, the occupation of the offender, and whether such or not the offender can read or write.~~

2. ~~Number~~ The number of acquittals in criminal cases.

3. ~~Number~~ The number of dismissals by the court without trial, and the nature of the charges so dismissed in criminal cases.

4. The expenses of the county for criminal prosecutions during said year.

Sec. 10060. Section 247.30, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

**247.30 ITEMIZATION OF STATISTICS.** The information required by section 247.29, subsection 4, shall be itemized as follows:

1. Fees and mileage paid to jurors.

2. The cost of meals and lodging for jurors.

3. The amount expended by the county in each of the following categories, as reported to the clerk by the county auditor, and whether or not recovered from defendants:

a. The cost for the services of bailiffs while attending the grand jury or trials of actions.

b. Fees and mileage paid to members of the grand jury, the clerk of the grand jury, and witnesses before the grand jury.

c. Fees and mileage paid to witnesses in the trial of actions.

d. Fees paid for court reporting and for transcriptions of the notes of court reporters.

e. The costs of depositions.

f. The expense of providing a jail, not including board of prisoners.

g. The expense of the board of prisoners in a county jail.

h. The expense of transporting prisoners to state correctional institutions.

i. The compensation and expenses incurred by the office of the county attorney in connection with criminal prosecutions.

Sec. 10061. Section 247.31, Code 1983, is amended to read as follows:

247.31 AUDITOR TO REPORT STATISTICS TO CLERK. The county auditor shall report to the clerk of the district court, on or before July 5 of each year, the expenses of the county in connection with criminal prosecutions during the preceding fiscal year ending June 30 ~~preceding, including but distinguishing the compensation of the county attorney. Such~~ The report shall include all the items of criminal expenses ~~which appear in the records of his office and which are required to be reported by the clerk of the district court to the board of parole and the director of the division of corrections of the department of social services under section 247.30 and which appear in the records of the county auditor.~~ The clerk of the district court shall furnish ~~to the auditor with the blanks to be used in making such~~ this report.

Sec. 10062. Section 252.18, subsection 1, Code 1983, is amended to read as follows:

1. Any A person who is a county charge or is likely to become ~~such so~~, coming from another state and not having acquired a settlement in any a county of this state or any such person having acquired a settlement in any a county of this state who ~~removes~~ moves to another county, may be removed from this state or from the county into which ~~such~~ the person has moved, ~~as the case may be, at the expense of the county wherein said~~ where the person is found, upon the petition of ~~said~~ the county to the district ~~or superior~~ court of in that county.

Sec. 10063. Section 258A.1, subsection 1, paragraph b, Code 1983, is amended to read as follows:

b. The board of examiners of shorthand reporters, created pursuant to ~~chapter 115~~ division I, article 4, of chapter 602.

Sec. 10064. Section 258A.3, subsection 2, paragraph a, Code 1983, is amended to read as follows:

a. Revoke a license, or suspend a license either until further order of the board or for a specified period, upon the grounds specified in sections 114.21, ~~115.8~~, 116.21, 117.29, 118.13, 118A.15, 120.10, 147.55, 148B.7, 153.34, 154A.24, 169.13, 455B.219 and 602.4203 and chapters 135E, 151, 507B and 522 or upon any other grounds specifically provided for in this chapter for revocation of the license of a licensee subject to the jurisdiction of that board, or upon failure of the licensee to comply with a decision of the board imposing licensee discipline;

Sec. 10065. Section 258A.4, subsection 1, paragraph f, Code 1983, is amended to read as follows:

f. Define by rule acts or omissions which are grounds for revocation or suspension of a license under the provisions of sections 114.21, ~~115.8~~, 116.21, 117.29, 118.13, 118A.15, 120.10, 147.55, 148B.7, 153.34, 154A.24, 169.13, 455B.187 and 602.4203 and chapters 135E, 151, 507B and 522, and to define by rule acts or omissions which constitute negligence, careless acts or omissions within the meaning of section 258A.3, subsection 2, paragraph "b", which licensees are required to report to the board pursuant to section 258A.9, subsection 2;

Sec. 10066. Section 302.44, Code 1983, is amended to read as follows:

302.44 PENALTY AGAINST COUNTY AUDITOR. Any A county auditor failing or neglecting to perform any of the required duties which are required of him by the provisions of under this chapter, shall be is liable to a penalty of not less than one hundred nor more than five hundred dollars, to be recovered in an action brought in the district court by the board of supervisors, ~~the~~. The judgment to shall be entered against the party and his the party's bondsmen, and the proceeds to go to the school fund shall be paid to the treasurer of state for distribution under section 602.9107.

Sec. 10067. Section 306B.5, subsection 2, Code 1983, is amended to read as follows:

2. The cost of removal, including ~~any fees, and costs or and~~ expenses ~~as may which~~ arise out of ~~any an~~ action brought by the department to insure peaceful entry and removal, may be assessed against the owner of the advertising device. ~~Should If~~ the owner of the advertising device ~~fail fails~~ to pay ~~such the~~ fees, costs, or expenses within thirty days after assessment, the department may ~~institute proceedings in the district court or small claims division as applicable,~~ commence an action to collect ~~said the~~ fees, costs, or expenses, which when collected, shall be paid into the "highway beautification fund."

Sec. 10068. Section 306C.19, subsection 2, Code 1983, is amended to read as follows:

2. The cost of removal, including ~~any fees, and costs or and~~ expenses ~~as may which~~ arise out of ~~any an~~ action brought by the department to insure peaceful entry and removal, may be assessed against the owner of the advertising device. ~~Should If~~ the owner of the advertising device ~~fail fails~~ to pay ~~such the~~ fees, costs, or expenses, within thirty days after assessment, the department may ~~institute proceedings in the district court or small claims division as applicable,~~ commence an action to collect ~~said the~~ fees, costs, or expenses, which when collected, shall be paid into the "highway beautification fund".

Sec. 10069. Section 331.303, subsection 10, Code 1983, is amended by striking the subsection.

Sec. 10070. Section 331.321, subsection 1, paragraph z, Code 1983, is amended to read as follows:

z. Members of the county judicial magistrate appointing commission in accordance with section ~~602.43~~ 602.7503.

Sec. 10071. Section 331.322, subsection 5, Code 1983, is amended to read as follows:

5. Furnish offices within the county for the sheriff, and at the county seat for the ~~clerk,~~ recorder, treasurer, auditor, county attorney, county surveyor or engineer, county assessor, and city assessor. If the office of public defender is established, the board shall furnish the public defender's office as provided in section 331.776. The board shall furnish the officers with fuel, lights, and office supplies. However, the board is not required to furnish the county attorney or public defender with law books. The board shall not furnish an office also occupied by a practicing attorney to ~~any an~~ officer other than the county attorney or public defender.

Sec. 10072. Section 331.323, subsection 1, paragraph f, Code 1983, is amended by striking the paragraph.

Sec. 10073. Section 331.323, subsection 2, paragraph h, Code 1983, is amended to read as follows:

h. Establish the number of deputies, assistants, and clerks for the offices of auditor, treasurer, recorder, sheriff, ~~and~~ county attorney; ~~and~~ ~~clerk.~~

Sec. 10074. Section 331.324, subsection 4, Code 1983, is amended by striking the subsection.

Sec. 10075. Section 331.324, subsection 6, Code 1983, is amended to read as follows:

6. If a board provides group insurance for county employees, it shall also provide the insurance also to the following persons, subject to the conditions indicated:

a. A a full-time county extension office assistant employed in the county, if the county is reimbursed for the premium by the county extension district.

b. A full-time certified court reporter, on the same percentage basis that the county is responsible for the reporter's compensation under section 605.9. However, group insurance may be obtained through only one of the counties in the judicial district, at the reporter's option, with a percentage contribution from the other counties for the employer's share of the premium, on the percentage basis provided under section 605.9.

Sec. 10076. Section 331.361, subsection 5, paragraph h, Code 1983, is amended to read as follows:

h. Provide facilities for the ~~holding of~~ district court at the county seat in accordance with ~~sections 602.6 and 602.61~~ section 602.1303.

Sec. 10077. Section 331.422, subsection 24, Code 1983, is amended to read as follows:

24. For the court expense fund, if the amount levied for ordinary county revenue is insufficient to pay all expenses incident to the ~~maintenance and operation~~ support of the ~~courts~~ judicial system, an amount sufficient to pay the expenses.

Sec. 10078. Section 331.424, subsection 1, paragraph m, Code 1983, is amended by striking the paragraph.

Sec. 10079. Section 331.426, subsection 9, Code 1983, is amended to read as follows:

9. A court expense fund, which shall not be used for a purpose other than expenses incident to the ~~maintenance and operation of the courts~~ support of the judicial system, including but not limited to ~~salary and expenses of the clerk, deputy clerks, and other employees of the clerk's office, establishment and operation of a public defender's office~~ the costs of facilities, services, and other obligations of the county under section 602.1303, costs otherwise payable from the general fund under section 331.424, subsection 3, paragraph "q", the county's expense for confinement of prisoners under chapter 356A, temporary assistance to the county attorney, and claims filed under section 622.93.

Sec. 10080. Section 331.502, subsection 8, Code 1983, is amended to read as follows:

8. Take temporary possession of the office and all official books and papers in the office of ~~treasurer or clerk~~ when a vacancy occurs in ~~either office~~ and hold the office, books, and records until a successor qualifies as provided in section 69.3. The auditor shall also serve temporarily as the recorder if a vacancy occurs in that office and, if there is no chief deputy assessor, act temporarily as the assessor as provided in section 441.8.

Sec. 10081. Section 331.502, subsection 10, Code 1983, is amended by striking the subsection.

Sec. 10082. Section 331.502, subsection 42, Code 1983, is amended to read as follows:

42. Certify to the clerk ~~of the district court~~ the names, addresses, and expiration date of the ~~term~~ terms of office of persons appointed to the county judicial magistrate appointing commission as provided in section ~~602.43, subsection 3~~ 602.7503.

Sec. 10083. Section 331.502, subsections 43 and 44, Code 1983, are amended by striking the subsections.

Sec. 10084. Section 331.506, subsection 2, Code 1983, is amended by striking the subsection and inserting in lieu thereof the following:

2. The auditor may issue warrants to pay the following claims against the county without prior approval of the board:

a. Witness fees and mileage for attendance before a grand jury, as certified by the county attorney and the foreman of the jury.

b. Witness fees and mileage in trials of criminal actions, as certified by the county attorney.

c. Fees and costs payable to the clerk of the district court or other state officers or employees in connection with criminal and civil actions when due, as shown in the statement submitted by the clerk of court under section 602.9109.

d. Expenses of the grand jury, upon order of a district judge.

Sec. 10085. Section 331.509, subsection 1, paragraph c, Code 1983, is amended by striking the paragraph and inserting in lieu thereof the following:

c. The amount paid witnesses and bailiffs, respectively, in the district court, the amount of fees paid for the services of court reporters, the amount paid as fees and costs to the clerk of the district court, and related expenditures.

Sec. 10086. Section 331.509, subsection 1, paragraph o, Code 1983, is amended to read as follows:

o. The reports of magistrates and other officers, including forfeited recognizances in their offices, fines, penalties, forfeitures imposed in their respective courts, and forfeited appearance bonds in criminal cases, all of which are payable to the county treasury for the benefit of the school fund treasurer of state for distribution under section 602.9107.

Sec. 10087. Section 331.509, subsection 1, paragraph p, Code 1983, is amended to read as follows:

p. The reports made during the preceding year by the treasurer, auditor, recorder, sheriff, clerk and the commission of the Iowa department of veterans affairs as required by law.

Sec. 10088. Section 331.552, subsection 11, Code 1983, is amended to read as follows:

11. Credit funds from the sale of seized conveyances to the school fund and issue duplicate receipts to the sheriff as provided in sections 127.21 and 127.22 to the treasurer of state for distribution under section 602.9107.

Sec. 10089. Section 331.552, subsection 31, Code 1983, is amended by striking the subsection.

Sec. 10090. Section 331.653, subsection 4, Code 1983, is amended to read as follows:

4. Provide bailiff and other law enforcement service to the district court judges, district associate judges, and judicial magistrates of the county and while the judges and magistrates are in session, provide them with the assistance of bailiffs upon request. The sheriff shall appoint the number of bailiffs as the judges and magistrates of the county direct. The bailiffs are deputy sheriffs to the extent that the sheriff delegates law enforcement powers to carry out their duties and for whose acts the sheriff is responsible, but the bailiffs need not be subject to civil service under chapter 341A or mandated law enforcement training.

Sec. 10091. Section 331.653, subsections 7 and 71, Code 1983, are amended by striking the subsections.

Sec. 10092. Section 331.776, subsection 4, Code 1983, is amended to read as follows:

4. The board shall determine the compensation of the public defender, subject to limitations established by the general assembly or the supreme court.

Sec. 10093. Section 331.776, subsection 5, Code 1983, is amended by striking the subsection and inserting in lieu thereof the following:

5. a. The board shall provide suitable furniture, equipment, and supplies for the office of the public defender out of funds appropriated to the supreme court and allocated by the supreme court to the county for this purpose. If a public defender office serves more than one county, the supreme court shall select one of the counties to perform the duties required by this paragraph. The board shall account to the supreme court for allocations and expenditures under this paragraph.

b. The board shall approve the appointment and compensation of deputy public defenders and other employees of the public defender office, subject to limitations established by the general assembly or the supreme court. The compensation and expenses of the public defender, deputy public defenders, and employees of the public defender office shall be paid from funds appropriated to the supreme court and allocated by the supreme court to the county for this purpose. The board shall account to the supreme court for allocations and expenditures under this paragraph.

Sec. 10094. Section 331.776, subsection 8, Code 1983, is amended by striking the subsection.

Sec. 10095. Section 331.777, subsection 2, Code 1983, is amended to read as follows:

2. Shall make the determination of indigence within criteria established by the board

before as required under section 815.9 prior to the initial arraignment or other initial court appearance. At or after initial arraignment or other initial court appearance, the a determination of indigence shall be made by the court. The public defender shall require an indigent person requesting legal assistance to complete a detailed financial statement which required under section 815.9 shall be filed in the indigent person's court file and retained as a permanent part of the file.

Sec. 10096. Section 331.901, subsection 6, paragraph b, Code 1983, is amended to read as follows:

b. Expenses incurred in the operation support of the courts judicial system.

Sec. 10097. Section 331.902, subsection 1, Code 1983, is amended to read as follows:

1. Unless otherwise specifically provided by statute, the fees and other charges collected by the auditor, treasurer, recorder, and sheriff, clerk, or and their respective deputies or employees, belong to the county.

Sec. 10098. Section 331.903, subsection 1, Code 1983, is amended to read as follows:

1. The auditor, treasurer, recorder, sheriff, and county attorney, and clerk may each appoint, with approval of the board, one or more deputies, assistants, or clerks who do not hold another county office and for whose acts the principal officer shall be is responsible. The number of deputies, assistants, and clerks for each office shall be determined by the board and the number and approval of each appointment shall be adopted by a resolution recorded in the minutes of the board.

Sec. 10099. Section 331.904, subsections 1 and 6, Code 1983, are amended to read as follows:

1. The annual salary of the first and second deputy officer of the office of auditor, treasurer, and recorder, and clerk and the deputy in charge of the motor vehicle registration and title division shall each be an amount not to exceed eighty percent of the annual salary of the deputy's principal officer as determined by the principal officer. In offices where more than two deputies are required, each additional deputy shall be paid an amount not to exceed seventy-five percent of the principal officer's salary. The amount of the annual salary of each deputy shall be certified by the principal officer to the board and, if a deputy's salary does not exceed the limitations specified in this subsection, the board shall certify the salary to the auditor. The board shall not certify a deputy's salary which exceeds the limitations of this subsection.

6. The salaries and expenses of the deputy officers, assistants, clerks, and other employees of the county shall be paid from the general fund of the county unless otherwise provided by law. The deputy clerks of the district court, other employees of the clerk's office, and the bailiffs may be paid from the court expense fund.

Sec. 10100. Section 331.907, subsections 1 and 5, Code 1983, are amended to read as follows:

1. The annual compensation of the auditor, treasurer, recorder, clerk, sheriff, county attorney, and supervisors shall be determined as provided in this section. The county compensation board annually shall review the compensation paid to comparable officers in other counties of this state, other states, private enterprise, and the federal government. The county compensation board shall prepare a recommended compensation schedule for the elective county officers. Following completion of the compensation schedule, the county compensation board shall publish the compensation schedule in a newspaper having general circulation throughout the county. The publication shall also include a public notice of the date and location of a hearing to be held by the county compensation board not less than one week nor more than three weeks from the date of notice. Upon completion of the public hearing, the county

compensation board shall prepare a final compensation schedule recommendation.

5. The salaries and expenses of elected county officers shall be paid from the general fund of the county unless otherwise provided by law. ~~The salary and expenses of the clerk of the district court may be paid from the court expense fund.~~

Sec. 10101. Section 356A.2, Code 1983, is amended to read as follows:

356A.2 CONTRACT. If the board of supervisors ~~contract~~ contracts with a public or private nonprofit agency or corporation for the establishment and maintenance of such a facility, the contract shall state the charge per person per day to be paid by the county; that each ~~such~~ facility shall insure the performance of the duties of the keeper as defined in section 356.5; the activities and service to be provided those detained or confined; the extent of security to be provided in the best interests of the community; the maximum number of persons that can be detained or committed at any one time; the number of employees to be provided by the contracting private nonprofit agency or corporation for the maintenance, supervision, control, and security of persons detained or confined ~~therein~~ in the facility; and any other matters deemed necessary by the supervisors. ~~All such contracts~~ A contract shall be for a period not to exceed two years. The board of supervisors shall deliver a copy of the contract to each municipal court judge in the county and to each district court judge judicial officer of the district which includes that county.

Sec. 10102. Section 356A.6, Code 1983, is amended to read as follows:

356A.6 TRANSFER. A judge judicial officer of the ~~municipal or~~ district court may originally commit a person to the county jail to serve any part of the sentence pronounced, and thereafter the person may be transferred to a facility established and maintained pursuant to section 356A.1 or 356A.2.

Sec. 10103. Section 400.6, subsection 1, unnumbered paragraph 1, Code 1983, is amended to read as follows:

~~The provisions of this chapter shall apply~~ This chapter applies to all appointive officers and employees, ~~including former deputy clerks of the municipal court who became deputies of the district court clerks,~~ in cities under any form of government having a population of more than fifteen thousand except:

Sec. 10104. Section 453.1, Code 1983, is amended to read as follows:

453.1 DEPOSITS IN GENERAL. All funds held in the hands of the following officers or institutions shall be deposited in banks first approved by the appropriate governing body as indicated: For the treasurer of state, by the executive council; for judicial officers and court employees, by the supreme court; for the county treasurer, recorder, auditor, sheriff, ~~clerk of the district court, and judicial magistrate,~~ by the board of supervisors; for the city treasurer, by the city council; for the county public hospital or merged area hospital, by the board of hospital trustees; for a memorial hospital, by the memorial hospital commission; for a school corporation, by the board of school directors; and for an electric power agency as defined in section 28F.2, by the governing body of the electric power agency. However, the treasurer of state and the treasurer of each political subdivision shall invest all funds not needed for current operating expenses in time certificates of deposit in banks listed as approved depositories pursuant to this chapter or in investments permitted by section 452.10. The list of public depositories and the amounts severally deposited in the depositories shall be a matter of public record. ~~The term "bank"~~ "Bank" means a bank or a private bank, as defined in section 524.103.

Sec. 10105. Section 508.15, Code 1983, is amended to read as follows:

508.15 VIOLATION BY FOREIGN COMPANY. Companies organized and chartered by the laws of a foreign state or country, failing to file the evidence of investment and statement within the time fixed, shall forfeit and pay the sum of three hundred dollars, to be collected in an action in the name of the state for the use of the school fund and paid to the treasurer of state for distribution under section 602.9107, and their right to transact further new business in this state shall immediately cease until the requirements of this chapter have been fully complied with.

Sec. 10106. Section 511.7, Code 1983, is amended to read as follows:

511.7 RECOVERY OF PENALTIES. Actions brought to recover any of the penalties provided for in this chapter shall be instituted in the name of the state by the county attorney of the county, under the direction and authority of the commissioner of insurance, and may be brought in the district court of any county in which the company or association proceeded against is engaged in the transaction of business, or in which the offending person resides, if it is against him the person. The penalties, when recovered, shall be paid into the state treasury for the use of the school fund to the treasurer of state for distribution under section 602.9107.

Sec. 10107. Section 515.93, Code 1983, is amended to read as follows:

515.93 VIOLATIONS. Any A violation of the provisions of sections 515.91 and 515.92 shall for the first offense subject the company, association, or individual guilty thereof to a penalty of five hundred dollars, to be recovered in the name of the state, with costs, in an action instituted by the county attorney, either in the county in which the company, association, or individual is located or transacts business, or in the county where the offense is committed, and such the penalty, when recovered, shall be paid into the school fund of the county in which action is brought to the treasurer of state for distribution under section 602.9107. Every subsequent violation of said the sections shall subject subjects the company, association, or individual to a penalty of one thousand dollars, to be sued for, recovered, and disposed of in like manner.

Sec. 10108. Section 534.12, subsection 4, Code 1983, is amended to read as follows:

4. REDEMPTION. At any time When funds are on hand for the purpose, the association shall have the right to may redeem by lot or otherwise, as the board of directors may determine determines, all or any part of any of its savings accounts on a dividend date by giving thirty days' notice by registered mail addressed to the account holders at their last addresses recorded on the books of the association. An association shall not redeem any of its share accounts when the association is in an impaired condition or when it has applications for withdrawal which have been on file more than thirty days and have not been reached for payment. The redemption price of a savings account shall be the full value of the account redeemed, as determined by the board of directors, but in no event shall the redemption value shall not be less than the withdrawal value. If the notice of redemption has been given, and if on or before the redemption date the funds necessary for the redemption have been set aside so as to be and continue to be available for redemptions, dividends upon the accounts called for redemption shall cease to accrue from and after the dividend date specified as the redemption date, and all rights with respect to those accounts shall terminate as of the redemption date, subject only to the right of the account holder of record to receive the redemption value without interest. All savings Savings accounts which have been validly called for redemption must be tendered for payment within ten years from the date of redemption designated in the redemption notice, or they shall be canceled and forfeited for the use of the school fund of the county in which the association has its principal place of business conveyed to the clerk of court and paid to treasurer of state for distribution under section 602.9107 and all claims of the account holders against the association shall be are barred forever. Redemption shall not be made of any savings accounts which are held by a person who is a director and which are necessary to qualify the person to act as director.

Sec. 10109. Section 535.5, Code 1983, is amended to read as follows:

535.5 PENALTY FOR USURY. If it shall be ascertained in any action brought on any a contract that a rate of interest has been contracted for, directly or indirectly, in money or in property, greater than is authorized by this chapter, the same rate shall work a forfeiture of eight cents on the hundred by the year upon the amount of the principal remaining unpaid upon such the contract at the time judgment is rendered thereon, and the court shall enter final judgment in favor of the plaintiff and against the defendant for the principal sum so remaining unpaid without costs, and also against the defendant and in favor of the state, for the use of the school fund of the county in which the action is brought to be paid to the treasurer of state for distribution under section 602.9107, for the amount of the forfeiture; and in no case where. If unlawful interest is contracted for shall the plaintiff shall not have judgment for more than the principal sum, whether the unlawful interest be is incorporated with the principal or not.

Sec. 10110. Section 598.16, Code 1983, is amended by adding the following new un-numbered paragraph:

NEW UNNUMBERED PARAGRAPH. Persons providing counseling and other services pursuant to this section are not court employees, but are subject to court supervision.

Sec. 10111. Section 600A.2, subsection 15, Code 1983, is amended to read as follows:

15. "Juvenile court" means a the juvenile court as established under section 231.1 by section 602.8101.

Sec. 10112. NEW SECTION. 622.29 FACSIMILES OF SIGNATURES.

1. The judicial council shall prescribe rules and procedures for the use of a signature facsimile by a justice of the supreme court or a judge of the court of appeals, or a district judge, district associate judge, magistrate, clerk of the district court, county attorney, court reporter, or a law enforcement officer in all instances where a law of this state requires a written signature.

2. The judicial council shall prescribe rules and procedures for the use of a signature facsimile by a person other than an individual named in subsection 1, when directed and authorized by an individual named in subsection 1.

Sec. 10113. Section 622.67, Code 1983, is amended to read as follows:

622.67 DEPOSIT—EFFECT. The court or judge, for good cause shown, may, upon deposit with the clerk of the court of sufficient money to pay the legal fees fee and mileage of a witness, may order the clerk to issue a subpoena to issue requiring the attendance of such the witness from a greater distance within the state. Such The subpoena shall show that it is issued under the provisions hereof this section. If the party requesting the subpoena is a county or the state, the court may order the issuance of the subpoena without the deposit of the fee and mileage.

Sec. 10114. Section 625.8, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

625.8 JURY AND REPORTER FEES.

1. The clerk of the district court shall tax as a court cost a jury fee of ten dollars in every action tried to a jury.

2. The clerk of the district court shall tax as a court cost a fee of fifteen dollars per day for the services of a court reporter.

3. Revenue from the fees required by this section shall be deposited in the court revenue distribution account established under section 602.9108.

Sec. 10115. Section 628.4, Code 1983, is amended to read as follows:

628.4 REDEMPTION PROHIBITED. No A party who has taken an appeal from the

superior or district court, or stayed execution on the judgment, ~~shall be~~ is not entitled to redeem.

Sec. 10116. Section 631.2, subsection 2, Code 1983, is amended to read as follows:

2. The clerk of the district court shall maintain a separate docket for small claims which shall be known as the small claims docket, and which shall contain all matters relating to those small claims which are required by section ~~606.7~~ 602.9104, subsection 2, paragraph f, to be contained in a combination docket.

Sec. 10117. Section 631.3, subsection 4, Code 1983, is amended to read as follows:

4. Upon the request of ~~any~~ a party to the action, the clerk or a judicial officer shall issue subpoenas for the attendance of witnesses at a hearing. ~~The provisions of sections Sections~~ Sections 622.63 to 622.67, 622.69, 622.76 and 622.77 shall apply to subpoenas issued pursuant to this chapter.

Sec. 10118. Section 631.6, subsection 4, unnumbered paragraph 2, Code 1983, is amended to read as follows:

All fees and costs collected in small claims actions shall be ~~remitted to the county treasurer as provided in section 606.16. The deposited in the court revenue distribution account established under section 602.9108, except that the fee specified in subsection 4 shall be remitted to the secretary of state.~~

Sec. 10119. Section 633.13, Code 1983, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A district judge has statewide jurisdiction to enter orders in probate matters not requiring notice and hearing, although the judge is not a judge of or present in the district in which the probate matter is pending. The orders shall be made in conformity with the rules of the district in which the probate matter is pending.

Sec. 10120. Section 633.17, Code 1983, is amended to read as follows:

633.17 JUDGE DISQUALIFIED—PROCEDURE. ~~Where the judge is a party, or is connected by blood or affinity with a person interested nearer than the fourth degree, or is personally interested~~ When a judge is disqualified from acting in any a probate matter, the same matter shall be heard before another judge of the same district, or shall be transferred to the court of another district, or a judge of another district shall be procured to hold court for the hearing of such the matter.

Sec. 10121. Section 633.18, Code 1983, is amended by striking\* the section and inserting\* in lieu thereof the following:

633.18 RULES IN PROBATE.

1. Actions and proceedings under this chapter are subject to rules prescribed by the supreme court under section 602.5201.

2. The district judges of a judicial district acting under section 602.1212 may prescribe rules for probate actions and proceedings within the district, but these rules must be consistent with this chapter, and ~~shall be~~ are\* subject to the approval of the supreme court.

Sec. 10122. Section 633.20, Code 1983, is amended to read as follows:

633.20 REFEREE—EXAMINATION OF ACCOUNTS—FEES CLERK.

1. ~~For The court may appoint a referee in probate for the auditing of the accounts of fiduciaries and for the performance of such other ministerial duties as the court may direct, the court may appoint a referee in probate whenever in the opinion of the court it seems fit and proper to do so prescribes. The referee may be the clerk. No A person shall not be appointed as referee in any a matter where he the person is acting as a fiduciary or as the attorney. All fees received by any county officer serving in the capacity of referee in probate shall become a part of the fees of his office and shall be accounted for as such.~~

\*According to enrolled Act

2. The court may appoint the clerk as referee in probate. In such cases, the fees received by the clerk for serving in the capacity of referee are fees of the office of the clerk of court and shall be deposited in the court revenue distribution account established under section 602.9108.

Sec. 10123. Section 633.21, Code 1983, is amended to read as follows:

633.21 APPRAISERS' FEES AND REFEREES' FEES FIXED BY RULE. The district court sitting en banc judges of each judicial district shall by rule fix the fees of probate referees. It shall, and also by rule provide, insofar as practicable, a uniform schedule of compensation for inheritance tax appraisers, other appraisers, brokers, and agents employed at estate expense.

Sec. 10124. Section 633.31, subsection 2, unnumbered paragraph 1, Code 1983, is amended to read as follows:

The clerk shall charge and collect the following fees, in connection with probate matters, all of which shall be paid into the county treasury for the use of the county deposited in the court revenue distribution account established under section 602.9108:

Sec. 10125. Section 644.15, Code 1983, is amended to read as follows:

644.15 PROCEEDS—FORFEITURE. The net proceeds of all sales made by the sheriff, and all money or bank notes paid over to the county treasurer, as directed in this chapter, shall remain in the hands of the county treasurer in trust for the owner, if any such shall apply the owner applies within one year from the time the same shall proceeds, moneys, or bank notes would have been paid over; but, However, if no owner shall appear appears within such that time, the money proceeds, moneys, or bank notes shall be forfeited, and the claim of the owner thereto is forever barred, in which event the money shall remain in the county treasury for the use of the common schools in said county be paid to the clerk of district court who shall pay the money to the treasurer of state for distribution under section 602.9107.

Sec. 10126. Section 666.3, Code 1983, is amended to read as follows:

666.3 FINES AND FORFEITURES. All fines Fines and forfeitures, after deducting therefrom court costs, court expenses collectible through the clerk of the court, and fees of collection, if any, and not otherwise disposed of, shall go into the treasury of the county where the same are collected for the benefit of the school fund be paid to the treasurer of state for distribution under section 602.9107.

Sec. 10127. Section 666.6, Code 1983, is amended to read as follows:

666.6 REPORT OF FORFEITED BONDS. The clerk of the district court shall make an annual report in writing to the board of supervisors at supreme court on the first regular meeting of the board Monday in January of all forfeited recognizances in the clerk's office; of all fines, penalties, and forfeitures imposed in the district court, which by law go into the county treasury for the benefit of the school fund; in what cause or proceeding, when and for what purpose, against whom and for what amount, rendered; whether the fines, penalties, forfeitures, and recognizances have been paid, remitted, canceled, or otherwise satisfied; if so, when, how, and in what manner, and if not paid, remitted, canceled, or otherwise satisfied, what steps have been taken to enforce the collection of the fines, penalties, forfeitures, and recognizances.

Such The report must shall be full, true, and complete with reference to the matters therein contained, and of in the report and all things required by this section to be reported, and the report shall be under oath, and any officer. A clerk failing to make such the report shall be as required by this section is guilty of a simple misdemeanor.

Sec. 10128. Section 684A.6, Code 1983, is amended to read as follows:

684A.6 PROCEDURE. The supreme court may prescribe its own rules of procedure con-

cerning the answering and certification of questions of law under this chapter, subject to section ~~684.19~~ 602.5202.

Sec. 10129. Section 801.4, subsection 7, paragraph e, Code 1983, is amended to read as follows:

e. Probation officers acting pursuant to section ~~231.10~~ 602.8202, subsection 4.

Sec. 10130. Section 801.4, subsection 10, Code 1983, is amended by striking the subsection and inserting in lieu thereof the following:

10. "Indigent person" means a person who is indigent as determined in accordance with section 815.9.

Sec. 10131. Section 805.9, subsection 6, Code 1983, is amended to read as follows:

6. The ~~five~~ six dollars in costs imposed by this section are the total costs collectible from ~~any~~ a defendant upon either an admission of a violation without hearing, or upon a hearing pursuant to subsection 4. Fees shall not be imposed upon or collected from ~~any~~ a defendant for the purposes specified in section ~~331.705~~ 602.9105, subsection 1, paragraph "i", "j", or "t".

Sec. 10132. Section 805.11, Code 1983, is amended to read as follows:

805.11 OTHER PENALTIES. If the defendant is convicted of a scheduled violation, the penalty ~~shall be~~ is the scheduled fine, without suspension of the fine prescribed in section 805.8 together with costs assessed and distributed as prescribed by section ~~602.63~~ 602.9106, unless it appears from the evidence that the violation was of the type set forth in section 805.10, subsection 1 or 3, in which event the scheduled fine ~~shall~~ does not apply and the penalty shall be increased within the limits provided by law for the offense.

Upon the conviction of a defendant of a violation specified in section 805.8 or 805.10, fees shall not be imposed or collected for the purposes specified in section ~~331.705~~ 602.9105, subsection 1, paragraph "i", "j", or "t".

Sec. 10133. Section 805.12, Code 1983, is amended to read as follows:

805.12 DISPOSITION OF TRAFFIC FINES AND COSTS. Fines, forfeiture of bail, fees, and costs collected for all traffic violations, whether or not scheduled, and for all other scheduled violations shall be ~~remitted~~ distributed in accordance with section ~~602.55~~ 602.9106.

Sec. 10134. Section 813.4, Code 1983, is amended to read as follows:

813.4 ADDITIONS TO AND AMENDMENT OF RULES. The rules of criminal procedure may be amended, provisions deleted, and new rules added, ~~in the manner prescribed for civil rules under chapter 684 by the supreme court, subject to section 602.5202.~~

Sec. 10135. Section 814.9, Code 1983, is amended to read as follows:

814.9 INDIGENT'S RIGHT TO TRANSCRIPT ON APPEAL. If a defendant in a criminal cause has perfected an appeal from a judgment ~~against him or her and shall satisfy the judge of the district court that he or she is indigent, such judge and is determined by the court to be indigent, the court may order the transcript made at the expense of the county where the defendant was tried~~ public expense. When an attorney of record is representing ~~such an~~ indigent, ~~said~~ the attorney shall ~~make application apply~~ to the district court for the transcript.

Sec. 10136. Section 814.10, Code 1983, is amended to read as follows:

814.10 INDIGENT'S APPLICATION FOR TRANSCRIPT IN OTHER CASES. If a defendant in a criminal cause has been granted discretionary review from an action of the district court and the appellate court deems a transcript or portions thereof are necessary to proper review of the question or questions raised, the district court shall order the transcript made at ~~the expense of the county where the defendant was tried, public expense if a determination is made that the defendant is indigent.~~

Sec. 10137. NEW SECTION. 815.9 INDIGENCY DETERMINED— PENALTY.

1. For purposes of this chapter, section 68.8, section 222.22, chapter 232, chapter 814, and the rules of criminal procedure, a person is indigent if the person is determined to be unable to employ legal counsel without prejudicing the person's financial ability to provide economic necessities for the person or the person's dependent family.

2. A determination of indigence shall not be made except upon the basis of information contained in a detailed financial statement submitted by the person, or in an appropriate case by the person's parent, guardian, or custodian. The financial statement shall be in the form prescribed by the supreme court, and shall contain a full disclosure of all assets, liabilities, current income, dependents, and other information prescribed by the supreme court. The supreme court shall adopt rules under section 602.5202 prescribing the form and content of the financial statement, and the standards by which indigency shall be determined under subsection 1. If a person is granted legal assistance as an indigent, the financial statement 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 at public expense commits a fraudulent practice. As used in this subsection, "legal assistance" includes legal counsel, transcripts, witness fees and expenses, and any other goods or services required by law to be provided to an indigent person at public expense.

Sec. 10138. NEW SECTION. 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, may appoint a public defender or any attorney who is admitted to the practice of law in this state to represent an indigent person at any state of the proceedings or on appeal of any action in which the indigent person is entitled to legal assistance at public expense. An appointment shall not be made unless the person is determined to be indigent under section 815.9.

2. If a court finds that a person desires legal assistance and is not indigent, but refuses to employ an attorney, the court shall appoint a public defender or another attorney to represent the person at public expense. If an attorney other than a public defender is appointed, the fee paid to the attorney shall be taxed as a court cost against the person.

3. An attorney other than a public defender who is appointed by the court under subsection 1 or 2 shall apply to the district court for compensation and for reimbursement of costs incurred. The amount of compensation due shall be determined in accordance with section 815.7.

Sec. 10139. NEW SECTION. 815.11 APPROPRIATIONS FOR INDIGENT DEFENSE. Costs incurred under sections 814.9, 814.10, 814.11, 815.4, 815.5, 815.6, 815.7, 815.10, 815.12, or the rules of criminal procedure on behalf of an indigent shall be paid from funds appropriated by the general assembly to the supreme court for those purposes.

Sec. 10140. NEW SECTION. 815.12 TRIAL JURY EXPENSES. The clerk of the district court shall pay fees and mileage due petit jurors, and the costs of food, lodging, and transportation when provided for petit jurors.

Sec. 10141. NEW SECTION. 815.13 PAYMENT OF PROSECUTION COSTS. The county or city that prosecutes a criminal action shall pay the required fees and mileage to witnesses called on behalf of the prosecution, the costs of depositions taken on behalf of the prosecution, the costs of transcripts requested by the prosecution, the fees that are payable to the clerk of the district court for services rendered, and court costs taxed in connection with the trial of the action or appeals from the judgment. These fees and costs are recoverable by the county or city from the defendant unless the defendant is found not guilty or the action is dismissed. Expenditures of a county under this section may be paid out of the court expense fund in lieu of the county general fund.

Sec. 10142. Rule of civil procedure 202, Iowa court rules, second edition, is amended to read as follows:

202. FOOD AND LODGING. The court may order the sheriff to provide suitable that food and lodging at the expense of the county be provided at state expense for a jury being kept together to try or deliberate on a cause.

Sec. 10143. Rule of criminal procedure 2, subsection 3, Iowa court rules, second edition, is amended by striking the subsection and inserting in lieu thereof the following:

3. COUNSEL FOR INDIGENT. The magistrate may appoint counsel to represent the defendant at public expense if the magistrate determines the defendant to be indigent in accordance with section 815.9, The Code.

Sec. 10144. Rule of criminal procedure 2, subsection 4, paragraph g, subparagraph (2), Iowa court rules, second edition, is amended to read as follows:

(2) On application of a defendant addressed to a district judge, showing that the record of preliminary hearing, in whole or in part, should be made available to the defendant's counsel, an order may issue that the clerk make available a copy of the record, or of a portion thereof, to defense counsel. ~~Such~~ The order shall ~~provide for~~ require prepayment of the costs of ~~such~~ the record by the defendant ~~unless the defendant makes a sufficient affidavit that he or she is unable to pay or to give security therefor, in which case the expense shall be paid by the county.~~ However, if the defendant is indigent the record shall be made at public expense. The prosecution may move also that a copy of the record, in whole or in part, be made available to it, for good cause shown, and an order may be entered granting such motion in whole or in part, on appropriate terms, except that the government need not prepay costs nor furnish security therefor.

Sec. 10145. Rule of criminal procedure 19, subsection 4, Iowa court rules, second edition, is amended to read as follows:

4. WITNESSES FOR INDIGENTS. Counsel for a defendant who because of indigency is financially unable to obtain expert or other witnesses necessary to an adequate defense of the case may request ~~compensation~~ in a written application that the necessary witnesses be secured at public expense. Upon finding, after appropriate inquiry, that the services are necessary and that the defendant is financially unable to provide compensation, the court shall authorize counsel to obtain ~~such~~ the witnesses on behalf of the defendant. The court shall determine reasonable compensation ~~for the services~~ and direct payment ~~to the person who rendered them~~ pursuant to chapter 815, The Code.

Sec. 10146. Rule of criminal procedure 26, subsection 1, Iowa court rules, second edition, is amended to read as follows:

1. REPRESENTATION. Every defendant who is an indigent person as defined in section ~~331.775, subsection 4~~ 815.9, The Code (~~1981 Code Sup.~~), is entitled to have counsel appointed to represent ~~him or her~~ the defendant at every stage of the proceedings from the defendant's initial appearance before the magistrate or the court through appeal, including probation and parole revocation hearings, unless the defendant waives such appointment.

Sec. 10147. Rule of criminal procedure 26.1, subsections 1 and 5, Iowa court rules, second edition, are amended to read as follows:

1. An indigent defendant, as defined in section ~~336A.4~~ 815.9, The Code (~~331.775(4) and 331.777(2)~~), convicted of an indictable offense or a simple misdemeanor where defendant faces the possibility of imprisonment, is entitled to appointment of counsel on appeal or application for discretionary review to the supreme court. Application for appointment of appellate counsel shall be made to the trial court, which shall retain authority to act on ~~such~~ the application after notice of appeal or application for discretionary review has been filed. The supreme court, or a justice thereof, shall have authority to may appoint counsel in the event if the trial court fails or refuses to appoint and it becomes necessary to further provide for counsel.

5. If defendant has proceeded as an indigent in the trial court and a financial statement required by section ~~336B.2~~, The Code (~~331.778(2)~~), already has been filed pursuant to section ~~336B.4~~ 815.9, The Code (~~331.777(2)~~ and ~~331.778(2)~~), such the defendant, upon making application for appointment of appellate counsel, shall be presumed to be an indigent, and an additional financial statement shall not be required to be submitted to the court, unless evidence is offered that defendant is not an indigent. In all other cases defendant shall be required to submit a financial statement to the trial court. Defendant and appointed appellate counsel shall be ~~are~~ under a continuing obligation to inform the trial court of any change in circumstances that would make defendant ineligible to qualify as an indigent.

Sec. 10148. Rule of criminal procedure 47, Iowa court rules, second edition, is amended to read as follows:

Rule 47. BAILIFF OBTAINED. If trial by jury is demanded and a court attendant employed under section 602.7601 is not available to assist the magistrate, the magistrate shall notify the sheriff who shall furnish a bailiff at that time and place to act as officer of the court.

Sec. 10149. Rule of criminal procedure 49, Iowa court rules, second edition, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If the judgment and costs are not fully and immediately satisfied, the magistrate shall indicate on the judgment the portion unsatisfied and shall promptly certify a copy of the judgment to the clerk of the district court. The clerk shall index and file the judgment, whereupon it is a judgment of the district court.

Sec. 10150. Rule of appellate procedure 453, Iowa court rules, second edition, is amended to read as follows:

Rule 453. DOCKETING. Upon receipt of a certified question the clerk of the supreme court shall prepare a docket page and assign a number to the matter. Within ten days after the filing of the certification order the movant or party who is to file his a brief first shall pay to the clerk of the supreme court the docket fee in the amount prescribed pursuant to section ~~685.3~~ 602.5303, The Code, for docketing an appeal from a final judgment or decree. Upon receipt of the docket fee, the clerk of the supreme court shall enter the matter upon the docket and give notice to the certifying court and all parties or their attorneys of the date on which the matter is entered on the docket.

Sec. 10151. Rule of probate procedure 5(c), Iowa court rules, second edition, is amended to read as follows:

(c) The court administrator of the judicial department shall utilize the reports in the discharge of the duties prescribed in section ~~685.8~~ 602.1209, The Code, and, in addition, shall prepare a list of the attorneys for fiduciaries who have received and ignored a notice of delinquency. The court administrator shall transmit the list of attorneys, together with other relevant information, to the committee on professional ethics and conduct of the Iowa State Bar Association and to the client security and attorney disciplinary commission.

#### DIVISION III

#### EFFECTIVE DATE – CODIFICATION – REPEALER

Sec. 10201. EFFECTIVE DATE. Except as otherwise provided in division IV, this Act takes effect July 1, 1983.

Sec. 10202. CODIFICATION.

1. Division I is created as a new chapter 602 of the Code. The Code editor shall rename title XXX of the Code to correspond to the subject matters contained in new chapter 602.

2. The Code editor shall recodify chapters 605A and 610 as new and separate articles at the end of new chapter 602.

Sec. 10203. REPEALER. Except as otherwise provided in division IV:

1. Chapters 115, 231, 602, 605, 684, and 685, Code 1983, are repealed.
2. Sections 66.25, 127.21, 127.22, 232.63, 232.124, 331.701 through 331.705, 331.775, 331.778, 607.6, 622.68, and 622.73, Code 1983, are repealed.

Sec. 10204. **CONFLICTING LEGISLATION.** If both this Act and House File 562 are enacted by the Seventieth General Assembly and if House File 562, as enacted, deposits in the general fund of the state all amounts that would be received from a clerk of the district court under section 602.9106, subsection 3 of this Act, the following shall apply:

1. Amendments to sections 32.2; 99.30; 127.21; 127.22; 302.44; 331.509, subsection 1, paragraph o; 331.552, subsection 11; 508.15; 511.7; 515.93; 534.12, subsection 4; 535.5; 595.11; 644.15; and 666.3, Code 1983, and the repeal of sections 127.22, 302.3, and 302.24, Code 1983, contained in House File 562 shall prevail.

2. Section 602.9107 of this Act, the amendments to section 127.20, Code 1983, contained in this Act, and the amendment to section 602.55, Code 1983, contained in House File 562 are void.

3. Notwithstanding section 602.9106, subsection 3 of this Act, all amounts received under that subsection shall be deposited in the general fund of the state.

#### DIVISION IV TRANSITION PROVISIONS

Sec. 10301. **IMPLEMENTATION BY COURT COMPONENT.** The state shall assume responsibility for components of the court system according to the following schedule:

1. On October 1, 1983 the state shall assume the responsibility for and the costs of jury and witness fees and mileage as provided in sections 607.5, 622.69, and 622.72, except as provided in section 331.506, subsection 2.

2. Court reporters shall become court employees on July 1, 1984. The state shall assume the responsibility for and the costs of court reporters on July 1, 1984.

3. Bailiffs who perform services for the court, other than law enforcement services, shall become court employees on January 1, 1985, and shall be called court attendants. The state shall assume the responsibility for and the costs of court attendants on January 1, 1985. Section 602.7601 takes effect on January 1, 1985.

4. Juvenile probation officers shall become court employees on July 1, 1985. The state shall assume the responsibility for and the costs of juvenile probation officers on July 1, 1985.

5. Clerks of the district court shall become court employees on July 1, 1986. The state shall assume the responsibility for and the costs of the offices of the clerks of the district court on July 1, 1986. Persons who are holding office as clerks of the district court on July 1, 1986 are entitled to continue to serve in that capacity until the expiration of their respective terms of office. The district judges of a judicial election district shall give first and primary consideration for appointment of a clerk of the district court to serve the court beginning in 1989 to a clerk serving on and after July 1, 1986 until the expiration of the clerk's elected term of office. A vacancy in the office of clerk of the district court occurring on or after July 1, 1986 shall be filled as provided in section 602.1214.

6. The state shall assume the responsibility for and the costs of indigent defense on July 1, 1987.

For the period beginning July 1, 1983, and ending June 30, 1987, the provisions of division I take effect only to the extent that the provisions do not conflict with the scheduled state assumption of responsibility for the components of the court system, and the amendments and repeals of divisions II and III take effect only to the extent necessary to implement that scheduled state assumption of responsibility. If an amendment or repeal to a Code section in division II or III is not effective during the period beginning July 1, 1983, and ending June 30, 1987, the Code section remains in effect for that period. On July 1, 1987, this Act takes effect in its entirety.

However, if the state does not fully assume the costs for a fiscal year of a component of the court system in accordance with the scheduled assumption of responsibility, the state shall not assume responsibility for that component, and the schedule of state assumption of responsibility shall be delayed. The delayed schedule of state assumption of responsibility shall again be followed for the fiscal year in which the state fully assumes the costs of that component. For the fiscal year for which the state's assumption of the responsibility for a court component is delayed, the clerk of the district court shall not reduce the percentage remittance to the counties from the court revenue distribution account under section 602.9108. The clerk shall resume the delayed schedule of reductions in county remittances for the fiscal year in which the state fully assumes the costs of that court component. If the schedules of state assumption of responsibility and reductions in county remittances are delayed, the transition period beginning July 1, 1983, and ending June 30, 1987 is correspondingly lengthened, and this Act takes effect in its entirety only at the end of the lengthened transition period.

The supreme court shall prescribe temporary rules, prior to the dates on which the state assumes responsibility for the components of the court system, as necessary to implement the administrative and supervisory provisions of this Act, and as necessary to determine the applicability of specific provisions of this Act in accordance with the scheduled state assumption of responsibility for the components of the court system.

**Sec. 10302. ACCRUED EMPLOYEE RIGHTS.**

1. Persons who were paid salaries by the counties immediately prior to becoming state employees as a result of this Act shall not forfeit accrued vacation, accrued sick leave, or longevity, except as provided in this section.

2. As a part of its rule-making authority under section 10301, the supreme court, after consulting with the state comptroller, shall prescribe rules to provide for the following:

a. Each person referred to in subsection 1 shall have to the person's credit as a state employee commencing on the date of becoming a state employee the number of accrued vacation days that was credited to the person as a county employee as of the end of the day prior to becoming a state employee.

b. Each person referred to in subsection 1 shall have to the person's credit as a state employee commencing on the date of becoming a state employee the number of accrued days of sick leave that was credited to the person as a county employee as of the end of the day prior to becoming a state employee. However, the number of days of sick leave credited to a person under this subsection shall not exceed the maximum number of days that state employees generally are entitled to accrue according to laws and rules in effect as of the date the person becomes a state employee.

c. Commencing on the date of becoming a state employee, each person referred to in subsection 1 is entitled to claim the person's most recent continuous period of service in full-time county employment as full-time state employment for purposes of determining the number of days of vacation which the person is entitled to earn each year. The actual vacation benefit shall be determined according to laws and rules in effect for state employees of comparable longevity, irrespective of any greater or lesser benefit as a county employee.

d. Notwithstanding paragraphs b and c, for the period beginning July 1, 1984, and ending June 30, 1986, court reporters who become state employees as a result of this Act are not subject to the sick leave and vacation accrual limitations generally applied to state employees.

**Sec. 10303. LIFE AND HEALTH INSURANCE.** Persons who were covered by county employee life insurance and accident and health insurance plans prior to becoming state employees as a result of this Act shall be permitted to apply prior to becoming state employees for life insurance and health and accident insurance plans that are available to state

employees so that those persons do not suffer a lapse of insurance coverage as a result of this Act. The supreme court, after consulting with the state comptroller, shall prescribe rules and distribute application forms and take other actions as necessary to enable those persons to elect to have insurance coverage that is in effect on the date of becoming state employees. The actual insurance coverage available to a person shall be determined by the plans that are available to state employees, irrespective of any greater or lesser benefits as a county employee.

Sec. 10304. COMPENSATION AND BENEFITS. Notwithstanding sections 10302, 10303, and 10306, a county employee who becomes a state employee as a result of this Act shall receive the compensation and other benefits provided to state employees, unless the employee, within the period of time beginning thirty days prior to the day when the employee becomes a state employee and ending thirty days after the employee becomes a state employee, files an election with the state court administrator to continue to receive the compensation and other benefits received by the employee immediately prior to becoming a state employee. If an employee files the election, the employee may at any time thereafter revoke the election and agree to receive the compensation and other benefits provided to state employees. The state court administrator shall reimburse counties for expenses incurred as a result of employee elections to continue to receive the compensation and other benefits which the employees received immediately prior to becoming state employees.

Sec. 10305. HIRING MORATORIUM.

1. Commencing one year prior to each category of employees becoming state employees as a result of this Act, new employees shall not be hired and vacancies shall not be filled, except as provided in subsection 2, with respect to any of the following agencies or positions:

- a. Offices of the clerks of the district court.
- b. District court administrators.
- c. Juvenile probation offices.
- d. Court reporters.

e. Any other position of employment that is supervised by a district court judicial officer or by a person referred to or employed in an office referred to in paragraph a, b, c, or d.

2. A new employee position or vacancy that is subject to subsection 1 may be filled upon approval by the chief judge of the judicial district. The employer seeking to fill the new position or vacancy shall submit a request to the chief judge in the form prescribed by the supreme court, and shall be governed by the decision of the chief judge. The chief judge shall obtain the advice of the district judges of the judicial district respecting decisions to be made under this subsection.

Sec. 10306. EMPLOYEE RECLASSIFICATION MORATORIUM. Commencing one year prior to county employees becoming state employees as a result of this Act, the county employees shall not be promoted or demoted, and shall not be subject to a reduction in salary or a reduction in other employee benefits, except after approval by the chief judge of the judicial district. An employer wishing to take any of these actions shall apply to the chief judge in a writing that discloses the proposed action, the reasons for the action, and the statutory or other authority for the action. The chief judge shall not approve any proposed action that is in violation of an employee's rights or that is extraordinary when compared with customary practices and procedures of the employer. The chief judge shall obtain the advice of the district judges of the judicial district respecting decisions to be made under this section.

Sec. 10307. COURT PROPERTY.

1. Commencing on the date when each category of employees becomes state employees as a result of this Act, public property referred to in subsection 2 that on the day prior to that date

is in the custody of a person or agency referred to in subsection 3 shall not become property of the judicial department but shall be devoted for the use of the judicial department in its course of business. The judicial department shall only be responsible for maintenance contracts or contracts for purchase entered into by the judicial department. Upon replacement of the property by the judicial department, the property shall revert to the use of the appropriate county. However, if the property is personal property of a historical nature, the property shall not become property of the judicial department, and the county shall make the property available to the judicial department for the department's use within the county courthouse until the court no longer wishes to use the property, at which time the property shall revert to the use of the appropriate county.

2. This section applies to the following property:

- a. Books, accounts and records that pertain to the operation of the district court.
- b. Forms, materials, and supplies that are consumed in the usual course of business.
- c. Tables, chairs, desks, lamps, curtains, window blinds, rugs and carpeting, flags and flag standards, pictures and other wall decorations, and other similar furnishings.
- d. Typewriters, adding machines, desk calculators, cash registers and similar business machines, reproduction machines and equipment, microfiche projectors, tape recorders and associated equipment, microphones, amplifiers and speakers, film projectors and screens, overhead projectors, and similar personal property.
- e. Filing cabinets, shelving, storage cabinets, and other property used for storage.
- f. Books of statutes, books of ordinances, books of judicial decisions, and reference books, except those that are customarily held in a law library for use by the public.
- g. All other personal property that is in use in the operation of the district court.

3. This section applies to the following persons and agencies:

- a. Clerks of the district court.
- b. Judicial officers.
- c. District court administrators.
- d. Juvenile probation officers.
- e. Court reporters.
- f. Persons who are employed by a person referred to in paragraphs a through e.

4. Subsections 1 through 3 and 5 do not apply to electronic data storage equipment, commonly referred to as computers, or to computer terminals or any machinery, equipment, or supplies used in the operation of computers. Those counties that were providing computer services to the district court shall continue to provide these services until the general assembly provides otherwise. The state shall reimburse these counties for the cost of providing these services. Each county providing computer services to the district court shall submit a bill for these services to the supreme court at the end of each calendar quarter. Reimbursement shall be payable from funds appropriated to the supreme court for operating expenses of the district court, and shall be paid within thirty days after receipt by the supreme court of the quarterly billing.

5. Personal property of a type that is subject to subsections 1 through 3 shall be subject to the control of the chief judge of the judicial district commencing on the date when each category of employees becomes state employees as a result of this Act. On and after that date the chief judge of the judicial district may issue necessary orders to preserve the use of the property by the district court. Commencing on that date, the chief judge, subject to the direction of the supreme court, shall establish and maintain an inventory of property used by the district court.

Sec. 10308. COLLECTIVE BARGAINING. A person who becomes a state employee as a

result of this Act is a public employee, as defined in section 20.3, subsection 3, for purposes of chapter 20. The person may bargain collectively on and after July 1, 1983 as provided by law for a court employee. However, if the person is subject to a collective bargaining agreement negotiated prior to July 1, 1983, the person is entitled to the rights and benefits obtained by the person pursuant to that contract after July 1, 1983, until that contract expires. If the person is subject to a collective bargaining agreement negotiated on or after July 1, 1983, the person is not entitled to any rights or benefits obtained by the person pursuant to that contract after becoming a state employee.

Sec. 10309. **ADDITIONAL JUDGESHIPS.** The four additional district judgeships created by section 7201, subsection 10 of this Act, take effect at such time as revenues are appropriated to fund the additional judgeships. As soon as possible after those revenues are appropriated, the supreme court administrator of the judicial department shall rank each judicial election district in descending order based on the application of the judgeship formula provided in section 602.7201. The additional judgeships that are created by section 7201, subsection 10 of this Act, shall be apportioned, one to a judicial election district, among the four judicial election districts having the lowest percentage of their judgeship entitlement under the judgeship formula.

Sec. 10310. **JUDGESHIPS FOR ELECTION DISTRICTS 5A AND 5C.** As soon as practicable after January 1, 1985, the supreme court administrator shall recompute the number of judgeships to which judicial election districts 5A and 5C are entitled. Commencing on January 1, 1985, vacancies within judicial election districts 5A and 5C shall be determined and filled under section 602.7201, subsections 4 through 8. For purposes of the recomputations, the supreme court administrator shall determine the average case filings for the latest available three-year period by reallocating the actual case filings during the three-year period to judicial election districts 5A and 5C as if they existed throughout the three-year period.

Sec. 10311. **JUDICIAL NOMINATING COMMISSIONS FOR ELECTION DISTRICTS 5A AND 5C.** The membership of district judicial nominating commissions for judicial election districts 5A and 5C shall be as provided in chapter 46, subject to the following transition provisions:

1. Those judicial nominating commissioners of judicial election district 5A who are residents of Polk county shall be disqualified from serving in election district 5A on January 1, 1985, and their offices shall be deemed vacant. The vacancies thus created shall be filled as provided in section 46.5 for the remainder of the unexpired terms.

2. After January 1, 1985 the governor shall appoint five eligible electors of judicial election district 5C to the district judicial nominating commission for terms commencing immediately upon appointment. Two of the appointees shall serve terms ending January 31, 1988, two of the appointees shall serve terms ending January 31, 1990, and the remaining appointee shall serve a term ending January 31, 1992, as determined by the governor. At the end of these terms and each six years thereafter the governor shall appoint commissioners pursuant to section 46.3.

3. After January 1, 1985 elective judicial nominating commissioners for judicial election district 5C shall be elected as provided in chapter 46 to terms of office commencing immediately upon election. One of those elected shall serve a term ending January 31, 1988, two shall serve terms ending January 31, 1990, and two shall serve terms ending January 31, 1992, as determined by the drawing of lots by the persons elected. At the end of these terms and every six years thereafter elective commissioners shall be elected pursuant to chapter 46.

Sec. 10312. FIFTH JUDICIAL ELECTION DISTRICT. The provisions of section 602.7109 relating to the division of the fifth judicial district into judicial election districts 5A, 5B, and 5C take effect January 1, 1985.

Sec. 10313. BAILIFFS EMPLOYED AS COURT ATTENDANTS. Persons who were employed as bailiffs and who were performing services for the court, other than law enforcement services, immediately prior to the effective date of section 602.7601, shall be employed by the district court administrators as court attendants under section 602.7601 on the effective date of that section.

Sec. 10314. TEMPORARY SERVICE BY CERTAIN RETIRED JUDICIAL MAGISTRATES. Persons who retired before January 1, 1981 and who were judicial magistrates at the time of retirement and who meet the qualifications of a district associate judge are considered to be district associate judges for the purposes of section 602.1612.

Approved June 9, 1983

## CHAPTER 187

### PARI-MUTUEL BETTING ON HORSE AND DOG RACES

S.F. 92

**AN ACT** to permit pari-mutuel betting in Iowa, by creating a state racing commission and prescribing its powers and duties, providing for licensing of certain organizations for the purpose of conducting horse and dog races and racing meets, imposing taxes and fees and providing for their use and disbursement, and declaring certain acts to be unlawful and prescribing penalties for the commission of the acts.

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

Section 1. NEW SECTION. 99D.0 SHORT TITLE. This chapter shall be known and may be cited as the "Iowa Pari-mutuel Wagering Act".

Sec. 2. NEW SECTION. 99D.1 DEFINITIONS. As used in this chapter unless the context otherwise requires:

1. "Breakage" means the odd cents by which the amount payable on each dollar wagered in a pari-mutuel pool exceeds a multiple of ten cents.

2. "Commission" means the state racing commission created under section 99D.4.

3. "Holder of occupational license" means a person licensed by the commission to perform an occupation which the commission has identified as requiring a license to engage in within the racing industry in Iowa.

4. "Licensee" means a nonprofit corporation licensed under section 99D.8.

5. "Pari-mutuel wagering" means the system of wagering described in section 99D.10.

6. "Race", "racing", "race meeting", "track", and "racetrack" refer to dog racing and horse racing, including quarterhorse, thoroughbred, and harness racing, as approved by the commission.

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

Sec. 3. NEW SECTION. 99D.2 SCOPE OF PROVISIONS. This chapter does not apply to horse-race or dog-race meetings unless the pari-mutuel system of wagering is used or intended to be used in connection with the horse-race or dog-race meetings. If the pari-mutuel system is used or intended to be used a person shall not conduct a race meeting without a license as provided by section 99D.8.

Sec. 4. NEW SECTION. 99D.3 PARI-MUTUEL WAGERING LEGALIZED. The system of wagering on the results of horse or dog races as provided by this chapter is legal, when conducted within the racetrack enclosure at a licensed horse-race or dog-race meeting.

Sec. 5. NEW SECTION. 99D.4 CREATION OF STATE RACING COMMISSION – MEMBERS – TERMS – QUALIFICATIONS – BONDS – PROHIBITED ACTIVITIES – PENALTY.

1. There is created a state racing commission consisting of five members who shall be appointed by the governor subject to confirmation by the senate, and who shall serve not to exceed a three-year term at the pleasure of the governor. The term of each member shall begin and end as provided in section 69.19.

2. A vacancy on the commission shall be filled as provided in section 2.32.

3. Not more than three members of the commission shall belong to the same political party and no two members of the commission shall reside, when appointed, in the same congressional district. A member of the commission shall not have a financial interest in a racetrack.

4. Commission members shall each receive an annual salary of six thousand dollars. Members shall also be reimbursed for necessary travel and expenses incurred in the performance of their duties to a maximum of six thousand dollars per year for the commission. Each member shall post a bond in the amount of ten thousand dollars, with sureties to be approved by the governor, to guarantee the proper handling and accounting of moneys and other properties required in the administration of this chapter. The premiums on the bonds shall be paid as other expenses of the commission.

5. A member, employee, or appointee of the commission, or a family member related within the second degree of affinity or consanguinity to a member, employee, or appointee of the commission shall not:

a. Enter directly or indirectly into any business dealing, venture, or contract with an owner or lessee of a racetrack, a licensee, or a holder of an occupational license.

b. Be employed in any capacity by a racetrack, licensee, or a holder of an occupational license.

c. Participate directly or indirectly as an owner, owner-trainer, trainer of a horse or dog, or jockey of a horse in a race meeting conducted in this state.

d. Place a wager on an entry in a race.

Violations of this subsection shall be a serious misdemeanor. In addition, the individual may be subject to disciplinary actions pursuant to the commission rules.

Sec. 6. NEW SECTION. 99D.5 CHAIRPERSON – SECRETARY – DUTIES – BOND. The commission shall elect in July of each year one of its members chairperson for the succeeding year. The commission may employ a secretary and other assistants and employees as necessary to carry out its duties. The secretary shall keep a record of the proceedings of the commission, preserve the books, records, and documents entrusted to the secretary's care, and perform other duties as the commission prescribes. The commission shall require the secretary to post a bond in a sum it may fix, conditioned upon the faithful performance of the secretary's duties. Subject to the approval of the governor, the commission shall fix the compensation of its secretary within salary range five as set by the general assembly. The commission shall also fix the compensation of its other employees, subject to the approval of the

governor. The commission shall have its headquarters in the city of Des Moines, and shall meet in July of each year and at other times and places as it finds necessary for the discharge of its duties.

Sec. 7. NEW SECTION. 99D.6 POWERS AND AUTHORITY. The commission shall have full jurisdiction over and shall supervise all race meetings governed by this chapter. The commission shall have the following powers and shall adopt rules pursuant to chapter 17A to implement this chapter:

1. To investigate applicants and determine the eligibility of applicants for a license and to select among competing applicants for a license the applicant which best serves the interests of the citizens of Iowa.

2. To identify occupations within the racing industry which require licensing and adopt standards for licensing the occupations including establishing fees for the occupational licenses.

3. To adopt standards under which all race meetings shall be held and standards for the facilities within which the race meetings shall be held.

4. To regulate the purse structure for race meetings including establishing a minimum purse.

5. To cooperate with the department of agriculture to establish and operate, or contract for, a laboratory and related facilities to conduct saliva, urine, and other tests on animals that are to run or that have run in races governed by this chapter.

6. To establish fees for the testing of animals sufficient to cover the costs of the tests and to purchase the necessary equipment for the testing.

7. To enter the office, racetrack, facilities, or other places of business of a licensee to determine compliance with this chapter.

8. To investigate alleged violations of this chapter or the commission rules, orders, or final decisions and to take appropriate disciplinary action against a licensee or a holder of an occupational license for the violation, or institute appropriate legal action for enforcement, or both.

9. To authorize stewards, starters, and other racing officials to impose fines or other sanctions upon a person violating this chapter or the commission rules, orders, or final orders including a tout, bookmaker, or other person deemed to be undesirable from the racetrack facilities.

10. To require the removal of a racing official, an employee of a licensee, or a holder of an occupational license, or employee of a holder of an occupational license for a violation of this chapter or a commission rule or engaging in a fraudulent practice.

11. To prevent an animal from racing if the commission or commission employees with cause believe the animal or its owner, trainer, or an employee of the owner or trainer is in violation of this chapter or commission rules.

12. To withhold payment of a purse if the outcome of a race is disputed or until tests are performed on the animals to determine if they were illegally drugged.

13. To provide for immediate determination of the disposition of a challenge by a racing official or representative of the commission by establishing procedures for informal hearings before a panel of stewards at a racetrack.

14. To require a licensee to file an annual balance sheet and profit and loss statement pertaining to the licensee's racing activities in this state, together with a list of the stockholders or other persons having any beneficial interest in the racing activities of each licensee.

15. To issue subpoenas for the attendance of witnesses and subpoenas duces tecum for the production of books, records and other pertinent documents in accordance with chapter 17A,

and to administer oaths and affirmations to the witnesses, when, in the judgment of the racing commission, it is necessary to enforce this chapter or the commission rules.

16. To keep accurate and complete records of its proceedings and to certify the records as may be appropriate.

17. To require all licensees to use a computerized totalisator system for calculating odds and payouts from the pari-mutuel wagering pool and to establish standards to insure the security of the totalisator system.

18. To revoke or suspend licenses and impose fines not to exceed one thousand dollars.

19. To take any other action as may be reasonable or appropriate to enforce this chapter and the commission rules.

Sec. 8. NEW SECTION. 99D.7 HORSE OR DOG RACING LICENSES—APPLICATIONS. A qualified nonprofit corporation as defined in section 99B.1, subsection 10, organized to promote those purposes enumerated in section 99B.7, subsection 3, paragraph b, or a nonprofit corporation which conducts a livestock exposition for the promotion of the livestock, horse, or dog breeding industries of the state, may apply to the commission for a license to conduct horse or dog racing. The application shall be filed with the secretary of the commission at least sixty days before the first day of the horse-race or dog-race meeting which the nonprofit corporation or association proposes to conduct, shall specify the day or days when and the exact location where it proposes to conduct racing, and shall be in a form and contain information as the commission prescribes.

Sec. 9. NEW SECTION. 99D.8 LICENSES—TERMS AND CONDITIONS—REVOCA-TION.

1. If the commission is satisfied that its rules and sections 99D.7 through 99D.22 applicable to licensees have been or will be complied with, it may issue a license for a period of not more than one year. The commission may decide which types of racing it will permit. The commission may permit dog racing, horse racing of various types or both dog and horse racing. The commission shall decide the number, location, and type of all racetracks licensed under this chapter. The license shall set forth the name of the licensee, the type of license granted, the place where the race meeting is to be held, and the time and number of days during which racing may be conducted by the licensee. The commission shall not approve a license application if any part of the racetrack is to be constructed on prime farmland outside the city limits of an incorporated city. A license is not transferable or assignable. The commission may revoke any license issued for good cause upon reasonable notice and hearing.

2. A license shall only be granted to a nonprofit corporation or association upon the express condition that:

a. The nonprofit corporation or association shall not, by a lease, contract, understanding, or arrangement of any kind, grant, assign, or turn over to a person the operation or management of a race meeting licensed under this section or of the pari-mutuel system of wagering described in section 99D.10.

b. The nonprofit corporation shall not in any manner permit a person other than the licensee to have a share, percentage, or proportion of the money received for admissions to the race or race meeting or from the operation of the pari-mutuel system.

3. A license shall not be granted to a nonprofit corporation if there is substantial evidence that the applicant for a license:

a. Has been suspended or ruled off a recognized course in another jurisdiction by the racing board or commission of that jurisdiction.

- b. Has not demonstrated financial responsibility sufficient to meet adequately the requirements of the enterprise proposed.
  - c. Is not the true owner of the enterprise proposed.
  - d. Is not the sole owner, and other persons have ownership in the enterprise which fact has not been disclosed.
  - e. Is a corporation and ten percent of the stock of the corporation is subject to a contract or option to purchase at any time during the period for which the license is issued unless the contract or option was disclosed to the commission and the commission approved the sale or transfer during the period of the license.
  - f. Has knowingly made a false statement of a material fact to the commission.
  - g. Has failed to meet any monetary obligation in connection with a race meeting held in this state.
4. A license shall not be granted to a nonprofit corporation if there is substantial evidence that stockholders or officers of the nonprofit corporation are not of good repute and moral character.
  5. A license shall not be granted to a licensee for racing on more than one racetrack at the same time.
  6. A licensee may not loan or give to any person money or any other thing of value for the purpose of permitting that person to wager on any race.
  7. Upon a violation of any of the conditions listed in this section, the commission shall immediately revoke the license.

Sec. 10. NEW SECTION. 99D.9 BOND OF LICENSEE. A licensee licensed under section 99D.8 shall post a bond to the state of Iowa before the license is issued in a sum as the commission shall fix, with sureties to be approved by the commission. The bond shall be used to guarantee that the licensee faithfully makes the payments, keeps its books and records and makes reports, and conducts its racing in conformity with sections 99D.5 through 99D.20 and the rules adopted by the commission. The bond shall not be canceled by a surety on less than thirty days notice in writing to the commission. If a bond is canceled and the licensee fails to file a new bond with the commission in the required amount on or before the effective date of cancellation, the licensee's license shall be revoked. The total and aggregate liability of the surety on the bond is limited to the amount specified in the bond.

Sec. 11. NEW SECTION. 99D.10 PARI-MUTUEL WAGERING—MINORS PROHIBITED.

1. Except as permitted in this section, the licensee shall permit no form of wagering on the results of the races.
2. Licensees shall only permit the pari-mutuel or certificate method of wagering as defined in this section.
3. The licensee may receive wagers of money only from a person present at a licensed race on a horse or dog in the race selected by the person making the wager to finish first in the race. The person wagering shall acquire an interest in the total money wagered on all horses or dogs in the race as first winners in proportion to the amount of money wagered by the person.
4. The licensee shall issue to each person wagering a certificate on which shall be shown the number of the race, the amount wagered, and the number or name of the horse or dog selected as first winner.
5. As each race is run the licensee shall deduct sixteen percent from the total sum wagered on all horses or dogs as first winners. The balance, after deducting breakage, shall be paid to the holders of certificates on the winning horse or dog in the proportion that the amount

wagered by each certificate holder bears to the total amount wagered on all horses or dogs in the race as first winners.

6. The licensee shall likewise receive wagers on horses or dogs selected to run second, third, or both, or in combinations as the commission may authorize. The method, procedure, and the authority and right of the licensee, as well as the deduction allowed to the licensee, shall be as specified with respect to wagers upon horses or dogs selected to run first.

7. All wagering shall be conducted within the racetrack enclosure where the licensed race is held.

8. A person under the age of eighteen years shall not make a pari-mutuel wager.

Sec. 12. **NEW SECTION. 99D.10A BREAKAGE.** A licensee shall deduct the breakage from the pari-mutuel pool which shall be distributed in the following manner:

1. In horse races the breakage shall be retained by the licensee to supplement purses for the race restricted to Iowa-foaled horses as provided in section 99D.19.

2. In dog races the breakage shall be distributed as follows:

a. Seventy-five percent shall be retained by the licensee to supplement purses for the race restricted to Iowa-whelped dogs as provided in section 99D.19.

b. Twenty-five percent shall be retained by the licensee and shall be put into a stake race for Iowa-whelped dogs. All dogs racing in the stake race must have run in at least twelve races during the current racing season at the track sponsoring the stake race to qualify to participate.

Sec. 13. **NEW SECTION. 99D.10B UNCLAIMED WINNINGS.**

1. Winnings provided in section 99D.10 not claimed by the person who placed the wager within sixty days of the close of the racing meet during which the wager was placed shall be forfeited.

2. Winnings forfeited under subsection 1 shall escheat to the state as per chapter 556.

Sec. 14. **NEW SECTION. 99D.11 RACING MEETS—TAX—FEES.**

1. A licensee under section 99D.8 shall pay the tax imposed by section 99D.12.

2. A licensee shall also pay to the commission the sum of fifty cents for each person entering the grounds or enclosure of the licensee upon a ticket of admission.

a. If tickets are issued which are good for more than one day, the sum of fifty cents shall be paid for each person using the ticket on each day that the ticket is used.

b. If free passes or complimentary admission tickets are issued, the licensee shall pay the same tax upon these passes or complimentary tickets as if they were sold at the regular and usual admission rate.

c. However, the licensee may issue tax-free passes to actual and necessary officials and employees of the licensee or other persons actually working at the racetrack.

d. The issuance of tax-free passes is subject to the rules of the commission, and a list of all persons to whom the tax-free passes are issued shall be filed with the commission.

3. The licensee shall also pay to the commission a licensee fee of two hundred dollars for each racing day of each horse-race or dog-race meeting for which a license has been issued.

4. No other license tax, permit tax, occupation tax, excise tax, or racing fee, shall be levied, assessed, or collected from a licensee by the state or by a political subdivision, except as provided in this chapter.

Sec. 15. **NEW SECTION. 99D.12 PARI-MUTUEL WAGERING TAX—RATE.** A tax of six percent is imposed on the gross sum wagered by the pari-mutuel method at each race meeting. The tax imposed by this section shall be paid by the licensee to the treasurer of state within ten days after the close of each race meeting and shall be distributed as follows:

1. If the racetrack is located in a city, five of the six percent shall be deposited in the

general fund of the state. One-half of one percent of the six percent shall be remitted to the treasurer of the city in which the racetrack is located and shall be deposited in the general fund of the city. The remaining one-half of one percent shall be remitted to the treasurer of the county in which the racetrack is located and shall be deposited in the general fund of the county.

2. If the racetrack is located in an unincorporated part of a county, five and one-half percent of the six percent shall be deposited in the general fund of the state. The remaining one-half of one percent shall be remitted to the treasurer of the county in which the racetrack is located and shall be deposited in the general fund of the county.

Sec. 16. NEW SECTION. 99D.13 REVENUE DIRECTOR—VERIFICATION OF TAXES DUE STATE. The director of revenue shall verify the amount of the fees and taxes due the state as provided by sections 99D.10A, 99D.11, 99D.12, and 99D.19.

Sec. 17. NEW SECTION. 99D.14 USE OF FUNDS. The expenses of the commissioners, compensation of the secretary, assistants, and employees and their reasonable expenses shall first be paid out of the funds received pursuant to section 99D.11. The commission shall retain an additional amount sufficient to pay its current expenses. An itemized account of personal expenses shall be verified by the person making the claim, and shall be approved by a majority of the members of the commission or a person authorized by the commission to give the approval. If the account is paid, it shall be filed in the office of the commission and remain a part of the commission's permanent records. The commission is subject to the budget requirements of chapter 8 and the applicable auditing requirements and procedures of chapter 11.

Sec. 18. NEW SECTION. 99D.15 SURPLUS FUNDS — HOW USED.

1. From the balance of the funds coming into the hands of the commission pursuant to section 99D.11, \$50,000 shall be used by the Iowa state university college of veterinary medicine to develop further research on the treatment of equine injuries and diseases. The remaining funds shall be divided into\*

Sec. 19. NEW SECTION. 99D.16 HORSE OR DOG RACING—LICENSEES—RECORDS—REPORTS—SUPERVISION. A licensee shall keep its books and records so as to clearly show the following:

1. The total number of admissions to races conducted by it on each racing day, including the number of admissions upon free passes or complimentary tickets.
2. The amount received daily from admission fees.
3. The total amount of money wagered during the race meet.

The licensee shall furnish to the commission reports and information as the commission may require with respect to its activities. The commission may designate a representative to attend a licensed race meeting, who shall have full access to all places within the enclosure of the meeting and who shall supervise and check the admissions. The compensation of the representative shall be fixed by the commission but shall be paid by the licensee.

Sec. 20. NEW SECTION. 99D.16A AUDIT OF LICENSEE OPERATIONS. Within 90 days after the end of each race meet, the licensee shall transmit to the commission an audit of the financial transactions and condition of the licensee's operations conducted under this chapter. Additionally, within 90 days after the end of the licensee's fiscal year, the licensee shall transmit to the commission an audit of the financial transactions and condition of the licensee's total operations. All audits shall be conducted by certified public accountants registered in the state of Iowa under chapter 116.

Sec. 21. NEW SECTION. 99D.17 ANNUAL REPORT OF COMMISSION. The commission shall make an annual report to the governor, for the period ending June 30 of each

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\*According to enrolled Act

year. Included in the report shall be an account of the commission's actions, its financial position and results of operation under this chapter, the practical results attained under this chapter, and any recommendations for legislation which the commission deems advisable.

Sec. 22. NEW SECTION. 99D.19 NATIVE HORSES OR DOGS. A licensee shall hold at least one race on each racing day limited to horses foaled or dogs whelped in Iowa. However, if sufficient competition cannot be had among that class of horses or dogs on any day, another race for the day may be substituted. Three percent of the purse won by a horse or dog in the race limited to Iowa-foaled horses or Iowa-whelped dogs shall be used to promote the horse and dog breeding industries. The three percent shall be withheld by the licensee from the purse and shall be paid at the end of the race meeting to the state department of agriculture which in turn shall deposit it in a special fund to be known as the Iowa horse and dog breeders fund and pay it by December 31 of each calendar year to the breeder of the winning Iowa-foaled horse or Iowa-whelped dog.

Sec. 23. NEW SECTION. 99D.20 COMMISSION VETERINARIAN AND CHEMIST.

1. The commission shall employ one or more chemists or contract with a qualified chemical laboratory to determine by chemical testing and analysis of saliva, urine, blood, or other excretions or body fluids whether a substance or drug has been introduced which may affect the outcome of a race or whether an action has been taken or a substance or drug has been introduced which may interfere with the testing procedure. The commission shall adopt rules under chapter 17A concerning procedures and actions taken on positive drug reports. The commission may adopt by reference the standards of the national association of state racing commissioners, the association of official racing chemists, and New York jockey club, or the United States trotting association or may adopt any other procedure or standard.

2. The commission shall employ or contract with one or more veterinarians to extract or procure the saliva, urine, blood, or other excretions or body fluids of the horses or dogs for the chemical testing purposes of this section. A commission veterinarian shall be in attendance at every race meeting held in this state.

3. A chemist or veterinarian who willfully or intentionally fails to perform the functions or duties of employment required by this section shall be banned for life from employment at a race meeting held in this state.

Sec. 24. NEW SECTION. 99D.21 PROHIBITED ACTIVITIES—PENALTY.

1. A person is guilty of an aggravated misdemeanor for doing any of the following:

a. Holding or conducting a race or race meeting where the pari-mutuel system of wagering is used or to be used without a license issued by the commission.

b. Holding or conducting a race or race meeting where wagering is permitted other than in the manner specified by section 99D.10.

c. Committing any other corrupt or fraudulent practice as defined by the commission in relation to racing which affects or may affect the result of a race.

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

3. A person wagering or accepting a wager at any location outside the betting enclosure is subject to the penalties in section 725.7.

4. A person commits a class "D" felony and, in addition, shall be barred for life from racetracks under the jurisdiction of the commission, if the person does any of the following:

a. Offers, promises, or gives anything of value or benefit to a person who is connected with racing including, but not limited to, an officer or employee of a licensee, an owner of a horse, a jockey or driver, a trainer, or handler, pursuant to an agreement or arrangement or with the intent that the promise or thing of value or benefit will influence the actions of the person to whom the offer, promise, or gift was made in order to affect or attempt to affect the outcome of a race, or to influence official action of a member of the commission.

b. Solicits or knowingly accepts or receives a promise of anything of value or benefit while the person is connected with racing including, but not limited to, an officer or employee of a

licensee, an owner of a horse, a jockey or driver, a trainer, or handler, pursuant to an understanding or arrangement or with the intent that the promise or thing of value or benefit will influence the actions of the person to affect or attempt to affect the outcome of a race, or to influence official action of a member of the commission.

**Sec. 25. NEW SECTION. 99D.22 DRUGGING OR NUMBING OF HORSES OR DOGS FORBIDDEN—PENALTY.**

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

a. "Drugging" means administering to a horse or dog any substance, foreign to the natural horse or dog prior to the start of a race.

b. "Numbing" means the applying of ice, dry ice, a cold pack, or a chemical or mechanical freezing device to the limbs of a horse or dog within ten hours before the start of a race, or a surgical or other procedure which was, at any time, performed in which the nerves of a horse or dog were severed, destroyed, or removed.

c. "Entered" means that a horse or dog has been registered as a participant in a specified race, and not withdrawn prior to presentation of the horse or dog for inspection and testing.

2. The general assembly finds that the practice of drugging or numbing a horse or dog prior to a race:

a. Corrupts the integrity of the sport of racing and promotes criminal fraud in the sport;

b. Misleads the wagering public and those desiring to purchase a horse or dog as to the condition and ability of the horse or dog;

c. Poses an unreasonable risk of serious injury or death to the rider of a horse and to the riders of other horses competing in the same race; and

d. Is cruel and inhumane to the horse or dog so drugged or numbed.

3. The following conduct is prohibited:

a. The entering of a horse or dog in a race by the trainer or owner of the horse or dog if the trainer or owner knows or if by the exercise of reasonable care the trainer or owner should know that the horse or dog is drugged or numbed;

b. The drugging or numbing of a horse or dog with knowledge or with reason to believe that the horse or dog will compete in a race while so drugged or numbed. However, the commission may by rule establish permissible trace levels of substances foreign to the natural horse or dog that the commission determines to be innocuous;

c. The willful failure by the operator of a racing facility to disqualify a horse or dog from competing in a race if the operator has been notified that the horse or dog is drugged or numbed, or was not properly made available for tests or inspections as required by the commission; and

d. The willful failure by the operator of a racing facility to prohibit a horse or dog from racing if the operator has been notified that the horse or dog has been suspended from racing.

4. The owners of a horse or dog and their agents and employees shall permit a member of the commission or a person employed or appointed by the commission to make tests as the commission deems proper in order to determine whether a horse or dog has been improperly drugged. The findings of the commission that a horse or dog has been improperly drugged by a narcotic or other drug are prima facie evidence of the fact. The results of the tests shall be kept on file by the commission for at least one year following the tests.

A person who violates this section is guilty of a class "D" felony.

**Sec. 26. NEW SECTION. 99D.22A FORFEITURE OF PROPERTY.**

1. Anything of value, including all traceable proceeds including but not limited to real and personal property, moneys, negotiable instruments, securities, and conveyances are subject to forfeiture to the state of Iowa if the item was used for any of the following:

a. In exchange for a bribe intended to affect the outcome of a race.

b. In exchange for or to facilitate a violation of this chapter.

2. All moneys, coin, and currency found in close proximity of wagers, or of records of wagers are presumed forfeited. The burden of proof is upon the claimant of the property to rebut this presumption.

3. Subsections 1 and 2 do not apply if the act or omission which would give rise to the forfeiture was committed or omitted without the owner's knowledge or consent.

Sec. 27. NEW SECTION. 99D.100 START-UP ASSISTANCE FUND. A fund shall be established in the office of the state treasurer to assist in the establishment of the commission. The account shall be funded by voluntary contributions from any person wishing to make a donation. The fund shall be used to expedite the establishment and operation of the commission. The commission shall not consider the granting of any licenses until at least fifty thousand dollars has been contributed to the fund. Whether a person has contributed to the account shall not be a factor in granting or denying a license. Contributions to the fund are refundable without interest upon application of the contributor.

Sec. 28. NEW SECTION. 99D.101 USE OF INDUSTRIAL REVENUE BONDS PROHIBITED. Industrial revenue bonds shall not be used to construct, maintain, or repair a racetrack or racing facility in the state where pari-mutuel wagering is licensed.

Sec. 29. Section 12.10, Code 1983, is amended to read as follows:

12.10 DEPOSITS BY STATE OFFICERS. All elective and appointive state officers, boards, commissions, and departments, except the state fair board, the state board of regents, Iowa state commerce commission, and the commissioner of the department of social services, shall, within ten days succeeding the collection thereof, deposit, with the treasurer of state, or to the credit of said the treasurer of state in any depository by him designated by the treasurer of state, ninety percent of all fees, commissions, and moneys collected or received; the balance actually collected in cash, remaining in the hands of any officer, board, or department shall not exceed the sum of five thousand dollars and ~~no~~ money collected shall not be held more than thirty days. This section does not apply to the Iowa housing finance authority or to the funds received by the state racing commission under section 99D.11.

Sec. 30. Chapter 80, Code 1983, is amended by adding the following new section after section 80.25 and renumbering the remaining sections:

NEW SECTION. 80.25A PARI-MUTUEL ENFORCEMENT. The commissioner of public safety shall direct the chief of the division of a criminal investigation and bureau of identification to establish a subdivision for the purpose of enforcement of chapter 99D. The commissioner of public safety shall appoint or assign other agents to the division as necessary to enforce chapter 99D. All enforcement officers, assistants, and agents of the division are subject to section 80.15 except clerical workers.

Sec. 31. Section 99A.2, unnumbered paragraph 1, Code 1983, is amended to read as follows:

The intentional possession or willful keeping of a gambling device upon any licensed premises, except as provided in this chapter, is cause for the revocation of any license upon the premises where the gambling device is found. Possession by an employee of the licensee on the premises of the licensee ~~shall give rise to the~~ creates a presumption of intentional possession by the licensee.

Sec. 32. Section 537A.4, unnumbered paragraph 2, Code 1983, is amended to read as follows:

This section ~~shall~~ does not apply to a contract for the operation of or for the sale or rental of equipment for games of skill or games of chance, if both the contract and the games are in compliance with chapter 99B. This section does not apply to wagering under the pari-mutuel method of wagering authorized by chapter 99D.

Sec. 33. Chapter 556, Code 1983, is amended by adding the following new section:

**NEW SECTION. UNCLAIMED PARI-MUTUEL WAGERING WINNINGS.** All unclaimed pari-mutuel wagering winnings not claimed by the person who placed the wager within sixty days of the close of the racing meet during which the wager was placed are presumed abandoned.

Sec. 34. Section 725.7, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

**725.7 GAMING AND BETTING – PENALTY.**

1. Except as permitted in chapters 99B and 99D, a person shall not do any of the following:
  - a. Participate in a game for any sum of money or other property of any value.
  - b. Make any bet.
  - c. For a fee, directly or indirectly, give or accept anything of value to be wagered or to be transmitted or delivered for a wager to be placed within or without the state of Iowa.
  - d. For a fee, deliver anything of value which has been received outside the enclosure of a racetrack licensed under chapter 99D to be placed as wagers in the pari-mutuel pool or other authorized systems of wagering.
  - e. Engage in bookmaking.
2. A person convicted of a violation of this section, upon conviction or plea of guilty, is guilty of:
  - a. For a first offense:
    - (1) Illegal gaming in the fourth degree if the amount involved does not exceed one hundred dollars. Illegal gaming in the fourth degree is a serious misdemeanor.
    - (2) Illegal gaming in the third degree if the amount involved exceeds one hundred dollars but does not exceed five hundred dollars. Illegal gaming in the third degree is an aggravated misdemeanor.
    - (3) Illegal gaming in the second degree if the amount involved exceeds five hundred dollars but does not exceed five thousand dollars. Illegal gaming in the second degree is a class "D" felony.
    - (4) Illegal gaming in the first degree if the amount involved exceeds five thousand dollars. Illegal gaming in the first degree is a class "C" felony.
  - b. For a second offense, the offense is one degree greater than what the offense would be if the offense had been a first offense.
  - c. For a third offense, the offense is two degrees greater than what the offense would be if the offense had been a first offense.
  - d. For a fourth and any subsequent offense, the offense is three degrees greater than what the offense would be if the offense had been a first offense.

The maximum sentence imposed for a violation of this section shall be the same as that of a class "C" felony under section 902.9.

Sec. 35. Chapter 725, Code 1983, is amended by adding the following new sections:

**NEW SECTION. "BOOKMAKING" DEFINED.** "Bookmaking" means advancing gambling activity by accepting bets upon the outcome of future contingent events as a business other than as permitted in chapters 99B and 99D. These events include, but are not limited to, the results of a trial or contest of skill, speed, power, or endurance of a person or beast or between persons, beasts, fowl, motor vehicles, or mechanical apparatus or upon the result of any chance, casualty, unknown, or contingent event.

**NEW SECTION.** This chapter does not prohibit the establishment and operation of a state racing commission and pari-mutuel betting on horse or dog races as provided in chapter 99D.

Sec. 36. Notwithstanding section 4 of this Act, the governor shall appoint initial members

of the commission established under that section to staggered terms, two to end the year following appointment, two to end two years following appointment, and one to end three years following appointment. The governor shall appoint initial members in the same manner as vacancies, subject to section 2.32.

Sec. 37. Sections 1 through 25 of this Act are created as a new chapter 99D.

Approved June 10, 1983

## CHAPTER 188

### LEVY OF TAXES FOR PAYMENT ON PUBLIC BONDS

*H.F. 643*

**AN ACT** relating to the payment of principal and interest on public bonds by providing for a mandatory levy of taxes and the determination of certain interest rates.

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

Section 1. Section 76.2, unnumbered paragraph 1, Code 1983, is amended to read as follows:

The governing authority of these political subdivisions before issuing bonds shall, by resolution, provide for the assessment of an annual levy upon all the taxable property in ~~such public corporation~~ the political subdivision sufficient to pay the interest and principal of ~~such the~~ bonds within a period named not exceeding twenty years. A certified copy of this resolution shall be filed with the county auditor or the auditors of the counties, ~~as the case may be,~~ in which ~~such public corporation~~ the political subdivision is located; and the filing thereof shall make it a duty of ~~such officer or officers~~ the auditors to enter annually this levy for collection from the taxable property within the boundaries of the political subdivision until funds are realized to pay the bonds in full. The levy shall continue to be made against property that is severed from the political subdivision after the filing of the resolution until funds are realized to pay the bonds in full.

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

Sec. 2. Section 280A.20, Code 1983, is amended to read as follows:

280A.20 PAYMENT OF BONDS. Taxes for the payment of bonds issued under section 280A.19 shall be levied in accordance with chapter 76. The bonds shall be payable from a fund created from the proceeds of ~~such the~~ taxes in not more than twenty years and bear interest at a rate not exceeding seven percent per annum the rate permitted by chapter 74A, and shall be of ~~such the~~ form as the board issuing the bonds shall by resolution provide. Any indebtedness incurred shall not be considered an indebtedness incurred for general and ordinary purposes.

Approved June 2, 1983

## CHAPTER 189

### MOBILE HOME TAX RATE, PROPERTY TAX CREDIT AND RENT REIMBURSEMENT FOR ELDERLY AND DISABLED PERSONS

*H.F. 241*

**AN ACT** relating to the mobile home reduced tax rate and property tax credit and rent reimbursement for elderly and disabled persons and making certain provisions retroactive.

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

Section 1. Section 135D.22, subsection 2, unnumbered paragraph 1, Code 1983, is amended to read as follows:

If the owner of the mobile home was totally disabled, as defined in section 425.17, subsection 6 on or before December 31 of the base year, is a surviving spouse having attained the age of fifty-five years on or before December 31 of the base year or has attained the age of sixty-five years on or before December 31 of the base year and has an income when included with that of a spouse which is less than ~~four~~ five thousand dollars per year, no semiannual tax shall be imposed on the mobile home. If the income is ~~four~~ five thousand dollars or more but less than ~~ten~~ twelve thousand dollars, the semiannual tax shall be computed as follows:

If the Household Income is:	Semiannual Tax Per Square Foot
\$ <del>4,000 - 4,999.99</del>	1.5 <del>cents</del>
5,000 - 5,999.99	4.0 <u>3.0 cents</u>
6,000 - 6,999.99	6.0 <u>5.0</u>
7,000 - 7,999.99	7.0 <u>6.0</u>
8,000 - 8,999.99	7.5 <u>7.0</u>
9,000 - <del>9,999.99</del> <u>11,999.99</u>	8.0 <u>7.5</u>

Sec. 2. Section 135D.22, subsections 4 and 5, Code 1983, are amended to read as follows:

4. For the sixth through ninth years after the year of manufacture the semiannual tax ~~shall be is~~ ninety percent of the tax computed according to subsection 1 or 2 of this section, whichever is applicable.

5. For all mobile homes ten or more years after the year of manufacture the semiannual tax ~~shall be is~~ eighty percent of the tax computed according to subsection 1 or 2 of this section, whichever is applicable.

Sec. 3. Section 425.23, subsection 1, Code 1983, is amended to read as follows:

1. The tentative credit or reimbursement shall be ~~the higher of the two amounts determined as follows:~~

a. ~~The amount shall be determined in accordance with the following schedule:~~

If the household income is:	Percent of property taxes due or rent constituting property taxes paid allowed as a credit or reimbursement:
\$ 0 - <del>3,999.99</del> .....	100%
4,000 0 - 4,999.99 .....	85 <u>100%</u>
5,000 - 5,999.99 .....	60 <u>70</u>
6,000 - 6,999.99 .....	40 <u>50</u>
7,000 - 7,999.99 .....	30 <u>40</u>
8,000 - 8,999.99 .....	25 <u>30</u>
9,000 - <del>9,999.99</del> 11,999.99 .....	20 <u>25</u>

b. If the claim is for property taxes due and the household income of the claimant is less than four thousand dollars, the alternative tentative credit shall be one hundred twenty-five dollars, but not to exceed the amount of property taxes due during the fiscal year next following the base year.

Sec. 4. Section 1 applies to claims filed on or after January 1, 1984.

Sec. 5. Section 3 is retroactive to January 1, 1983 for property tax credit claims filed on or after January 1, 1983 for taxes payable in the fiscal year beginning July 1, 1983 and ending June 30, 1984 and for any subsequent years. Section 3 is applicable to rent reimbursement claims filed on or after January 1, 1984 for rents paid in calendar year 1983.

Sec. 6. This Act, being deemed of immediate importance, takes effect from and after its publication in the Globe-Gazette, a newspaper published in Mason City, Iowa, and in the Quad City Times, a newspaper published in Davenport, Iowa.

Approved June 9, 1983

I hereby certify that the foregoing Act, House File 241 was published in the Quad City Times, Davenport, Iowa on June 20, 1983 and in the Globe-Gazette, Mason City, Iowa on June 16, 1983.

MARY JANE ODELL, *Secretary of State*

**CHAPTER 190**

**UNEMPLOYMENT COMPENSATION RATES AND BENEFITS**

*H.F. 637*

**AN ACT** relating to the computation of employer contribution rates and employee benefits under Iowa's unemployment law, to certain employer account charges, to certain benefit disqualification and reduction procedures, to certain administrative procedures, and to changes in Iowa's unemployment law to conform with federal law.

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

Section 1. Section 96.3, subsection 3, Code 1983, is amended to read as follows:

3. **PARTIAL UNEMPLOYMENT.** An individual who is partially unemployed in any week as defined in section 96.19, subsection 9, paragraph "b", and who meets the conditions of

eligibility for benefits shall be paid with respect to that week an amount equal to the individual's weekly benefit amount less that part of wages payable to the individual with respect to that week in excess of one-fourth of the individual's weekly benefit amount. ~~Such~~ The benefits shall be rounded to the ~~higher~~ lower multiple of one dollar.

Sec. 2. Section 96.3, subsection 4, unnumbered paragraph 1, Code 1983, is amended to read as follows:

With respect to benefit years beginning on or after July 1, ~~1979~~ 1983, an eligible individual's weekly benefit amount for a week of total unemployment shall be an amount equal to the following fractions of the individual's total wages in insured work paid during that quarter of the individual's base period in which such total wages were highest; the director shall determine annually a maximum weekly benefit amount equal to the following percentages, to vary with the number of dependents, of the statewide average weekly wage paid to employees in insured work which shall be effective the first day of the first full week in July.

If the number of dependents is:	The weekly benefit amount shall equal the following fraction of high quarter wages:	Subject to the following maximum percentage of the statewide average weekly wage:
0	1/23	<del>58%</del> <u>53%</u>
1	1/22	<del>60%</del> <u>55%</u>
2	1/21	<del>62%</del> <u>57%</u>
3	1/20	<del>65%</del> <u>60%</u>
4 or more	1/19	<del>70%</del> <u>65%</u>

The maximum weekly benefit amount, if not a multiple of one dollar shall be rounded to the ~~higher~~ lower multiple of one dollar. However, until such time as ~~fifty-eight~~ sixty-five percent of the statewide average weekly wage exceeds one hundred ~~thirty-three~~ ninety dollars, an individual with zero or one dependent who would be entitled to the maximum weekly benefit amount if the individual's weekly benefit amount were computed by using ~~one-twenty-first~~ of the individual's high quarter wages, subject to a maximum percentage of ~~sixty-two~~ percent of the statewide average weekly wage, the individual shall receive the maximum weekly benefit amount of ~~sixty-two~~ percent of the statewide average weekly wage amounts shall be determined using the statewide average weekly wage computed on the basis of wages reported for calendar year 1981. As used in this section "dependent" means dependent as defined in section 422.12, subsection 1, paragraph "c", as if the individual claimant was a taxpayer, except that an individual claimant's nonworking spouse shall be deemed to be a dependent under this section. "Nonworking spouse" means a spouse who does not earn more than one hundred twenty dollars in gross wages in one week.

Sec. 3. Section 96.3, subsection 5, Code 1983, is amended by adding the following new unnumbered paragraph:

**NEW UNNUMBERED PARAGRAPH.** The amount of benefits paid to an individual, which is solely due to wage credits considered to be in an individual's base period due to the exclusion and substitution of calendar quarters from the individual's base period under section 96.23, shall be charged against the account of the employer responsible for paying the weekly workers' compensation benefits for temporary total disability or during a healing period under section 85.33, section 85.34, subsection 1, or section 85A.17, or responsible for paying weekly indemnity insurance benefits.

Sec. 4. Section 96.3, subsection 7, unnumbered paragraph 2, Code 1983, is amended to read as follows:

If the department cannot recover determines that an overpayment after two years from the last date of the overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund.

Sec. 5. Section 96.4, subsection 3, Code 1983, is amended to read as follows:

3. ~~He or she~~ The individual is able to work, is available for work, and is earnestly and actively seeking work. ~~The provision of this subsection shall be waived if he or she~~ the individual is deemed temporarily unemployed as defined in section 96.19, subsection 9, paragraph "c" or if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph x.

Sec. 6. Section 96.4, subsection 4, Code 1983, is amended to read as follows:

4. The individual has been paid wages for insured work during the individual's base period in an amount at least one and one-quarter times the wages paid to the individual during that quarter of the individual's base period in which the individual's wages were highest; provided that the individual has been paid wages for insured work of not less than four hundred dollars totaling at least three and five-tenths percent of the statewide average annual wage for insured work, computed for the preceding calendar year if the individual's benefit year begins on or after the first full week in July and computed for the second preceding calendar year if the individual's benefit year begins before the first full week in July, in that calendar quarter in the individual's base period in which the individual's wages were highest, and the individual has been paid wages for insured work of not less than two hundred dollars totaling at least one-half of the amount of wages required under this subsection in the calendar quarter of the base period in which the individual's wages were highest, in a calendar quarter in the individual's base period other than the calendar quarter in which the individual's wages were highest. The calendar quarter wage requirements shall be rounded to the nearest multiple of ten dollars.

If the individual has drawn benefits in any benefit year, the individual must during or subsequent to that year, work in and be paid wages for insured work totaling at least ten times the weekly benefit amount two hundred fifty dollars, as a condition to receive benefits in the next benefit year.

Sec. 7. Section 96.4, subsection 5, paragraph c, Code 1983, is amended to read as follows:

c. With respect to services in any other capacity for an educational institution (~~other than an institution of higher education~~) ~~after December 31, 1977~~, benefits shall not be paid to an individual for any week of unemployment which begins during the period between two successive academic years, or terms if ~~such~~ the individual performs such the services in the first of such academic years or terms and there is a reasonable assurance that ~~such~~ the individual will perform such services in the second of such academic years or terms. If benefits are denied to an individual for any week as a result of this paragraph and the individual is not offered an opportunity to perform such services for the educational institution for the second of such academic years or terms, the individual is entitled to a retroactive payment of benefits for each week for which the individual filed a timely claim for benefits and for which benefits were denied solely by reason of this paragraph.

Sec. 8. Section 96.4, Code 1983, is amended by adding the following new subsection:

**NEW SUBSECTION.** The individual has satisfied one one-week waiting period during the individual's benefit year. To satisfy the one-week waiting period, the individual, with respect to the week in question, must be unemployed, have filed a claim for benefits, and be eligible for benefits from this state, but must not have received benefits from this or another state, and must not be eligible for benefits from another state.

Sec. 9. Section 96.5, subsection 1, Code 1983, is amended by adding the following new lettered paragraph:

**NEW LETTERED PARAGRAPH. x.** The individual has left employment in lieu of exercising a right to bump or oust a fellow employee with less seniority or priority from the fellow employee's job.

Sec. 10. Section 96.5, subsection 7, Code 1983, is amended by adding the following new lettered paragraphs:

**NEW LETTERED PARAGRAPH. d.** Notwithstanding contrary provisions in paragraphs a, b and c, if an individual is separated from employment and is scheduled to receive vacation payments during the period of unemployment attributable to the employer and if the employer does not designate the vacation period pursuant to paragraph b; then payments made by the employer to the individual or an obligation to make a payment by the employer to the individual for vacation pay, vacation pay allowance or pay in lieu of vacation shall not be deemed wages as defined in section 96.19, subsection 12, for any period in excess of one week and such payments or the value of such obligations shall not be deducted for any period in excess of one week from the unemployment benefits the individual is otherwise entitled to receive under this chapter. However, if the employer designates more than one week as the vacation period pursuant to paragraph b, the vacation pay, vacation pay allowance, or pay in lieu of vacation shall be considered wages and shall be deducted from benefits.

**NEW LETTERED PARAGRAPH. e.** If an employer pays or is obligated to pay a bonus to an individual at the same time the employer pays or is obligated to pay vacation pay, a vacation pay allowance, or pay in lieu of vacation, the bonus shall not be deemed wages for purposes of determining benefit eligibility and amount, and the bonus shall not be deducted from unemployment benefits the individual is otherwise entitled to receive under this chapter.

Sec. 11. Section 96.6, subsection 2, Code 1983, is amended to read as follows:

2. INITIAL DETERMINATION. A representative designated by the director shall promptly notify all interested parties to the claim of the filing thereof, and ~~said~~ the parties shall have ten days from the date of mailing the notice of the filing of said claim by ordinary mail to the last known address to protest payment of benefits to said claimant. The representative shall promptly examine the claim and any protest thereto and, on the basis of the facts found by the representative, shall determine whether or not such claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and the maximum duration thereof, and whether any disqualification shall be imposed. The claimant has the burden of proving that the claimant meets the basic eligibility conditions of section 96.4. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to section 96.5. Unless the claimant or other interested party, after notification or within ten calendar days after such notification was mailed to the claimant's last known address, files an appeal from such decision, such decision shall be final and benefits shall be paid or denied in accordance therewith. If a hearing officer affirms a decision of the representative, or the appeal board affirms a decision of the hearing officer, allowing benefits, such benefits shall be paid regardless of any appeal which may thereafter be taken, but if such decision is finally reversed, no employer's account shall be charged with benefits so paid.

Sec. 12. Section 96.6, subsection 3, Code 1983, is amended to read as follows:

3. APPEALS. Unless such appeal is withdrawn, a hearing officer, after affording the parties reasonable opportunity for fair hearing, shall affirm or modify the findings of fact and decision of the representative. The hearing shall be conducted pursuant to the provisions of chapter 17A relating to hearings for contested cases. Before the hearing is scheduled, the parties shall be afforded the opportunity to choose either a telephone hearing or an in-person

hearing. A request for an in-person hearing shall be approved unless the in-person hearing would be impractical because of the distance between the parties to the hearing. A telephone or in-person hearing shall not be scheduled before the seventh calendar day after the parties receive notice of the hearing. Reasonable requests for the postponement of a hearing shall be granted. The parties shall be duly notified of the hearing officer's decision, together with the hearing officer's reasons therefor, which shall be deemed to be the final decision of the department, unless within fifteen days after the date of notification or mailing of such decision, further appeal is initiated pursuant to subsection 5 of this section.

Sec. 13. Section 96.7, subsection 3, paragraph d, unnumbered paragraph 4, contribution rate table 1, Code 1983, is amended to read as follows:

<u>Percentage of Excess Rank</u>	<u>Contribution Rate Table 1</u>	
1	.8	.5
2	1.0	.9
3	1.2	1.0
4	1.4	1.1
5	1.6	1.2
6	1.8	1.5
7	2.0	1.9
8	2.3	2.1
9	2.6	2.3
10	2.9	2.7
11	3.2	3.3
12	3.5	3.8
13	3.8	4.3
14	4.2	4.9
15	4.6	5.3
16	5.0	5.8
17	5.5	6.6
18	6.0	7.0
19	6.0	7.0
20	6.0	7.0
21	6.0	7.0

Sec. 14. Section 96.7, subsection 3, paragraph d, unnumbered paragraph 4, contribution rate table 2, Code 1983, is amended to read as follows:

<u>Percentage of Excess Rank</u>	<u>Contribution Rate Table 2</u>	
1	.6	.2
2	.7	.6
3	.8	.7
4	1.0	.8
5	1.2	.9
6	1.4	1.2
7	1.6	1.5
8	1.8	1.7
9	2.0	2.1
10	2.3	2.4
11	2.6	2.9
12	2.9	3.4
13	3.3	4.0

14	<del>2.7</del>	4.6
15	<del>4.1</del>	5.0
16	<del>4.5</del>	5.5
17	<del>5.0</del>	6.3
18	<del>5.5</del>	6.7
19	<del>6.0</del>	6.8
20	<del>6.0</del>	7.0
21	<del>6.0</del>	7.0

Sec. 15. TEMPORARY SECTION. SPECIAL CONTRIBUTION RATES.

1. An employer which meets the zero contribution rate requirements for calendar year 1983 of section 96.7, subsection 3, paragraph d, unnumbered paragraph 6 relating to percentage of excess and a record of no benefit charges, shall be assigned the zero contribution rate for calendar year 1983 even though contribution rate table 2, as amended by section 14 of this Act, is effective for calendar year 1983, notwithstanding the requirement of unnumbered paragraph 6 which limits the zero contribution rate to calendar years in which a rate table in rate tables three through nine is effective. If an employer assigned a zero contribution rate for calendar year 1983 is required to contribute for the next calendar year, the employer's rate for that next calendar year is either the employer's experience rate or one and eight-tenths percent, whichever is less.

2. If additional contributions are due for the first calendar quarter of 1983 under section 14 of this Act, an employer shall pay the additional contributions no later than the time regular contributions are due for the fourth calendar quarter of 1983. If additional contributions are due for the second calendar quarter of 1983 under section 14 of this Act, an employer shall pay the additional contributions no later than the time regular contributions are due for the third calendar quarter of 1983. Additional contributions due for the third and fourth calendar quarters of 1983 shall be paid no later than the times regular contributions are due for those calendar quarters. However, an employer may pay the additional contributions in advance.

Sec. 16. Section 96.7, subsection 3, paragraph d, in the proviso following the contribution rate tables in unnumbered paragraph 4, Code 1983, is amended to read as follows: Provided, however, that notwithstanding Notwithstanding any other provision of this chapter relating to limiting contribution rates to those specified in the contribution rate table, any an employer which employs individuals for construction as defined by the department pursuant to rules, that has not qualified for an experience rating shall pay four point zero percent in the calendar year 1968 through the calendar year 1977 and be assigned to the rate specified in the twenty-first percentage of excess rank for the rate year beginning January 1, 1978 and every year thereafter the maximum contribution rate assigned to any employer under this chapter, including the additional contributions required under this lettered paragraph of an employer with a negative balance in the employer's account, until such time as the employer has qualified for an experience rating. However, such the employer shall not qualify for an experience rating until there shall have been twelve consecutive calendar quarters immediately preceding the rate computation date throughout which his the employer's account has been chargeable with benefit payments.

Sec. 17. Section 96.7, subsection 3, paragraph d, unnumbered paragraph 6, Code 1983, is amended to read as follows:

However, notwithstanding any other provision of this chapter relating to the applicable contribution rate table for a calendar year, the applicable contribution rate table for the calendar years 1982 and 1983 is table three unless the ratio of the current reserve fund ratio to the highest benefit cost rate on the rate computation date is 1.0 or higher. During any rate year in

which a rate table in rate tables three through nine is effective an employer assigned a contribution rate under this lettered paragraph is not required to contribute to the unemployment compensation trust fund if the employer's percentage of excess is seven point five percent or greater for the rate year and the employer has not been charged with benefit payments for any time within the twenty-four calendar quarters immediately preceding the rate computation date for the rate year. If an employer is not required to contribute for a rate year to the trust fund under this unnumbered paragraph but would be required to contribute for the next rate year under this lettered paragraph, the employer's contribution rate for the next rate year is either the employer's experience rate computed under this lettered paragraph or one and eight-tenths percent, whichever is less. For subsequent years, either the employer is not required to contribute under this unnumbered paragraph or the employer's contribution rate is the employer's experience rate computed under this lettered paragraph.

During any rate year in which rate table one or two is effective an employer assigned a contribution rate under this lettered paragraph shall be required to contribute to the unemployment compensation trust fund at five-tenths of one percent, if the employer's percentage of excess is seven point five percent or greater for the rate year and the employer has not been charged with benefit payments for any time within the twenty-four calendar quarters immediately preceding the rate computation date for the rate year. If an employer is qualified for the five-tenths of one percent limitation on the employer's contribution rate for a rate year under this unnumbered paragraph but would be required to contribute for the next rate year under this lettered paragraph, the employer's contribution rate for the next rate year is either the employer's experience rate computed under this lettered paragraph or one and eight-tenths percent, whichever is less. For subsequent years, either the employer is qualified for the five-tenths of one percent limitation under this unnumbered paragraph or the employer's contribution rate is the employer's experience rate computed under this lettered paragraph.

Sec. 18. Section 96.7, subsection 3, paragraph d, unnumbered paragraph 7, Code 1983, is amended to read as follows:

Notwithstanding any other provision of this chapter relating to limiting contribution rates to those specified in the contribution rate table, if an employer qualified for an experience rating has a negative balance in the employer's account on the rate computation date and had a negative balance on the previous rate computation date, the employer shall contribute an additional ~~one-half~~ one percent of taxable wages above the contribution rate assigned the employer by the effective rate contribution table. For each subsequent and consecutive rate computation date on which the employer still has a negative balance in the employer's account, the employer shall contribute an additional ~~one-half~~ one percent of taxable wages. Beginning with the initial surcharge of ~~one-half~~ one percent each subsequent and consecutive surcharge of ~~one-half~~ one percent of taxable wages shall be cumulative, except that the cumulative surcharge shall not exceed three an amount sufficient to make the employer's combined contribution rate equal to nine percent of taxable wages.

Sec. 19. Section 96.7, subsection 3, paragraph e, Code 1983, is amended by adding the following new unnumbered paragraph:

**NEW UNNUMBERED PARAGRAPH.** If an employer's account is charged with benefits in a calendar quarter prior to the rate computation date as the result of a decision allowing benefits and the decision is reversed after the rate computation date, the employer may appeal, within thirty days from the date of the contribution rate notice, for a recomputation of the rate. The department shall remove the benefit charges from the rate computation, recompute the contribution rate, and notify the employer of the recomputed contribution rate.

Sec. 20. Section 96.7, subsection 15, unnumbered paragraph 1, Code 1983, is amended to read as follows:

If on the first day of the third month in any calendar quarter ~~in 1983~~, the department has an outstanding balance of interest accrued on advance moneys received from the federal government for the payment of unemployment compensation benefits, or is projected to have an outstanding balance of accruing federal interest for that calendar quarter, the director shall collect a uniform temporary emergency tax surcharge for that calendar quarter ~~in 1983~~, retroactive to the beginning of that calendar quarter. The tax surcharge shall be a percentage of employer contribution rates and shall be set at the rate a uniform percentage, for all employers subject to the surcharge, necessary to pay the interest accrued on the moneys advanced to the department by the federal government, and to pay any additional federal interest which will accrue for the remainder of that calendar quarter. However, the tax shall not be greater than one-tenth of one percent of taxable wages for that calendar quarter. The tax surcharge shall apply to all employers except government entities, nonprofit organizations, and employers assigned a zero contribution rate ~~for calendar year 1983~~. The director shall prescribe the manner in which the tax surcharge will be collected. Interest shall accrue on all unpaid tax surcharges under this subsection at the same rate as on regular contributions and shall be collectible in the same manner. The tax surcharge shall not affect the computation of regular contributions under this chapter.

Sec. 21. Section 96.11, subsection 4, unnumbered paragraph 1, Code 1983, is amended to read as follows:

The director shall provide for the employment of such personnel as are necessary to carry out the functions of the department. Personnel shall be employed under the provisions of chapter 19A. The director, a deputy director, a confidential secretary, the members of the appeal board, an administrative officer under the appeal board, and a secretary for each member if deemed necessary, shall be exempt from the merit system under the provisions of section 19A.3. If necessary to carry out its duties under this chapter, the appeal board shall employ an administrative officer whose qualifications and job responsibilities are determined by the appeal board.

Sec. 22. Section 96.19, subsection 6, paragraph g, subparagraph (6), unnumbered paragraph 2, Code 1983, is amended to read as follows:

Service performed by an individual ~~under the age of twenty-two years~~ who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, as a student in a full-time program, taken for credit at such institution, which combines academic instruction with work experience, if such the service is an integral part of such the program and such the institution has so certified to the employer, except that this subparagraph shall does not apply to service performed in a program established for or on behalf of an employer or group of employers.

Sec. 23. Section 96.19, subsection 6, paragraph g, Code 1983, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (7) Services performed by an individual, who is not treated as an employee, for a person who is not treated as an employer, under either of the following conditions:

(a) The services are performed by the individual as a salesperson and as a licensed real estate agent; substantially all of the remuneration for the services is directly related to sales or other output rather than to the number of hours worked; and the services are performed pursuant to a written contract between the individual and the person for whom the services are performed, which provides that the individual will not be treated as an employee with respect to the services for federal tax purposes.

(b) The services are performed by an individual engaged in the trade or business of selling or soliciting the sale of consumer products to any buyer on a buy-sell basis or a deposit-commission basis, for resale by the buyer or another person in the home or in a place other than a permanent retail establishment, or engaged in the trade or business of selling or soliciting the sale of consumer products in the home or in a place other than a permanent retail establishment; substantially all of the remuneration for the services is directly related to sales or other output rather than to the number of hours worked; and the services are performed pursuant to a written contract between the individual and the person for whom the services are performed, which provides that the individual will not be treated as an employee with respect to the services for federal tax purposes.

Sec. 24. Section 96.19, subsection 20, Code 1983, is amended by adding the following new unnumbered paragraph:

**NEW UNNUMBERED PARAGRAPH.** However, the amount of taxable wages otherwise determined under this subsection shall be increased by six hundred dollars for calendar year 1984, by eleven hundred dollars for calendar year 1985, and by sixteen hundred dollars for calendar year 1986 and subsequent calendar years.

Sec. 25. Section 96.23, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

**96.23 BASE PERIOD EXCLUSION.** The department shall exclude three or more calendar quarters from an individual's base period, as defined in section 96.19, subsection 16, if the individual received weekly workers' compensation benefits for temporary total disability or during a healing period under section 85.33, section 85.34, subsection 1, or section 85A.17 or weekly indemnity insurance benefits during those three or more calendar quarters, if one of the following conditions applies to the individual's base period:

1. The individual did not receive wages from insured work for three calendar quarters.

2. The individual did not receive wages from insured work for two calendar quarters and did not receive wages from insured work for another calendar quarter equal to or greater than the amount required for a calendar quarter, other than the calendar quarter in which the individual's wages were highest, under section 96.4, subsection 4.

The department shall substitute, in lieu of the three or more calendar quarters excluded from the base period, those three or more consecutive calendar quarters, immediately preceding the base period, in which the individual did not receive such weekly workers' compensation benefits or weekly indemnity insurance benefits.

Sec. 26. **PROSPECTIVE REPEAL.** Sections 8 and 24 of this Act are prospectively repealed on January 1 of the first calendar year after December 31, 1985 for which a contribution rate table other than contribution rate table one is effective. Section 8 is repealed for benefit claims effectively filed for and after the first full week in that first calendar year. Section 24 is repealed for taxable wages for that first calendar year and subsequent calendar years.

Sec. 27. This Act, being deemed of immediate importance, takes effect from and after its publication in The Sioux City Journal, a newspaper published in Sioux City, Iowa, and in the Waterloo Courier, a newspaper published in Waterloo, Iowa, and is retroactive to January 1, 1983. However, the sections of the Act take effect as follows:

1. Sections 14, 15, the portion of section 17 which relates to the applicable contribution rate table for calendar year 1983, and section 20 of this Act take effect January 1, 1983.

2. Sections 4, 11, 12, and 19 of this Act take effect from and after the Act's publication, and apply to all new or pending benefit claims.

3. Sections 7, 21, and 22 of this Act take effect July 1, 1983.

4. Sections 1, 2, 3, 5, 6, 9, 10, and 25 of this Act take effect only for unemployment compensation benefit claims effectively filed on or after July 3, 1983.

5. Sections 13, 16, the portion of section 17 which relates to the five-tenths of one percent limitation, and sections 18 and 24 of this Act take effect July 1, 1983, and apply to calendar year 1984 and subsequent calendar years. Contribution rate table 1, as amended by section 13 of this Act, shall be used to compute the additional contributions of one percent per year, applicable to negative-balance employers for calendar year 1984 and subsequent calendar years, required under section 18 of this Act. If a negative-balance employer received a one-half of one percent surcharge under section 96.7, subsection 3, paragraph d, unnumbered paragraph 7, applicable to calendar years before calendar year 1984, the employer's contribution rate for calendar year 1984 and subsequent calendar years shall be computed using contribution rate table 1, as amended by section 13 of this Act, the cumulative one-half of one percent surcharges and the one percent surcharges applicable to calendar year 1984 and subsequent calendar years under section 18 of this Act.

6. Section 23 of this Act takes effect January 1, 1984.

7. Section 8 of this Act takes effect only for initial unemployment compensation benefit claims effectively filed on or after January 6, 1985.

Approved June 12, 1983

I hereby certify that the foregoing Act, House File 637 was published in the Waterloo Courier, Waterloo, Iowa on June 28, 1983 and in The Sioux City Journal, Sioux City, Iowa on June 28, 1983.

MARY JANE ODELL, *Secretary of State*

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**CHAPTER 191**  
**FINANCIAL MANAGEMENT OF STATE**  
**AND LOCAL PROGRAMS**

*H.F. 184*

**AN ACT** relating to the financial management of state and local programs by providing for the reduction, transfer, appropriation or reversion of state and local funds; the time when unclaimed deposits and refunds held by utilities are presumed abandoned, crediting the unclaimed deposits and refunds, and when abandoned property must be claimed from the treasurer of state; relating to funds available to area education agencies for special education support services; and relating to the authority of the school budget review committee over positive and negative balances of school district moneys for special education instruction programs.

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

**DIVISION 1**

Section 1. **REVERSION OF UNENCUMBERED FUNDS IN STATE VEHICLE DISPATCHER'S DEPRECIATION FUND.** Notwithstanding section 18.120, any appropriated moneys which have been credited or accrued to the depreciation fund of the state vehicle

dispatcher by a state department or agency and which are unencumbered balances to the state department or agency through September 30, 1982 shall revert to the general fund of the state.

Sec. 2. **NEW SECTION. 249.14 OLD-AGE ASSISTANCE REVOLVING FUND.** The old-age assistance revolving fund shall remain in the state treasury until all property managed by the department and maintained by the fund is disposed of, at which time all money in the fund shall be transferred to the general fund of the state and the fund shall be closed. If the balance of the fund exceeds fifteen thousand dollars at the end of any calendar quarter, the excess over that amount shall be transferred to the general fund of the state.

Sec. 3. 1973 Iowa Acts, chapter 186, section 27, unnumbered paragraph 2, is amended by striking the unnumbered paragraph.

Sec. 4. 1981 Iowa Acts, chapter 11, section 11, subsection 2 and subsection 3, unnumbered paragraph 1, are amended to read as follows:

2. For capital improvements at the Iowa state penitentiary, including relocating the infirmary and visiting room .....

\$	2,000,000	\$	<del>1,200,000</del>
			<u>990,000</u>

For renovation and construction at the mental health institute at Mount Pleasant and planning for construction at the Iowa security medical facility .....

\$	<del>3,500,000</del>	\$	<del>1,730,000</del>
	<u>3,120,000</u>		<u>130,000</u>

Sec. 5. Five million fifty thousand (5,050,000) dollars of the remaining funds appropriated by 1981 Iowa Acts, chapter 11, section 11, subsection 4, and 1982 Iowa Acts, chapter 1256, section 2, for the fiscal year beginning July 1, 1982, for construction of a new two hundred bed medium security correctional facility at the Iowa security and medical facility at Oakdale, shall revert to the general fund of the state.

Sec. 6. Fifty thousand (50,000) dollars of the remaining funds appropriated by 1981 Iowa Acts, chapter 11, section 11, subsection 1, for the fiscal year beginning July 1, 1981, for capital improvements at institutions under the department of social services, shall revert to the general fund of the state.

Sec. 7. Three hundred and fifty thousand (350,000) dollars of the remaining funds appropriated by 1981 Iowa Acts, chapter 11, section 11, subsection 1, and 1982 Iowa Acts, chapter 1260, section 6, for the fiscal year beginning July 1, 1982, for capital improvements at institutions under the department of social services, shall revert to the general fund of the state.

Sec. 8. 1982 Iowa Acts, chapter 1260, section 7, is amended to read as follows:

SEC. 7. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 11, section 11, is amended by adding the following new subsections:

**NEW SUBSECTION.** For municipal waste treatment facilities at the Glenwood state hospital-school, the Eldora training school, and the Independence mental health institute ....

\$		\$	<del>470,769</del>
			<u>370,769</u>

**NEW SUBSECTION.** For capital improvements at the Iowa state penitentiary .....

\$		\$	<del>500,000</del>
			<u>240,000</u>

The appropriation under this subsection is contingent upon action of the executive council to rescind five hundred thousand (500,000) dollars of the one million one hundred thirty-five thousand (1,135,000) dollars set aside from the general fund by the executive council, pursuant to sections 19.29 and 29C.20, to pay for equipment replacement, repair, rebuilding, rewiring, glass replacement, and overtime at the Iowa state penitentiary due to the inmate disturbance of September 2, 1981.

Sec. 9. There is appropriated from the general fund of the state to the department of social services for the fiscal year beginning July 1, 1983, and ending June 30, 1984, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

		<u>1983-1984</u> <u>Fiscal Year</u>
1. For capital improvements at institutions under the department of social services .....	\$	400,000
2. For construction of additional medium security correctional beds at the Iowa security and medical facility at Oakdale and at the mental health institute at Mount Pleasant .....	\$	6,530,000
3. For capital improvements at the Iowa state penitentiary .....	\$	970,000
4. For municipal waste treatment facilities at the Glenwood state hospital-school, the Eldora training school, and the Independence mental health institute .....	\$	100,000

5. Unobligated or unencumbered funds appropriated by this section for the fiscal year beginning July 1, 1983, and ending June 30, 1984, remaining on June 30, 1987, shall revert to the general fund of the state on September 30, 1987. However, if the projects for which these funds are appropriated are completed prior to June 30, 1987, the remaining unobligated or unencumbered funds shall revert to the general fund of the state on September 30 following the end of the fiscal year in which the projects are completed.

Sec. 10.

1. Notwithstanding section 222.92, moneys remaining in the hospital-schools revolving fund on June 30, 1983, shall revert to the general fund of the state on that date.

2. Section 222.92, Code 1983, is repealed.

Sec. 11. There is appropriated from the general fund of the state to the department of social services, for the fiscal year beginning July 1, 1983, and ending June 30, 1984, for capital improvements at the state hospital-schools, the following amount, or so much thereof as is necessary:

		<u>1983-1984</u> <u>Fiscal Year</u>
	\$	3,000,000

Unobligated or unencumbered funds appropriated by this section for the fiscal year beginning July 1, 1983, and ending June 30, 1984, remaining on June 30, 1987, shall revert to the general fund of the state on September 30, 1987. However, if the projects for which these funds are appropriated are completed prior to June 30, 1987, the remaining unobligated or unencumbered funds shall revert to the general fund of the state on September 30 following the end of the fiscal year in which the projects are completed.

DIVISION 2

Sec. 12. Section 556.4, subsections 1 and 2, Code 1983, are amended to read as follows:

1. Any deposit made by a subscriber with a utility to secure payment for, or any sum paid in advance for, utility services to be furnished in this state, less any lawful deductions, that has

remained unclaimed by the person appearing on the records of the utility entitled ~~thereto~~ to the deposit for more than seven two years after the termination of the services for which the deposit or advance payment was made.

2. Any sum which a utility has been ordered to refund and which was received for utility services rendered in this state, together with any interest ~~thereon~~ on the refund, less any lawful deductions, that has remained unclaimed by the person appearing on the records of the utility entitled ~~thereto~~ to the refund for more than seven two years after the date it became payable in accordance with the final determination or order providing for the refund.

Sec. 13. Section 556.18, subsection 1, Code 1983, is amended to read as follows:

1. All Except as provided in section 14 of this Act, all funds received under this chapter, including the proceeds from the sale of abandoned property under section 556.17, shall forthwith be deposited by the state treasurer of state in the general funds of the state, except that. However, the treasurer shall retain in a separate trust fund an amount not exceeding twenty-five thousand dollars from which he the treasurer shall make prompt payment of claims duly allowed by him as hereinafter provided under section 556.17. Any abandoned money or money received from the sale of abandoned property which totals twenty-five dollars or less becomes the property of the state on the date of receipt or sale as applicable and a claim filed for its recovery under section 556.19 shall not be allowed. Before making the deposit of more than twenty-five dollars, ~~he~~ the treasurer of state shall record the name and last known address of each person appearing from the holders' reports to be entitled to the abandoned property and of the name and last known address of each insured person or annuitant, and with respect to each policy or contract listed in the report of a life insurance corporation, its number, the name of the corporation, and the amount due. The record shall be available for public inspection at all reasonable business hours.

Sec. 14. Section 556.18, Code 1983, is amended by adding the following new subsection:

NEW SUBSECTION. After July 1, 1983, the treasurer of state shall credit all funds received under section 556.4, after a proportional amount has been deducted for the trust fund under subsection 1 and any costs have been deducted under subsection 2, to the energy research and development fund created under section 93.14.

Sec. 15. Section 556.20, Code 1983, is amended by adding the following new subsections:

NEW SUBSECTION. A claim for recovery of abandoned money or money received from the sale of abandoned property under section 556.17 of more than twenty-five dollars shall not be allowed if it is filed after ten years from the date of receipt of the abandoned property by the treasurer of state.

NEW SUBSECTION. Any abandoned property, other than money, which has an appraised value of more than twenty-five dollars but is not sold under section 556.17, shall be kept for ten years from the date of receipt by the treasurer of state. After the expiration of ten years, the treasurer of state may dispose of the abandoned property.

NEW SUBSECTION. Any abandoned property, other than money, which has an appraised value of twenty-five dollars or less and is not sold or offered for sale under section 556.17, may be disposed of by the treasurer of state.

NEW SUBSECTION. After abandoned property has been disposed of as provided in section 556.18 or this section, records relating to the abandoned property may be destroyed by the treasurer of state.

Sec. 16. **ABANDONED PROPERTY RECEIVED BEFORE JULY 1, 1983.\*** Any abandoned property, other than money, received by the treasurer of state under chapter 556 before July 1, 1973, and not sold under section 556.17 may be disposed of as determined by the treasurer of state. Effective July 1, 1983, a claim to recover abandoned property received by the treasurer of state before July 1, 1973 under chapter 556 shall not be allowed. Records

\*According to enrolled Act

relating to the abandoned property received before July 1, 1973 may also be destroyed by the treasurer of state. Abandoned property received by the treasurer of state on or after July 1, 1973, shall be disposed of as provided in section 556.18 or 556.20.

Sec. 17. Section 93.14, Code 1983, is amended to read as follows:

93.14 ENERGY RESEARCH AND DEVELOPMENT FUND. There is created within the council an energy research and development fund. Moneys deposited in the fund shall be used for the research and development of projects designated to improve Iowa's energy situation by developing improved methods of energy conservation, by enabling Iowans to better manage available energy resources, or through the increased development and use of Iowa's renewable or nonrenewable energy resources. Said The moneys credited to the fund under section 556.18 shall be used only for the weatherization or energy assistance program administered by the council. The projects will be selected by the council with the advice of knowledgeable persons appointed by the council to provide assistance.

Sec. 18. PAYMENT OF NEWLY ABANDONED DEPOSITS OR REFUNDS. A utility shall remit all deposits or refunds presumed abandoned as provided in section 12 of this Act to the treasurer of state within thirty days after the effective date of this Act or before June 30, 1983, whichever date is earlier.

#### DIVISION 3

Sec. 19. Notwithstanding chapters 273 and 281 and sections of this chapter relating to the moneys available to area education agencies for special education support services, for the school year beginning July 1, 1982 and ending June 30, 1983, the state comptroller shall deduct from the portions of school district budgets that fund area education agency special education support services the following amounts for the listed areas:

Area 1 .....	\$ 260,311
Area 2 .....	\$ 47,566
Area 3 .....	\$ 94,522
Area 4 .....	\$ 282,467
Area 5 .....	\$ 392,478
Area 6 .....	\$ 221,135
Area 7 .....	\$ 91,261
Area 9 .....	\$ 168,425
Area 10 .....	\$ 109,897
Area 11 .....	\$ 1,385,693
Area 12 .....	\$ 0
Area 13 .....	\$ 200,404
Area 14 .....	\$ 167,312
Area 15 .....	\$ 102,716
Area 16 .....	\$ 30,897

The state comptroller shall determine the amount deducted from the budget of each school district in an area education agency on a proportional basis. The state comptroller shall determine from the amounts deducted from the portions of school district budgets that fund area education agency special education support services the amount that would have been local property tax revenues and the amount that would have been state aid. For the school year beginning July 1, 1983, the state comptroller shall increase the district's total state school aids available under chapter 442 for area education agency special education support services and reduce the district's property tax levy for area education agency special education support services by the amount necessary to compensate for the property tax portion of the deductions made in this section during the school year beginning July 1, 1982.

The amount deducted from a school district's budget shall not affect the calculation of the state cost per pupil or its district cost per pupil for that school year or a subsequent school year.

Sec. 20. Action taken by the state board of public instruction prior to July 1, 1983 under section 442.7, subsection 7, paragraph h, directing the state comptroller to reduce the allowable growth added to district cost per pupil in weighted enrollment for the budget year beginning July 1, 1983 and ending June 30, 1984 for special education support services costs in school districts located in area education agencies one through seven, nine through eleven, and thirteen through sixteen is nullified and the allowable growth is restored.

Sec. 21. Section 442.7, subsection 7, paragraphs g and h, Code 1983, are amended to read as follows:

g. For the school year beginning July 1, 1981 and succeeding school years, the amount included in the district cost per pupil in weighted enrollment for special education support services costs for each district in an area education agency for a budget year is the amount included in the district cost per pupil in weighted enrollment for special education support services costs in the base year plus the allowable growth added to state cost per pupil for special education support services costs for the budget year, except as provided in paragraph h. Funds shall be paid to area education agencies as provided in section 442.25.

h. For the school year beginning July 1, ~~1981~~ 1983 and succeeding school years, the state board of public instruction may direct the state comptroller to increase or reduce the allowable growth added to district cost per pupil in weighted enrollment for a budget year for special education support services costs in an area education agency in the base year based upon special education support services needs in the area. However, an increase in the allowable growth can only be granted by action of the state board to restore a previous reduction or portion of a reduction in allowable growth for that year or the previous year.

Sec. 22. Chapter 442, Code 1983, is amended by adding the following new section as section 442.10:

NEW SECTION. 442.10 SPECIAL EDUCATION SUPPORT SERVICES BALANCES. Notwithstanding chapters 273 and 281 and sections of this chapter relating to the moneys available to area education agencies for special education support services, for the school year commencing July 1, 1983 and succeeding school years, the state board of public instruction may direct the state comptroller to deduct amounts from the portions of school district budgets that fund special education support services in an area education agency. The total amount deducted in an area shall be based upon excess special education support services unreserved and undesignated fund balances in that area education agency for a school year. The state comptroller shall determine the amount deducted from each school district in an area education agency on a proportional basis. The state comptroller shall determine from the amounts deducted from the portions of school district budgets that fund area education agency special education support services the amount that would have been local property taxes and the amount that would have been state aid and for the next following budget year shall increase the district's total state school aids available under this chapter for area education agency special education support services and reduce the district's property tax levy for area education agency special education support services by the amount necessary for the property tax portion of the deductions made under this section during the budget year.

The amount deducted from a school district's budget shall not affect the calculation of the state cost per pupil or its district cost per pupil in that school year or a subsequent year.

Sec. 23. Section 442.9, subsection 1, paragraph a, Code 1983, is amended to read as follows:

a. As used in this chapter, "district cost per pupil" for the school year beginning July 1, 1975, and subsequent school years means district cost per pupil in weighted enrollment. The

district cost per pupil for the budget year is equal to the district cost per pupil for the base year plus the allowable growth. However, district cost per pupil does not include additional allowable growth added for programs for gifted and talented children under this chapter or for school districts that have a negative balance of funds raised for special education instruction programs under section 442.13, subsection 14, paragraph b, and does not include additional allowable growth established by the school budget review committee for a single school year only.

Sec. 24. Section 442.13, subsection 5, paragraph p, Code 1983, is amended by striking the paragraph.

Sec. 25. Section 442.13, subsection 14, Code 1983, is amended by striking the subsection and inserting in lieu thereof the following:

14. For the budget school year beginning July 1, 1982 and succeeding school years, as soon as possible following June 30 of the base year, the school budget review committee shall determine for each school district the balance of funds, whether positive or negative, raised for special education instruction programs under the special education weighting plan established in section 281.9. The committee shall certify the balance of funds for each school district to the state comptroller.

a. If the amount certified for a school district to the state comptroller under this subsection for the base year is positive, the state comptroller shall subtract the amount of the positive balance from the amount of state aid remaining to be paid to the district during the budget year. If the positive amount exceeds the amount of state aid that remains to be paid to the district, the school district shall pay the remainder on a quarterly basis prior to June 30 of the budget year to the state comptroller from other funds received by the district. The state comptroller shall determine the amount of the positive balance that would have been local property tax revenues and shall increase the district's total state school aids available under this chapter for the next following budget year by the amount so determined and shall reduce the district's tax levy computed under section 442.9 for the next following budget year by the amount necessary to compensate for the increased state aid.

b. If the amount certified for a school district to the state comptroller under this subsection for the base year is negative, the state comptroller shall determine the amount of the deficit that would have been state aid and the amount that would have been property taxes for each eligible school district.

For the budget school year beginning July 1, 1982 and each subsequent school year, there is appropriated from the general fund of the state to the school budget review committee an amount equal to the state aid portion of five percent of the receipts for special education instruction programs in each district that has a positive balance determined under paragraph a for the base year, or the state aid portion of the positive balance determined under paragraph a for the base year, whichever is less, totaled on a statewide basis, to be used for supplemental aid payments to school districts. Except as otherwise provided in this paragraph, supplemental aid paid to a district is equal to the state aid portion of the district's deficit balance. The school budget review committee shall direct the state comptroller to make the payments to school districts under this paragraph.

A school district is eligible to receive supplemental aid payments during the budget year if the school district certifies to the school budget review committee that for the year following the budget year it will request the school budget review committee to instruct the state comptroller to increase the district's allowable growth and will fund the allowable growth increase either by using moneys from its unexpended cash balance to reduce the district's property tax levy or by using cash reserve moneys to equal the amount of the deficit that would have been property taxes and any part of the state aid portion of the deficit not received as supplemental aid. The state comptroller shall make the necessary adjustments to the school district's

budget to provide the additional allowable growth and shall make the supplemental aid payments.

If the amount appropriated under this paragraph is insufficient to make the supplemental aid payments, the state comptroller shall prorate the payments on the basis of the amount appropriated.

Sec. 26. This Act takes effect upon its publication. However, section 10, subsection 2 of division 1 of this Act takes effect July 1, 1983.

Sec. 27. This Act, being deemed of immediate importance, takes effect from and after its publication in the Telegraph Herald, a newspaper published in Dubuque, Iowa, and in the Quad City Times, a newspaper published in Davenport, Iowa.

Approved April 11, 1983

I hereby certify that the foregoing Act, House File 184 was published in the Telegraph Herald, Dubuque, Iowa on April 13, 1983 and in the Quad City Times, Davenport, Iowa on April 13, 1983.

MARY JANE ODELL, *Secretary of State*

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**CHAPTER 192**  
ADJUSTMENTS TO  
DEPARTMENT OF SOCIAL SERVICES FUNDS  
*S.F. 546*

**AN ACT** relating to adjustments to appropriations to the department of social services for the state fiscal year beginning July 1, 1982 and ending June 30, 1983 and the federal fiscal year beginning October 1, 1982 and ending September 30, 1983.

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

Section 1. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1982, and ending June 30, 1983, to the department of social services for aid to families with dependent children two million nine hundred ninety-eight thousand (2,998,000) dollars, or so much thereof as is necessary, to be used for the same purposes and to supplement funds appropriated by 1981 Iowa Acts, chapter 7, section 3, subsection 1, as amended by 1982 Iowa Acts, chapter 1260, section 90.

Sec. 2. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1982, and ending June 30, 1983, to the department of social services for medical assistance five million four hundred twenty thousand (5,420,000) dollars, or so much thereof as is necessary, to be used for the same purposes and to supplement funds appropriated by 1981 Iowa Acts, chapter 7, section 3, subsection 2, as amended by 1982 Iowa Acts, chapter 1260, sections 94 and 95.

Sec. 3. The appropriation from the general fund of the state for the fiscal year beginning July 1, 1982, and ending June 30, 1983, to the department of social services for contractual

services-medical carrier under 1981 Iowa Acts, chapter 7, section 3, subsection 3, as amended by 1982 Iowa Acts, chapter 1260, section 99, is reduced by one hundred eighty thousand (180,000) dollars.

Sec. 4. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1982, and ending June 30, 1983, to the department of social services for work and training programs twelve thousand (12,000) dollars, or so much thereof as is necessary, to be used for the same purposes and to supplement funds appropriated by 1981 Iowa Acts, chapter 7, section 3, subsection 4, as amended by 1982 Iowa Acts, chapter 1260, section 100.

Sec. 5. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1982, and ending June 30, 1983, to the department of social services for state supplementary assistance two hundred twelve thousand (212,000) dollars, or so much thereof as is necessary, to be used for the same purposes and to supplement funds appropriated by 1981 Iowa Acts, chapter 7, section 3, subsection 6, as amended by 1982 Iowa Acts, chapter 1260, section 102.

Sec. 6. The appropriation from the general fund of the state for the fiscal year beginning July 1, 1982, and ending June 30, 1983, to the department of social services for foster care under 1981 Iowa Acts, chapter 7, section 3, subsection 9, as amended by 1982 Iowa Acts, chapter 1260, section 104, is reduced by eight hundred thousand (800,000) dollars.

Sec. 7. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1982, and ending June 30, 1983, to the department of social services for community-based services seven hundred forty-five thousand (745,000) dollars, or so much thereof as is necessary, to be used for the same purposes and to supplement funds appropriated by 1981 Iowa Acts, chapter 7, section 3, subsection 10, as amended by 1982 Iowa Acts, chapter 1260, section 106.

Sec. 8. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1982, and ending June 30, 1983, to the department of social services, thirty thousand (30,000) dollars, or so much thereof as is necessary, for the distribution of federal surplus commodities, including salaries and support, maintenance, and miscellaneous purposes.

Sec. 9. 1982 Iowa Acts, chapter 1262, section 14, is amended by adding the following new subsection:

**NEW SUBSECTION. 4.** If the social services block grant funds received from the federal government exceed the amount appropriated in section 5 of this Act, the excess shall be prorated to the appropriate programs according to the percentages of the funds allocated to the programs by that section, except excess funds shall not be prorated for administrative expenses. State funds in the same amount as the excess federal social services block grant funds shall revert to the general fund of the state.

Sec. 10. There is appropriated from the fund created by section 8.41 to the department of social services for the division of field operations, seven hundred thirty thousand (730,000) dollars for the federal fiscal year beginning October 1, 1982, and ending September 30, 1983, to be used for the same purposes and to supplement funds appropriated by 1982 Iowa Acts, chapter 1262, section 5, subsection 3, paragraph a. The funds appropriated by this section are the anticipated funds to be received from the federal government pursuant to the federal Emergency Jobs Appropriations Act, Pub. L. No. 98-8. State funds shall not revert to the general fund of the state as a result of the federal funds received under this section, notwithstanding section 9 of this Act.

Sec. 11. This Act, being deemed of immediate importance, takes effect from and after its publication in the Storm Lake Pilot-Tribune, a newspaper published in Storm Lake, Iowa, and in the Oskaloosa Daily Herald, a newspaper published in Oskaloosa, Iowa.

Approved May 17, 1983.

I hereby certify that the foregoing Act, Senate File 546 was published in the Storm Lake Pilot-Tribune, Storm Lake, Iowa on May 18, 1983 and in the Oskaloosa Daily Herald, Oskaloosa, Iowa, on May 18, 1983.

MARY JANE ODELL, *Secretary of State*

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## CHAPTER 193

### MERIT COMPENSATION RATES STUDY APPROPRIATION

*H.F. 645*

**AN ACT** making an appropriation to the Iowa merit employment department to conduct a study of merit compensation rates based on comparable worth.

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

Section 1. For the purpose of funding House File 313, providing for a study of the Iowa merit system to determine if the rates of compensation in the pay plan are based on comparable worth of work as measured by the composite of the skill, effort, responsibility, and working conditions normally required in the performance of the work, there is appropriated from the general fund of the state for the fiscal year beginning July 1, 1983 to the Iowa merit employment department, the sum of one hundred fifty thousand (150,000) dollars, or so much thereof as may be necessary, to pay for the costs of the study. The amount appropriated under this section shall be reduced by any amount made available for the conduct of the study by the legislative council before July 1, 1983.

Approved May 31, 1983

**CHAPTER 194**  
**APPROPRIATION OF FEDERAL BLOCK GRANT FUND**  
*S.F. 556*

**AN ACT** appropriating federal funds made available from federal block grants, allocating portions of federal block grants, and providing procedures if federal funds are more or less than anticipated or if federal block grants are more or less than anticipated or if categorical grants are consolidated into new or existing block grants.

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

**DIVISION I**

**Section 1. ALCOHOL AND DRUG ABUSE AND MENTAL HEALTH SERVICES APPROPRIATION.**

1. There is appropriated from the fund created by section 8.41 to the department of substance abuse, two million one hundred seventy-two thousand (2,172,000) dollars for the federal fiscal year beginning October 1, 1983, and ending September 30, 1984. The funds appropriated by this section are the anticipated funds to be received from the federal government for federal fiscal year 1984 under Pub. L. No. 97-35, Title IX, Subtitle A, which provides for the alcohol and drug abuse and mental health services block grant. The department shall expend the funds appropriated by this section as provided in the federal law making the funds available and in conformance with chapter 17A.

2. An amount not exceeding two hundred seventeen thousand two hundred (217,200) dollars of the funds appropriated in subsection 1 shall be used by the department of substance abuse for administrative expenses. From the funds set aside by this subsection for administrative expenses, the department of substance abuse 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 of substance abuse for the costs of the audit.

3. Eight and seventy-five hundredths percent of the funds appropriated in subsection 1 shall be transferred to the division of mental health, mental retardation, and developmental disabilities within the department of social services and allocated for community mental health centers.

4. After deducting the funds allocated in subsections 2 and 3, the remaining funds appropriated in subsection 1 shall be allocated according to the following percentages to supplement appropriations for the following programs within the department of substance abuse:

a. Drug abuse programs .....	38.89 percent
b. Alcohol abuse programs .....	38.89 percent
c. Alcohol and drug prevention programs .....	22.22 percent

Notwithstanding 1982 Iowa Acts, chapter 1262, section 7, subsection 3, the percentage distribution of the funds for the fiscal period beginning October 1, 1982 and ending September 30, 1983 shall be as follows:

a. Drug abuse programs .....	35.11 percent
b. Alcohol abuse programs .....	35.11 percent
c. Alcohol and drug prevention programs .....	20.06 percent

Nine and seventy-two hundredths percent of such funds shall be transferred to the division of mental health, mental retardation, and developmental disabilities within the department of social services and allocated for community mental health centers.

**Sec. 2. ALCOHOL AND DRUG ABUSE AND MENTAL HEALTH SERVICES SUPPLEMENTAL APPROPRIATION.**

1. There is appropriated from the fund created by section 8.41 to the department of substance abuse, the sum of one hundred forty-nine thousand (149,000) dollars for the federal fiscal period beginning October 1, 1982, and ending September 30, 1984. The funds appropriated by this section are the funds anticipated to be received from the federal government for the specified fiscal period under the federal Emergency Jobs Appropriations Act, Pub. L. No. 98-8. The department shall expend the funds appropriated by this section as provided in the federal law making the funds available and in conformance with chapter 17A.

2. Eight and seventy-five hundredths percent of the funds appropriated in subsection 1 shall be transferred to the division of mental health, mental retardation, and developmental disabilities within the department of social services and allocated for community mental health centers.

3. The additional funds appropriated in subsection 1 and allocated in subsection 2 shall not be prorated for administrative expenses.

**Sec. 3. MATERNAL AND CHILD HEALTH SERVICES APPROPRIATIONS.**

1. There is appropriated from the fund created by section 8.41 to the state department of health, the sum of four million two hundred sixty-one thousand one hundred fifty-two (4,261,152) dollars for the federal fiscal year beginning October 1, 1983, and ending September 30, 1984. The funds appropriated by this section are the funds anticipated to be received from the federal government for federal fiscal year 1984 under Pub. L. No. 97-35, Title XXI, Subtitle D, which provides for the maternal and child health services block grant. The department shall expend the funds appropriated by this section as provided in the federal law making the funds available and in conformance with chapter 17A.

2. Sixty-three percent of the funds appropriated in subsection 1 shall be allocated to supplement appropriations for maternal and child health programs within the personal and family health division of the state department of health. Of these funds, thirty thousand six hundred eighty (30,680) dollars shall be set aside for sudden infant death syndrome.

Thirty-seven percent of the funds appropriated in subsection 1 shall be transferred to the university of Iowa hospitals and clinics under the control of the state board of regents for regional and mobile child health specialty clinics.

3. An amount not exceeding one hundred fifty-five thousand nine hundred twelve (155,912) dollars of the funds allocated in subsection 2 to the state department of health shall be used by the state department of health for administrative expenses. From the funds set aside by this subsection for administrative expenses, the state department of health shall pay to the auditor of state an amount sufficient to pay the cost of auditing the use and administration of the state department of health's portion of the funds allocated in subsection 2. The auditor of state shall bill the state department of health for the costs of the audit.

**Sec. 4. TRANSFER OF FUNDS.** Those federal maternal and child health services block grant funds transferred from the federal preventive health and health services block grant funds under section 6, subsection 4 of this Act for the federal fiscal year beginning October 1, 1983, and ending September 30, 1984, are transferred to the division of personal and family health and to the university of Iowa hospitals and clinics under the control of the state board of regents for regional and mobile child health specialty clinics according to the percentages specified in section 2, subsection 2 of this Act.

**Sec. 5. MATERNAL AND CHILD HEALTH SERVICES SUPPLEMENTAL APPROPRIATION.**

1. There is appropriated from the fund created by section 8.41 to the state department of health, the sum of one million four hundred eleven thousand two hundred (1,411,200) dollars for the federal fiscal period beginning October 1, 1982, and ending September 30, 1984. The funds appropriated by this section are the funds anticipated to be received from the federal government for the specified fiscal period under the federal Emergency Jobs Appropriations Act, Pub. L. No. 98-8. The department shall expend the funds appropriated by this section as provided in the federal law making the funds available and in conformance with chapter 17A.

2. Sixty-three percent of the funds appropriated in subsection 1 shall be allocated to supplemental appropriations for maternal and child health programs within the personal and family health division of the state department of health. Thirty-seven percent of the funds appropriated in subsection 1 shall be transferred to the university of Iowa hospitals and clinics under the control of the state board of regents for regional and mobile child health speciality clinics. The personal and family health division of the state department of health and the regional and mobile child health specialty clinics at the university of Iowa hospitals and clinics under the council of the state board of regents shall jointly develop and implement a plan for the expenditure of these funds in accordance with this subsection. These funds shall be targeted, to the extent possible, to areas of high unemployment and to disadvantaged families who lack adequate third party reimbursement to pay for care.

3. The additional funds appropriated in subsection 1 and allocated in subsection 2 shall not be prorated for administrative expenses.

**Sec. 6. PREVENTIVE HEALTH AND HEALTH SERVICES APPROPRIATIONS.**

1. There is appropriated from the fund created by section 8.41 to the state department of health, one million three thousand six hundred eighteen (1,003,618) dollars for the federal fiscal year beginning October 1, 1983, and ending September 30, 1984. The funds appropriated by this section are the anticipated funds to be received from the federal government for federal fiscal year 1984 under Pub. L. No. 97-35, Title IX, Subtitle A, which provides for the preventive health and health services block grant. The department shall expend the funds appropriated by this section as provided in the federal law making the funds available and in conformance with chapter 17A.

2. An amount not exceeding ninety-three thousand three hundred thirty-six (93,336) dollars of the funds appropriated in subsection 1 shall be used by the state department of health for administrative expenses. From the funds set aside by this subsection for administrative expenses, the state department of health 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 state department of health for the costs of the audit.

3. Of the funds appropriated in subsection 1, the specific amount of funds required by Pub. L. No. 97-35, Title IX, Subtitle A, shall be allocated to the rape prevention program.

4. Pursuant to Pub. L. No. 97-35, Title IX, Subtitle A, seven percent of the funds appropriated in subsection 1 is transferred within the special fund in the state treasury established under section 8.41, for use by the state department of health as authorized by Pub. L. No. 97-35, Title XXI, Subtitle D and section 4 of this Act.

5. After deducting the funds allocated and transferred in subsections 2, 3, and 4, the remaining funds appropriated in subsection 1 shall be allocated according to the following percentages to supplement appropriations for the following programs within the following divisions of the state department of health:

- a. Disease prevention division for hypertension grants . . . . . 15.2 percent
- b. Disease prevention division for risk reduction services . . . . . 21.0 percent
- c. Community health division and disease prevention division  
for health incentive grants . . . . . 17.9 percent
- d. Community health division for emergency medical services . . . . . 30.0 percent
- e. Personal and family health division for fluoridation grants . . . . . 15.9 percent

#### DIVISION II

##### Sec. 7. COMMUNITY SERVICES APPROPRIATIONS.

1. a. There is appropriated from the special fund created in section 8.41 to the office for planning and programming, the sum of three million six hundred twenty-three thousand seventy-one (3,623,071) dollars for the federal fiscal year beginning October 1, 1983 and ending September 30, 1984. The funds appropriated by this paragraph are the anticipated funds to be received from the federal government for the federal fiscal year 1984 under Pub. L. No. 97-35, Title VI, Subtitle B, which provides for the community services block grant. The office for planning and programming shall expend the funds appropriated by this paragraph as provided in the federal law and in conformance with chapter 17A.

b. The director of the office for planning and programming shall allocate not less than ninety percent of the amount of the block grant based upon the size of the poverty level population in the community action area compared to the size of the poverty level population in the state. The director of the office for planning and programming after consultation with community action agencies shall allocate an amount not exceeding five percent of the amount of financial assistance based upon other measures of need in each community action area.

2. An amount not exceeding one hundred sixty thousand nine hundred seventy-one (160,971) dollars of the funds appropriated in subsection 1 shall be used by the office for planning and programming for administrative expenses. From the funds authorized under this subsection for administrative expenses, the office for planning and programming 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 office for planning and programming for the costs of the audit.

##### Sec. 8. COMMUNITY DEVELOPMENT APPROPRIATIONS.

1. There is appropriated from the special fund created in section 8.41 to the office for planning and programming, the sum of twenty-four million seven hundred seventy-five thousand (24,775,000) dollars for the federal fiscal year beginning October 1, 1983 and ending September 30, 1984. The funds appropriated by this section are the anticipated funds to be received from the federal government under Pub. L. No. 97-35, Title III, Subtitle A, which provides for the community development block grant. The office for planning and programming shall expend the funds appropriated by this paragraph as provided in the federal law and in conformance with chapter 17A.

2. An amount not exceeding nine hundred twenty-five thousand one hundred eighty (925,180) dollars shall be used by the office for planning and programming for administrative expenses. The total amount used for administrative expenses includes four hundred sixty-two thousand five hundred ninety (462,590) dollars of funds appropriated in subsection 1 and a matching contribution from the state equal to four hundred sixty-two thousand five hundred ninety (462,590) dollars from the appropriation of state funds for the community development block grant and state appropriations for related activities of the office for planning and programming. The total administrative expenses at the state level, from both federal and state sources, shall not exceed four percent of the amount appropriated in subsection 1. From the funds authorized for administrative expenses by this subsection, the office for planning and programming 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 office for planning and programming for the costs of the audit.

### DIVISION III

#### Sec. 9. EDUCATION APPROPRIATIONS.

1. There is appropriated from the fund created by section 8.41 to the department of public instruction for the federal fiscal year beginning July 1, 1983 and ending June 30, 1984, the amount received from Pub. L. No. 97-35, Title V, Subtitle D, chapter 2, which provides for the education block grant not to exceed five million four hundred thirty-three thousand (5,433,000) dollars. The department shall expend the funds appropriated by this section as provided in the federal law making the funds available and in conformance with chapter 17A.

2. Twenty percent of the funds appropriated in subsection 1, not to exceed one million eighty-six thousand six hundred (1,086,600) dollars, shall be used by the department for basic skills development, state leadership and support services, educational improvement and support services, special projects, and state administrative expenses and auditing. However, not more than two hundred twenty-five thousand (225,000) dollars shall be used by the department for state administrative expenses.

3. Eighty percent of the funds appropriated in subsection 1 shall be allocated by the department to local educational agencies in this state, as local educational agency is defined in Pub. L. No. 97-35, Title V, Subtitle D. The amount allocated under this subsection shall be allocated to local educational agencies according to the following percentages and enrollments:

a. Seventy-five percent shall be allocated on the basis of enrollments in public and approved nonpublic schools.

b. Twenty percent shall be allocated on the basis of the number of disadvantaged children in local educational agencies whose incidence ratio for disadvantaged children is above the state average incidence ratio.

c. Five percent shall be allocated on the basis of the number of limited English speaking children whose language imposes a barrier to learning.

Sec. 10. Funds appropriated in section 9 of this Act shall not be used to aid schools or programs that illegally discriminate in employment or educational programs on the basis of sex, race, color, national origin, or disability.

### DIVISION IV

#### Sec. 11. LOW-INCOME HOME ENERGY ASSISTANCE APPROPRIATIONS.

1. There is appropriated from the fund created by section 8.41 to the energy policy council, the sum of thirty-six million seven hundred thousand (36,700,000) dollars for the federal fiscal year beginning October 1, 1983 and ending September 30, 1984. The funds appropriated by this section are the funds anticipated to be received from the federal government for the federal fiscal year 1984 under Pub. L. No. 97-35, Title XXVI, which provides for the low-income home energy assistance block grant. The energy policy council shall expend the funds appropriated by this section as provided in the federal law making the funds available and in conformance with chapter 17A.

2. An amount not exceeding two million seven hundred fifty thousand (2,750,000) dollars or nine percent of the funds appropriated in subsection 1, whichever is less, may be used for administrative expenses not more than two hundred eighty thousand (280,000) dollars of which shall be used for administrative expenses of the energy policy council. From the total funds set aside by this subsection for administrative expenses, 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 shall bill the energy policy council for the costs of the audit.

3. The remaining funds appropriated in this section shall be allocated to help eligible households, as defined in accordance with Pub. L. No. 97-35, to meet the costs of home energy. However, at least twelve and one-half percent and not more than fifteen percent of the funds appropriated by this section shall be used for low-income residential weatherization or other related home repairs for low-income households. The funds transferred to low-income weatherization shall include money for administrative expenses.

DIVISION V

Sec. 12. SOCIAL SERVICES APPROPRIATIONS.

1. There is appropriated from the fund created by section 8.41 to the department of social services or its successor agency, the sum of thirty-one million three hundred thirty-four thousand (31,334,000) dollars for the federal fiscal year beginning October 1, 1983 and ending September 30, 1984. Funds appropriated by this section are the funds anticipated to be received from the federal government for the federal fiscal year 1984 under Pub. L. No. 97-35, Title XXIII, Subtitle C, as codified in 42 U.S.C., secs. 1397-1397f, which provides for the social services block grant. The department of social services shall expend the funds appropriated by this section as provided in the federal law making the funds available and in conformance with chapter 17A.

2. Not more than one million nine hundred forty-two thousand seven hundred eight (1,942,708) dollars of the funds appropriated in subsection 1 shall be used by the department of social services for general administration for the federal fiscal year beginning October 1, 1983 and ending September 30, 1984. From the funds set aside by this subsection for general administration, the department of social 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. The auditor of state shall bill the department of social services for the costs of the audit.

3. In addition to the allocation for general administration in subsection 2, the remaining funds appropriated in subsection 1 shall be allocated to supplement appropriations for the federal fiscal year beginning October 1, 1983 and ending September 30, 1984 for the following programs within the department of social services:

	1983-1984
	Federal
	<u>Fiscal Year</u>
a. Field operations .....	\$ 12,457,000
b. Home-based services .....	\$ 143,000
c. Foster care .....	\$ 4,533,000
d. Protective day care .....	\$ 681,700
e. Purchase of local services .....	\$ 11,452,592
f. Volunteers .....	\$ 124,000

4. The social services block grant state advisory committee, formerly known as the Title XX state advisory committee, and the social services block grant district advisory committees, formerly known as the Title XX district advisory committees, shall continue to advise the department of policy matters with respect to the social services block grant funds allocated by the federal government to this state through June 30, 1984.

Sec. 13. ADDITIONAL FUNDS. There is appropriated from the fund created by section 8.41, from those federal social services block grant funds allocated to this state from the federal Emergency Jobs Appropriations Act, Pub. L. No. 98-8 for the fiscal year beginning July 1, 1983, and ending June 30, 1984, to the department of social services, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

Allocation from the Emergency Jobs  
Appropriations Act, Pub. L. No. 98-8

	<u>1983-1984 Fiscal Year</u>
1. For the division of field operations .....	\$ 125,000
2. For home-based services .....	\$ 100,000
3. For the purchase of local services, with an emphasis on the provision of child day care ser- vices .....	\$ 1,342,000

A county which uses a portion of its share of funds appropriated under this subsection for child day care services is not required to match that portion of the funds with local funds. All other funds appropriated under this subsection shall be matched by the county at a ratio of one dollar of local funds for every three dollars of funds appropriated under this subsection. The department may raise the income guidelines for income eligible recipients of child day care services to those guidelines in effect during July, 1979. The department of social services shall adopt administrative rules under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph b, to implement this subsection.

4. For volunteers .....	\$ 40,000
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Sec. 14. SOCIAL SERVICES BLOCK GRANT PLAN. The department of social services shall develop a plan for the use of federal social services block grant funds for the state fiscal year beginning July 1, 1984 and ending June 30, 1985.

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.

DIVISION VI

Sec. 15. PROCEDURE FOR REDUCED FEDERAL FUNDS.

1. Except for section 9 of this Act, if the funds received from the federal government for the block grants specified in this Act are less than the amounts appropriated, the funds actually received shall be prorated by the governor for the various programs, other than for the rape prevention program under section 6, subsection 3 of this Act, for which each block grant is available according to the percentages that each program is to receive as specified in this Act. However, if the governor determines that the funds allocated by the percentages will not be sufficient to effect the purposes of a particular program, or if the appropriation is not allocated by percentage, the governor may allocate the funds in a manner which will effect to the greatest extent possible the purposes of the various programs for which the block grants are available.

2. Before the governor implements the actions provided for in subsection 1, the following procedures shall be taken:

a. The chairpersons and ranking members of the standing committees of the senate and house on appropriations, the director of the legislative fiscal bureau, and the appropriate chairpersons and ranking members of subcommittees of those subcommittees shall be notified of the proposed action.

b. The notice shall include the proposed allocations, and information on the reasons why particular percentages or amounts of funds are allocated to the individual programs, the departments and programs affected, and other information deemed useful. Chairpersons notified shall be allowed at least two weeks to review and comment on the proposed action before the action is taken.

**Sec. 16. PROCEDURE FOR INCREASED FEDERAL FUNDS.**

1. If funds received from the federal government in the form of block grants exceed the amounts appropriated in sections 1, 3, 6, and 9, subsection 3, 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 in the form of block grants exceed the amounts appropriated in sections 7, 8 and section 9, subsection 2 of this Act, the excess shall be deposited in the special fund created in section 8.41 and is subject to appropriation by the general assembly.

3. If funds received from the federal government from block grants exceed the amounts appropriated in section 11 of this Act, at least twelve and one-half percent and not more than fifteen percent of the excess shall be allocated to the low-income weatherization program.

4. If funds received from the federal government from the social services block grant, excluding funds allocated to this state from the federal Emergency Jobs Appropriations Act, Pub. L. No. 98-8, exceed the amount appropriated in section 12 of this Act, the excess shall be allocated for the purchase of local services and the department of social services may waive the requirement of local matching funds.

**Sec. 17. PROCEDURE FOR CONSOLIDATED, CATEGORICAL, OR EXPANDED FEDERAL BLOCK GRANTS.** Notwithstanding section 8.41, federal funds made available to the state which are authorized for the federal fiscal year beginning October 1, 1983 resulting from the federal government consolidating former categorical grants into block grants, or which expand block grants included in Pub. L. No. 97-35, to include additional programs formerly funded by categorical grants, which are not otherwise appropriated by the general assembly, are appropriated for the programs formerly receiving the categorical grants, subject to the conditions of this section. The governor shall, whenever possible, allocate from the block grant to each program in the same proportion as the amount of federal funds received by the program during the 1983 federal fiscal year as modified by the 1983 Session of the Seventieth General Assembly for the fiscal year beginning July 1, 1983 compared to the total federal funds received in the 1983 federal fiscal year by all programs consolidated into the block grant. However, if one agency did not have categorical funds appropriated for the federal fiscal year ending September 30, 1983 but had anticipated applying for funds during the fiscal year ending September 30, 1984, the governor may allocate the funds in order to provide funding.

If the amount received in the form of a consolidated or expanded block grant is less than the total amount of federal funds received for the programs in the form of categorical grants for the 1983 federal fiscal year, state funds appropriated to the program by the general assembly to match the federal funds shall be reduced by the same proportion of the reduction in federal funds for the program. State funds released by the reduction shall be deposited in a special fund in the state treasury and are available for appropriation by the general assembly. The governor shall notify the chairpersons and ranking members of the senate and house standing committees on appropriations, the legislative fiscal director, and the appropriate chairpersons and ranking members of the subcommittees of those committees before making the allocation of federal funds or any proportional reduction of state funds under this section. The notice shall state the amount of federal funds to be allocated to each program, the amount of federal

funds received by the program during the 1983 federal fiscal year, the amount by which state funds for the program will be reduced according to this section and the amount of state funds received by the program during the 1983 fiscal year. Chairpersons notified shall be allowed at least two weeks to review and comment on the proposed action before the action is taken.

If the amount received in the form of a consolidated or expanded block grant is more than the total amount of federal funds received for the programs in the form of categorical grants for the 1983 federal fiscal year, the excess funds shall be deposited in the special fund created in section 8.41 and are subject to the provisions of that section.

**Sec. 18. PROCEDURE FOR FUTURE FEDERAL ACTIONS.**

1. If federal block grant funding is increased or decreased for the federal fiscal year following the year for which the block grants are appropriated by this Act, the actions prescribed in sections 15 and 16 of this Act shall be modified by the governor as allowed by federal law in order that a consistent plan will be available for the affected state fiscal years.

2. Before the governor implements the actions provided for in subsection 1, the following procedures shall be taken:

a. The chairpersons and ranking members of the senate and house standing committees on appropriations, the appropriate chairpersons and ranking members of subcommittees of those committees, and the director of the legislative fiscal bureau shall be notified of the proposed action.

b. The notice shall include the proposed allocations, information on the reasons why particular percentages or amounts of funds are allocated to the individual programs, the departments and programs affected, and other information deemed useful. Chairpersons notified shall be allowed at least two weeks to review and comment on the proposed action before the action is taken.

**Sec. 19.** 1982 Iowa Acts, chapter 1262, division I, section 1, subsection 1, unnumbered paragraph 2, is amended by striking the unnumbered paragraph and inserting in lieu thereof the following:

The director of the office for planning and programming shall allocate not less than ninety percent of the amount of the block grant based upon the size of the poverty level population in the community action area compared to the size of the poverty level population in the state. The director of the office for planning and programming after consultation with community action agencies shall allocate an amount not exceeding five percent of the amount of the block grant based upon other measures of need in each community action area.

**Sec. 20.** 1982 Iowa Acts, chapter 1262, section 4, subsections 1 and 3, are amended to read as follows:

1. There is appropriated from the fund created by ~~1981 Iowa Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 17, section 3, subsection 1, to the energy policy council, the sum of thirty-two million five hundred thousand (32,500,000)~~ thirty-six million seven hundred nineteen thousand eight hundred (36,719,800) dollars for the fiscal period beginning October 1, 1982 and ending September 30, 1983. The funds appropriated by this section are the anticipated funds to be received from the federal government for federal fiscal year 1983 under Pub. L. No. 97-35, Title XXVI, which provides for the low-income home energy assistance block grants. The energy policy council shall expend the funds appropriated by this section as provided in the federal law making the funds available and in conformance with chapter 17A.

3. The remaining funds appropriated in this section shall be allocated to help eligible households, as defined in accordance with Pub. L. No. 97-35, to meet the costs of home energy. However, at least ten twelve and one-half percent and not more than fifteen percent of the funds appropriated by this section shall be used to provide for low-income residential weatherization or other related home repairs for low-income households. If any low-income

home energy assistance block grant funds are unexpended for home energy costs, and after reserving a reasonable portion of the funds, not to exceed one million dollars, to carry forward into the federal fiscal year beginning October 1, 1983, the unexpended funds shall be allocated for low-income residential weatherization or other related home repairs for low-income households, up to the maximum of fifteen percent. The funds transferred to low-income weatherization shall include money for administrative expenses.

Sec. 21. 1982 Iowa Acts, chapter 1262, section 14, subsection 2, is amended to read as follows:

2. If funds received from the federal government from block grants exceed the amounts appropriated in sections 1, 3, and section 11, subsection 2 of this Act, the excess shall be deposited in the special fund created in Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 17, section 3 and be subject to appropriation by the general assembly.

Sec. 22. 1982 Iowa Acts, chapter 1262, section 14, subsection 3, is amended by striking the subsection.

Sec. 23. 1982 Iowa Acts, chapter 1262, section 14, is amended by adding the following new subsections:

NEW SUBSECTION. 4. If funds received from the federal government from community services block grants exceed the amounts appropriated in section 1 of this Act, one hundred percent of the excess is appropriated to the community services block grant program.

NEW SUBSECTION. 5. If funds received from the federal government from community development block grants exceed the amounts appropriated in section 3 of this Act, one hundred percent of the excess is appropriated to the community development block grant program. Not more than two percent of the excess may be used for additional administrative expenses if the amount is equally matched by the state appropriation for related activities of the office for planning and programming.

Sec. 24. A reference in this Act to the department of social services shall be construed to mean the department of human services, consistent with the intent of Senate File 464, if Senate File 464 is enacted into law. The state comptroller shall transfer funds appropriated to the department of social services by this Act to the department of human services under the conditions of this section.

Approved May 31, 1983

**CHAPTER 195**  
**CAPITAL PROJECTS AND NONRECURRING EXPENSES**  
*S.F. 551*

**AN ACT** relating to and making appropriations to state agencies relating to and for capital projects and certain nonrecurring expenses.

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

**DIVISION I**

Section 1. There is appropriated to the state board of regents for the fiscal year beginning July 1, 1983 and ending June 30, 1984 from the following funds, the following amounts, or so much thereof as necessary, for allocation by the state board of regents for the purpose of continuing its statewide energy management program:

		1983-1984
		<u>Fiscal Year</u>
From the general fund .....	\$	600,000

Sec. 2. There is appropriated from the federal oil overcharge funds apportioned to Iowa under Pub. L. No. 97-377, to the energy policy council, the sum of five hundred seventy-five thousand (575,000) dollars, or so much thereof as is necessary, to be used in conjunction with the funds appropriated to the board of regents under section one of this Act.

Sec. 3. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1983 and ending June 30, 1984, to the state board of regents, the sum of eight million nine hundred five thousand (8,905,000) dollars, or so much thereof as necessary, for allocation by the state board of regents to the state university of Iowa, the Iowa state university of science and technology, the university of northern Iowa, and the Iowa braille and sight-saving school to undertake the following capital projects:

1. State university of Iowa:
  - a. Fire safety deficiency corrections.
  - b. Communications facility and field house/athletic office building equipment.
  - c. Chemistry/botany remodeling.
2. Iowa state university of science and technology:
  - a. Fire safety deficiency corrections.
  - b. Mechanical engineering equipment.
  - c. Planning for phase 2 of the college of education building.
3. University of northern Iowa:
  - a. Fire safety deficiency corrections.
  - b. Gilchrist hall renovations.
4. Iowa braille and sight-saving school:
 

Utility system master plan and other campus improvements.

Sec. 4. It is the intent of the general assembly that if the funds are available in the 1984-1985 fiscal year, up to one hundred twenty-five thousand (125,000) dollars may be appropriated to the state board of regents for the planning phase of the home economics building at Iowa state university of science and technology.

Sec. 5. Unobligated or unencumbered funds remaining on June 30, 1986, from funds appropriated by section 1 of this Act shall revert to the general fund of the state on September 30, 1986. Unobligated or unencumbered funds remaining on June 30, 1987, from funds appropriated by section 3 of this Act shall revert to the general fund of the state on September 30, 1987.

Sec. 6. There is appropriated from the general fund of the state to the following state agencies for the fiscal year beginning July 1, 1983, and ending June 30, 1984, the following amounts, or so much as may be necessary, to be used in the manner designated:

		<u>1983-1984</u> <u>Fiscal Year</u>
<b>1. COMMISSION FOR THE BLIND</b>		
<b>a. Purchase and installation of an automated energy management system</b>		
energy management system	\$	11,480
b. Rebuilding of the cooling tower	\$	840
c. Reroofing the third and fourth floors	\$	4,404
<b>2. IOWA DEPARTMENT OF PUBLIC BROADCASTING</b>		
Replacement of strobe light system	\$	100,000

Sec. 7. If the governor finds that the estimated budget resources during the fiscal year beginning July 1, 1983 and ending June 30, 1984 are insufficient to pay all appropriations in full and the governor's findings are concurred in by the executive council, the governor shall not make any reductions in allotment as allowed under section 8.31 until the unencumbered funds appropriated by this division are included in the estimated budget resources. Upon inclusion of the unencumbered funds appropriated in this division in the estimated budget resources, the capital projects shall be terminated if the termination will not result in increased future expenditures for the project being terminated, and any funds not encumbered for the capital projects shall remain in the general fund of the state and shall not be expended for the capital projects.

If upon inclusion of the funds appropriated by this division in the estimated budget resources for the fiscal year beginning July 1, 1983 and ending June 30, 1984 as authorized by this section, the governor finds that the estimated budget resources during the fiscal year are insufficient to pay all appropriations in full and the executive council concurs in the governor's findings, the governor may make the reductions of allotments allowed under section 8.31.

#### DIVISION II

##### Sec. 8.

1. There is appropriated from the general fund of the state to the department of human services, division of adult corrections, for the fiscal year beginning July 1, 1983, and ending June 30, 1984, the sum of eight hundred fifty-two thousand (852,000) dollars, or so much thereof as necessary for capital improvements at the Iowa state penitentiary to bring the penitentiary into compliance with the federal court order which requires such improvements, for construction at the Luster Heights work camp, for construction of an Iowa state industries' laundry facility at the medium security correctional facility at Mt. Pleasant and to renovate a bathroom for use of the handicapped at the Iowa correctional institution for women, however, it is a condition of this appropriation that if funds for each project are not allocated the total sum appropriated shall revert to the general fund of the state.

It is the intent of the general assembly that additional beds at Luster Heights are to be used to reduce the inmate population by an equivalent number at Anamosa. The department shall utilize inmate labor where feasible on the construction projects at the Luster Heights work camp and at the medium security correctional facility at Mt. Pleasant.

2. The funds allocated by this section for use at the Iowa state penitentiary and five hundred thousand (500,000) dollars of the funds appropriated for capital improvements at the Iowa state penitentiary by House File 184, section 9, subsection 3, 1983 Iowa Acts, shall be used by the department for capital improvements, including major maintenance projects, at the Iowa state penitentiary to bring the penitentiary into compliance with the federal court order which requires such improvements to safeguard the rights of inmates incarcerated at the penitentiary.

3. Any future notice for requests for bids and letting of construction contracts, pursuant to section 218.60, for a project at a state institution under the control of the department of human services, division of adult corrections, shall state that the department retains the option of using inmate labor where feasible and not inconsistent with the terms of the contract. It is the intent of the general assembly that the department of human services, division of adult corrections, utilize inmate labor where feasible on any construction and demolition projects at the state institutions under the control of the department.

Sec. 9.

1. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1983, and ending June 30, 1984 for capital improvements, including major maintenance projects, at the institutions under the control of the department of human services, the following amount, or so much thereof as is necessary:

	1983-1984
	Fiscal Year
\$	978,000

Funds appropriated by this section shall be used by the department for capital improvements to correct life safety, fire code, and accreditation deficiencies at the mental health institutes at Cherokee and Independence and at the state training school.

Sec. 10. Unobligated or unencumbered funds appropriated by sections 8 and 9 of this Act for the fiscal year beginning July 1, 1983, and ending June 30, 1984, remaining on June 30, 1987, shall revert to the general fund of the state on September 30, 1987. However, if the projects for which these funds are appropriated are completed prior to June 30, 1987, the remaining unobligated or unencumbered funds shall revert to the general fund of the state on September 30 following the end of the fiscal year in which the projects are completed.

Sec. 11. The department of human services may expend during the fiscal year beginning July 1, 1983, and ending June 30, 1984, fifteen thousand (15,000) dollars remaining from the funds appropriated under 1981 Iowa Acts, chapter 11, section 11, subsection 1 to develop final plans for the reconstruction of the Loftus building at the Iowa veterans home.

It is the intent of the general assembly that the general assembly meeting in the year 1984 shall appropriate an additional one hundred seventy thousand (170,000) dollars for completion of the reconstruction of the Loftus building at the Iowa veterans home.

DIVISION III

Sec. 12. There is appropriated from the general fund of the state to the following state agencies for the fiscal year, except as otherwise provided, beginning July 1, 1983, and ending June 30, 1984, the following amounts, or so much as may be necessary, to be used in the manner designated:

	1983-1984
	Fiscal Year
1. DEPARTMENT OF GENERAL SERVICES	
a. For the payment of statehouse renovation costs .....	
\$	500,000

b. For emergency major repairs or-replacements of equipment, roofs or windows .....	\$	45,000
c. For the renovation and remodeling of the fourth floor of the Robert Lucas building .....	\$	500,000
d. For repair of the roof of the vehicle dispatcher building and the repair of the roof of the micrographics building .....	\$	94,500
e. For the installation of individual water heaters in capitol complex buildings .....	\$	61,600
f. For replacement of the incandescent lamps in the upper portions of the capitol .....	\$	5,250
g. For automation of the north capitol elevator .....	\$	13,500
h. For the purchase and installation of a fire alarm system in the capitol building .....	\$	136,000
*i. For moving of the auditor of state's staff and furnishings .....	\$	125,000*
*j. For moving of the treasurer of state's staff and furnishings .....	\$	125,000*

## 2. IOWA STATE HISTORICAL DEPARTMENT

a. For the replacement and upgrading of electrical service to the state historical building .....	\$	85,000
b. For repair of the roof and dome of the state historical building .....	\$	100,000
c. For construction of a handicapped entrance to the centennial building in Iowa City .....	\$	13,000
d. For the renovation of restroom and drinking facilities in the state historical building to make them accessible to handicapped persons .....	\$	10,000
e. For construction of a handicapped entrance ramp to the state historical building .....	\$	5,000

## 3. EXECUTIVE COUNCIL

For the state's share of the city of Cedar Falls 1981 asphalt concrete resurfacing project covered under section 307A.5 .....	\$	29,824
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Sec. 13. There is appropriated from the general fund of the state to the state historical department for the fiscal year beginning July 1, 1984 and ending June 30, 1985, the following amount, or so much thereof as necessary, to be used for the purposes designated:

1984-1985  
Fiscal Year

For the construction of a new state historical building .....	\$	10,000,000
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Funds appropriated by this section are provided as a state match of two dollars of state match for each one dollar of private funds actually acquired excluding the Herrick bequest.

\*Item veto; see message at end of this Act

Funds appropriated by this section shall not be committed or expended without the prior written approval of the director of the department of general services.

Sec. 14. Notwithstanding section 8.33, unobligated or unencumbered funds appropriated under section 12, subsection 1, paragraphs a and b of this Act remaining as of June 30, 1984, shall be available for expenditure during the fiscal year beginning July 1, 1984 and if not expended shall revert to the general fund of the state on September 30, 1985.

DIVISION IV

Sec. 15. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1983 and ending June 30, 1984 to the following agencies the following amounts, or so much thereof as may be necessary, for the purposes designated:

<b>1. STATE GEOLOGICAL SURVEY</b>	
For safety devices at the Oakdale facility .....	\$ 3,000
<b>2. STATE FAIR BOARD</b>	
a. For the acquisition of adjacent land .....	\$ 10,000
b. For roof replacement and electrical system improvement .....	\$ 240,000
<b>3. STATE CONSERVATION COMMISSION</b>	
a. For the Saylorville greenbelt .....	\$ 500,000
b. For Swan lake restoration .....	\$ 110,000
c. For construction, replacement, development and alterations to state parks and preserves, state forest facilities and state waters including artificial lake development; shoreline erosion and siltation control; river, stream and lake access; and engineering and planning services or to supplement any prior appropriation for such purposes .....	\$ 906,500

Sec. 16. Funds appropriated by section 15 of this Act which are not obligated or encumbered on June 30, 1984 shall revert to the general fund on September 30, 1984. The appropriation of funds in section 15, subsection 3, of this Act is contingent upon matching federal resources being made available for each project funded. All federal grants to and the federal receipts of the agencies appropriated funds under section 15 of this Act are appropriated for the purposes set forth in the federal grants or receipts.

DIVISION V

Sec. 17. There is appropriated from the general fund of the state to the state comptroller for the fiscal year beginning July 1, 1983 and ending June 30, 1984, the sum of two hundred fifty thousand (250,000) dollars, or so much thereof as is necessary to pay costs for the purchase of fuel and electricity which exceed the amounts appropriated to the various state agencies from the general fund for the purchase of fuel and electricity. The funds or any portion of the funds shall not be allocated to a state agency unless the state comptroller determines the agency's costs for the purchase of fuel and electricity exceed the amounts appropriated for the fiscal year beginning July 1, 1983 and the agency is either developing an energy conservation plan in consultation with the energy policy council, or is implementing, or has implemented, an energy conservation plan which has been approved by the energy policy council and the state comptroller determines that other money is not available to the agency for fuel or electricity purposes.

Sec. 18. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1983 and ending June 30, 1984 to the treasurer of state the sum of one hundred thirty-nine thousand (139,000) dollars, or so much thereof as necessary, to be used for the purchase of an investment machine and system.

\*Sec. 19. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1983 and ending June 30, 1984, to the Iowa lottery agency, the sum of two million (2,000,000) dollars, or so much thereof as may be necessary, to be used to initiate a state lottery. Notwithstanding section 8.31 the Iowa lottery agency may draw funds as required to initiate the lottery within the limits of the appropriation until the lottery generates sufficient revenue to become self-supporting. The Iowa lottery agency shall reimburse the general fund for the total amount of funds received under this section within sixty days of the date funds are no longer necessary to initiate the lottery or within sixty days of June 30, 1984, whichever is sooner.\*

Sec. 20. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1983 and ending June 30, 1984, to the state racing commission, the sum of three hundred thousand (300,000) dollars, or so much thereof as necessary, for salaries, support, maintenance, and operational purposes of the commission.

DIVISION VI

Sec. 21. There is appropriated from the following funds for the fiscal year beginning July 1, 1983 and ending June 30, 1984 to the department of public defense, military division, the following amounts, or so much thereof as necessary, to be used to build an armory in Dubuque, Iowa and an armory in Washington, Iowa:

	1983-1984
	<u>Fiscal Year</u>
From the general fund .....	\$ 150,000
From the facilities improvement fund created in section 29A.14, subsection 2 .....	\$ 530,000

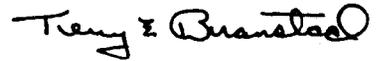
Sec. 22. There is appropriated from the general fund of the state to the department of public safety for the fiscal year beginning July 1, 1983 and ending June 30, 1984 the following amount, or so much thereof as necessary, to be used for the purposes designated:

	1983-1984
	<u>Fiscal Year</u>
For a hard surface parking lot at highway patrol post 11 in Cedar Rapids .....	\$ 25,000

Sec. 23. Section 173.14, Code 1983, is amended by adding the following new subsection: NEW SUBSECTION. With the approval of the executive council, purchase real estate adjacent to the state fairgrounds for use in conjunction with the state fairgrounds. A purchase of real estate may be made by written contract providing for payment over a period of years. The obligations of the contract shall constitute a debt or charge against the state fair board but not against the general fund of the state. The title to real estate acquired under this subsection and any improvements erected on the real estate shall be taken and held in the name of the state of Iowa and shall be under the custody and control of the state fair board. The state comptroller shall transfer moneys to the appropriate agencies in order to carry out the intent of this section.

\*Item veto; see message at end of this Act

Approved June 2, 1983, except the three items which I hereby disapprove and which are designated as Section 12, subsection 1, paragraph i; Section 12, subsection 1, paragraph j; and Section 19 which are herein bracketed in ink and initialed by me. These are all delineated with my reasons for vetoing in the item veto message pertaining to this Act to the Secretary of State this same date, a copy of which is attached hereto.



TERRY E. BRANSTAD  
Governor

The Honorable Mary Jane Odell  
 Secretary of State  
 State Capitol Building  
 L O C A L

Dear Madam Secretary:

I hereby transmit Senate File 551, an act relating to and making appropriations to state agencies relating to and for capital projects and certain nonrecurring expenses.

Senate File 551 is approved June 2, 1983, with the following exceptions which I hereby disapprove.

I am unable to approve the items designated in the Act as Section 12, subsection 1, paragraphs i and j, which reads as follows:

i. For moving of the auditor of state's staff and furnishings .....	\$ 125,000
j. For moving of the treasurer of state's staff and furnishings .....	\$ 125,000

I am unable to approve the item designated in the Act as Section 19 which reads as follows:

Sec. 19. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1983 and ending June 30, 1984, to the Iowa lottery agency, the sum of two million (2,000,000) dollars, or so much thereof as may be necessary, to be used to initiate a state lottery. Notwithstanding section 8.31 the Iowa lottery agency may draw funds as required to initiate the lottery within the limits of the appropriation until the lottery generates sufficient revenue to become self-supporting. The Iowa lottery agency shall reimburse the general fund for the total amount of funds received under this section within sixty days of the date funds are no longer necessary to initiate the lottery or within sixty days of June 30, 1984, whichever is sooner.

Senate File 551 includes two provisions to appropriate \$125,000 each to the Auditor and the Treasurer for moving the staff and furnishings of those offices out of the Capitol Building. These provisions requiring the move were included in Senate File 530. I disapproved those provisions for the reasons outlines in a letter accompanying the bill. Since the move is no longer required by law, there is no reason to appropriate \$250,000 for that purpose.

This bill also contains a section which appropriates \$2 million to the Iowa lottery agency to be used as start-up costs for the state lottery approved by the legislature in House File 634. Since I disapproved House File 634 for reasons stated in a letter accompanying the bill, there is no further reason to make this appropriation.

These actions will save the state \$2.25 million in appropriations for fiscal year 1984. These reductions are fiscally prudent since the General Assembly exceeded my spending recommendations by over \$12 million.

For these reasons, I hereby disapprove these items in accordance with Amendment 4 of the Amendments of 1968 to the Constitution of the State of Iowa. All other items of Senate File 551 are hereby approved this date.

Very truly yours,

*Terry E. Branstad*

Terry E. Branstad  
Governor

## CHAPTER 196

### REGULATORY, ADMINISTRATIVE AND FINANCE AGENCIES

*S.F. 530*

**AN ACT** relating to and making appropriations to various state regulatory, administrative and finance departments, boards, and commissions.

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

Section 1. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1983 and ending June 30, 1984, to the following boards the following amounts, or so much thereof as may be necessary, to be used for the following purposes:

	1983-1984 Fiscal Year
<b>1. BOARD OF ARCHITECTURAL EXAMINERS</b>	
For salaries, support, maintenance, and other operational purposes .....	\$ 45,705
<b>2. BOARD OF LANDSCAPE ARCHITECTURAL EXAMINERS</b>	
For salaries, support, maintenance, and other operational purposes .....	\$ 10,642
<b>3. BOARD OF ACCOUNTANCY</b>	
For salaries, support, maintenance, and other operational purposes .....	\$ 272,994
<b>4. STATE BOARD OF ENGINEERING EXAMINERS</b>	
For salaries, support, maintenance, and other operational purposes .....	\$ 140,570

Sec. 2. There is appropriated from the general fund of the state to the following departments and commissions for the fiscal year beginning July 1, 1983 and ending June 30, 1984, the following amounts, or so much thereof as may be necessary, to be used for the following purposes:

	1983-1984 Fiscal Year
<b>1. AUDITOR OF STATE</b>	
For salaries, support, maintenance, and miscellaneous purposes .....	\$ 1,533,301
*In addition to the funds appropriated in this subsection, there is appropriated for the fiscal year beginning July 1, 1983 to the office of the auditor of state for the purpose of enhancing the internal and management functions of that office, coordinating auditing staff functions, centralizing staff, providing moving expenses and additional funds for salaries, support, maintenance, and miscellaneous purposes, and subject to the condition that the auditor of state's operational staff, equipment, and furnishings be moved from the state capitol building to an appropriate building located within the state capitol complex, and the use of the space vacated in the state capitol building be dedicated to the legislative branch of government, the sum of three hundred seventeen thousand six hundred sixty-three (317,663) dollars, or so much thereof as may be necessary. A ceremonial office for the auditor of state and not more than two staff members shall be established in the state capitol building.*	
<b>2. DEPARTMENT OF BANKING</b>	
For salaries, support, maintenance, and other operational purposes .....	\$ 3,190,430
<b>3. IOWA BEER AND LIQUOR CONTROL DEPARTMENT</b>	
For salaries, support, maintenance, and other operational purposes .....	\$ 18,948,837
*Of the money appropriated in this subsection to the Iowa beer and liquor control department, two hundred eighty-two thousand (282,000) dollars shall be spent on the establishment of six mini-stores and the optical character reader pilot project.*	
<b>4. CAMPAIGN FINANCE DISCLOSURE COMMISSION</b>	
For salaries, support, maintenance, and other operational purposes .....	\$ 124,501
<b>5. IOWA STATE COMMERCE COMMISSION</b>	
For salaries, support, maintenance, and other operational purposes .....	\$ 5,774,566
It is the intent of the general assembly that three hundred seventy-four thousand eight hundred forty-four (374,844) dollars of the amount appropriated to the commerce commission be spent for computer services. The commerce commission shall report no later than March 1, 1984 to the regulatory and finance appropriations subcommittee concerning the amount so far spent during that fiscal year on computer services.	
If House File 312 introduced in the seventieth general assembly becomes law, there is appropriated for salaries, support, maintenance, and other operational purposes for the consumer advocate .....	
	\$ 861,476

\*Item veto; see message at end of this Act

<b>6. STATE COMPTROLLER</b>	
a. General Office	
For salaries, support, maintenance, and other operational purposes .....	\$ 1,520,605
b. Division of Data Processing	
For salaries, support, maintenance, and other operational purposes .....	\$ 6,357,859
<b>7. CREDIT UNION DEPARTMENT</b>	
For salaries, support, maintenance, and other operational purposes .....	\$ 544,938
<b>8. INDUSTRIAL COMMISSIONER</b>	
For salaries, support, maintenance, and other operational purposes .....	\$ 1,006,657
<b>9. INSURANCE DEPARTMENT OF IOWA</b>	
For salaries, support, maintenance, and other operational purposes .....	\$ 2,728,767
<p>The insurance department may expend additional funds, if those additional expenditures are actual expenses which exceed the funds budgeted for insurance company examinations and directly result from examinations of insurance companies. Before the department expends or encumbers an amount in excess of the funds budgeted for examinations, the state comptroller shall approve the expenditure or encumbrance. Before approval is given, the state comptroller shall determine that the examination expenses exceed the funds budgeted by the general assembly to the department and that the department does not have other funds from which examination expenses can be paid. Upon approval of the state comptroller the department may expend and encumber funds for excess examination expenses. The amounts necessary to fund the excess examination expenses shall be collected from those insurance companies being examined which caused the excess expenditures and the collections shall be treated as repayment receipts as defined in section 8.2, subsection 5.</p>	
<b>10. IOWA DEPARTMENT OF JOB SERVICE</b>	
For salaries, support, maintenance, and other operational purposes for the administration of chapter 97 and chapter 97C and section 294.15 .....	\$ 154,325
<b>11. OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION</b>	
For salaries, support, maintenance, and other operational purposes .....	\$ 47,034
<b>12. PUBLIC EMPLOYMENT RELATIONS BOARD</b>	
For salaries, support, maintenance, and other operational purposes .....	\$ 547,046
<b>13. IOWA REAL ESTATE COMMISSION</b>	
For salaries, support, maintenance, and other operational purposes .....	\$ 320,431
<b>14. DEPARTMENT OF REVENUE</b>	
a. General Administration	
For salaries, support, maintenance, and other operational purposes .....	\$ 15,970,057

b. Unencumbered or unobligated funds appropriated under chapter 1257, section 12, Sixty-ninth General Assembly, 1982 Session as of June 30, 1983 shall not revert to the general fund on September 30, 1983 and those funds which remain unencumbered or unobligated as of June 30, 1984 shall revert to the general fund on September 30, 1984.

c. It is the intent of the general assembly that the department of revenue place added emphasis on the enforcement of the special fuel tax law.

15. SECRETARY OF STATE

For salaries, support, maintenance, and other operational purposes ..... \$ 1,087,823

It is the intent of the general assembly that the Iowa official register be published by April 1, if practicable.

16. TREASURER OF STATE

For salaries, support, maintenance, and miscellaneous purposes ..... \$ 380,718

\*In addition to the funds appropriated in this subsection, there is appropriated for the fiscal year beginning July 1, 1983 to the office of treasurer of state for the purpose of enhancing the internal and management functions of that office, providing adequate work space, providing moving expenses, and additional funds for salaries, support, and miscellaneous purposes, and subject to the condition that the treasurer of state's operational staff, equipment, and furnishings be moved from the state capitol building to an appropriate building located within the state capitol complex, and the use of the space vacated in the state capitol building be dedicated to the legislative branch of government, the sum of ninety-nine thousand eight hundred seventy (99,870) dollars, or so much as may be necessary. A ceremonial office for the treasurer of state and not more than two staff members shall be established in the state capitol building.

Of the money appropriated in this subsection to the treasurer of state, seventeen thousand (17,000) dollars shall be spent on an accounting technician and the leasing of a computer terminal and printer.\*

Sec. 3. Chapter 79, Code 1983, is amended by adding the following new section:

NEW SECTION. 79.17 ADDITIONAL PAYROLL DEDUCTIONS.

1. For the purposes of purchasing insurance and at the request of five hundred or more state officers or employees, the state officer in charge of the payroll system shall deduct from the wages or salaries of the state officers or employees an amount specified by each of the officers or employees for payment to any insurance company authorized to do business in this state if the following conditions are met:

a. The request for the payroll deduction is made in writing to the officer in charge of the payroll system.

b. The pay period during which the deduction is made, the frequency, and the amount of the deduction are compatible with the payroll system.

c. The insurance coverage is not provided by the state.

2. The moneys deducted under this section shall be paid promptly to the insurance company designated by the state officers or employees. The deduction may be made even though the compensation paid to an officer or employee is reduced to an amount below the minimum prescribed by law. Payment to an officer or employee of compensation less the deduction shall constitute a full discharge of claims and demands for services rendered by the officer or

\*Item veto; see message at end of this Act

employee during the period covered by the payment. The request for the deduction may be withdrawn at any time by filing a written notification of withdrawal with the state officer in charge of the payroll system.

Sec. 4. There is appropriated from the general fund of the state to the moneys and credits replacement fund established in section 422.100 for the fiscal year beginning July 1, 1983 and ending June 30, 1984, the following amount, or so much thereof as may be necessary, to be used for payments to counties as provided in section 422.100:

1983-1984  
Fiscal Year  
\$ 2,500,000

Sec. 5. There is appropriated from the general fund of the state to the county government assistance fund, established in section 334A.1, for the fiscal year beginning July 1, 1983 and ending June 30, 1984, the following amount, or so much thereof as may be necessary, to be used for state assistance to counties, with distribution in accordance with section 334A.2. The state comptroller, before making such distribution, shall credit to the county finance committee on July 1, 1983 the sum of fifty-five thousand five hundred thirty-three (55,533) dollars.

1983-1984  
Fiscal Year  
\$ 5,350,000

Sec. 6. There is appropriated from the general fund of the state to the municipal assistance fund, established in section 405.1, for the fiscal year beginning July 1, 1983 and ending June 30, 1984, the following amount, or so much thereof as may be necessary, to be used for state assistance to municipalities, with distribution in accordance with section 405.1. The state comptroller, before making such distribution, shall credit to the city finance committee on July 1, 1983 the sum of ten thousand eight hundred (10,800) dollars.

1983-1984  
Fiscal Year  
\$ 14,650,000

Sec. 7. There is appropriated from the motor vehicle fuel tax fund to the department of revenue for the fiscal year beginning July 1, 1983 and ending June 30, 1984, the following amount, or so much thereof as may be necessary, for salaries, support, maintenance, and other operational purposes for administration and enforcement of the provisions of chapter 324 and the motor vehicle use tax program:

1983-1984  
Fiscal Year  
\$ 786,561

It is the intent of the general assembly that of the money appropriated in this section, the department of revenue shall spend not less than three hundred fifty-six thousand (356,000) dollars for the enforcement of the motor vehicle fuel tax program.

Sec. 8. There is appropriated from the Iowa public employees' retirement system fund for the fiscal year beginning July 1, 1983 and ending June 30, 1984, to the Iowa department of job service, the following amount, or so much thereof as may be necessary, to be used for the following purposes:

1983-1984  
Fiscal Year

For salaries, support, maintenance, and other operational purposes to pay the costs of administration of the Iowa public employees' retirement system ..... \$ 2,558,143

Sec. 9. All federal grants to and the federal receipts of the agencies appropriated funds under this Act are appropriated for the purposes set forth in such federal grants or receipts unless otherwise provided by the general assembly.

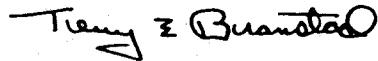
Sec. 10. Chapter 9, Code 1983, is amended by adding the following new section:

NEW SECTION. In odd-numbered years, the secretary of state shall compile for publication the Iowa official register which shall contain historical, political, and other statistics of general value, but nothing of a partisan character.

Sec. 11. Chapter 120, Code 1983, is repealed.

Sec. 12. Section 3 of this Act takes effect January 1, 1984.

Approved June 2, 1983, except the three items which I hereby disapprove and which are designated as that portion of Section 2, subsection 1, which is herein bracketed in ink and initialed by me; that portion of Section 2, subsection 3, which is herein bracketed in ink and initialed by me; and that portion of Section 2, subsection 16, which is herein bracketed in ink and initialed by me. These are all delineated with my reasons for vetoing in the item veto message pertaining to this Act to the Secretary of State this same date, a copy of which is attached hereto.



TERRY E. BRANSTAD  
Governor

The Honorable Mary Jane Odell  
Secretary of State  
State Capitol Building  
L O C A L

Dear Madam Secretary:

I hereby transmit Senate File 530, an act relating to and making appropriations to various state regulatory, administrative and finance departments, boards, and commissions.

Senate File 530 is approved June 2, 1983, with the following exceptions which I hereby disapprove.

I am unable to approve that portion of Section 2, subsection 1, which reads as follows:

In addition to the funds appropriated in this subsection, there is appropriated for the fiscal year beginning July 1, 1983 to the office of the auditor of state for the purpose of enhancing the internal and management functions of that office, coordinating auditing staff functions, centralizing staff, providing moving expenses and additional funds for salaries, support, maintenance, and miscellaneous purposes, and subject to the condition that the auditor of state's operational staff, equipment, and furnishings be moved from the state capitol building to an appropriate building located within the state capitol complex, and the use of the space vacated in the state capitol building be dedicated to the legislative branch of government, the sum of three hundred seventeen thousand six hundred sixty-three (317,663) dollars, or so much thereof as may be necessary. A ceremonial office for the auditor of state and not more than two staff members shall be established in the state capitol building.

I am unable to approve that portion of Section 2, subsection 3, which reads as follows:

Of the money appropriated in this subsection to the Iowa beer and liquor control department, two hundred eighty-two thousand (282,000) dollars shall be spent on the establishment of six mini-stores and the optical character reader pilot project.

I am unable to approve that portion of Section 2, subsection 16, which reads as follows:

In addition to the funds appropriated in this subsection, there is appropriated for the fiscal year beginning July 1, 1983 to the office of treasurer of state for the purpose of enhancing the internal and management functions of that office, providing adequate work space, providing moving expenses, and additional funds for salaries, support, and miscellaneous purposes, and subject to the condition that the treasurer of state's operational staff, equipment, and furnishings be moved from the state capitol building to an appropriate building located within the state capitol complex, and the use of the space vacated in the state capitol building be dedicated to the legislative branch of government, the sum of ninety-nine thousand eight hundred seventy (99,870) dollars, or so much as may be necessary. A ceremonial office for the treasurer of state and not more than two staff members shall be established in the state capitol building.

Of the money appropriated in this subsection to the treasurer of state, seventeen thousand (17,000) dollars shall be spent on an accounting technician and the leasing of a computer terminal and printer.

Senate File 530 includes a separate provision requiring that \$282,000 of the \$18.9 million lump sum appropriation to the Beer and Liquor Control Department be spent on the establishment of six mini-stores in the state. The mini-stores would offer a limited selection of only the fastest-moving, high turnover wines and liquor products. They would be patterned after convenience stores in the private sector which is an experimental marketing concept for the state liquor system. The Beer and Liquor Control Department would determine the location of the mini-stores.

I am sensitive to the desire of a number of Iowa communities to secure a state liquor store. In addition, I can understand the desire of some to experiment with a new liquor marketing technique. However, I cannot approve this appropriation item because it breaks new ground in state liquor marketing at a time when the entire system is under serious review.

Specifically, on March 29 of this year I announced the formation of a task force to study Iowa's liquor system. This 14 member, bi-partisan task force is reviewing the entire state-run liquor system so that any changes proposed for the present system be done thoughtfully and carefully. This group will review four key areas of the state system: public health, safety and welfare; economic impact on the state; public convenience; and private sector competition. Since the proposed mini-store concept would directly affect each of the factors listed above, I believe it would be precipitous to approve the mini-store concept before a full analysis of its consequences is completed by the task force. Instead, I will specifically ask the task force to review this concept and include a recommendation on it in the final report to be presented to me on December 31 of this year. As a result, the next session of the legislature will also have an opportunity to review the findings of the task force and to act accordingly.

Two of the above-mentioned provisions in Senate File 530 are designed to force the Auditor's Office and the Treasurer's Office to vacate the Capitol so that the space now occupied by those two offices can be made available to the General Assembly. The Senate amendment to Senate File 530 which attempted to accomplish these purposes made the entire fiscal year 1984 appropriation to the Auditor and Treasurer contingent upon such a move to the Lucas Building, with the space vacated to be given to the legislative department. However, the House struck the Senate language on this move and instead appropriated approximately 20 percent of the recommended funding level for these offices ostensibly for miscellaneous expenses, including moving costs, on the condition that they be moved out of the Capitol to any appropriate building within the Capitol Complex, with the use of the vacated space given to the legislature. That is the language that was finally enacted by the General Assembly.

However, late in the session, in an apparent acknowledgement that the conditional 20 percent appropriation was in reality not designed to pay for the move, the legislature appropriated \$125,000 in the capitals bill to both the Treasurer and Auditor to finance the move. Thus, the legislative history of this proposal clearly indicates that the General Assembly decided to hold hostage 20 percent of the funds needed to operate the Auditor and Treasurer's Offices in order to force them to vacate the Capitol Building so that the legislature could occupy the vacated space.

Despite this threat of a cut in appropriations, both the Treasurer and Auditor have asked me to item-veto it. While I understand the legislative branch's desire for additional space, I must agree with this request for several reasons.

1) The unilateral legislative effort to secure additional space infringes on the delicate balance among the three branches of state government in Iowa. This balance among the executive, legislative and judicial branches of government has been symbolized by the Capitol, which since its dedication in 1884 has been the home of all three branches of government in Iowa. Indeed, changes in Capitol space allocation among the branches have historically been made cooperatively. The most recent change occurred in 1978 when a committee representing all branches of government jointly agreed on a revised space allocation plan. This revised plan gave the legislature two additional committee meeting rooms on the first floor of the Capitol. The agreement further recognized that adequate space within the Capitol remained a problem and the participants were urged to work together to make any further space adjustments that might become necessary.

This unilateral legislative effort to secure additional space violates the spirit of the 1978 space allocation plan. Neither the Treasurer nor the Auditor was consulted prior to this legislative action and no effort was made to resolve differences between the executive and legislative branches on this issue prior to the passage of the legislation.

Moreover, the method used by the legislature to attempt to accomplish this move — threatening a 20 percent cut in operational budgets for these offices — is inappropriate. Such an appropriation reduction could severely hamstring the operations of these two offices and could prevent them from discharging their important executive responsibilities. Certainly, this space allocation issue could have been resolved without resorting to threats to hamper executive branch operations.

2) The proposed legislative takeover of the entire Capitol space now occupied by the Auditor and the Treasurer would be an inefficient use of the Capitol. Legislative leaders have indicated to me that they would plan to make the vacated space into legislative committee rooms. If the legislature maintains the present limitation on the length of sessions, this proposed use would result in vast portions of the Capitol being vacant for up to two-thirds of every year. I believe that Iowans want their Capitol used efficiently. Indeed, I recently received a letter from a state legislator who eloquently expressed this concern, "A very beautiful and majestic State House will soon become just a sterile building if the legislature is allowed to continue the removal of the elected state officials."

3) This proposed move has not been properly planned. For example, there is no place for the Auditor or the Treasurer to move within the Capitol Complex. The Senate originally required a move to the Lucas Building because of a presumed vacancy in that building. However, one floor of the Lucas Building is vacant for good reason — it is uninhabitable since it is being completely renovated. And the Lucas Building renovation is scheduled to continue for several more years. Therefore, the House corrected this error and required a move to any place within the Capitol Complex. However, there is no sufficient space available anywhere within the Complex. Other state agencies would have to be moved to new leased space in order to accommodate the move.

Moreover, the cost of such a move is large and, it is likely that the amount appropriated in the capitals bill would be insufficient to move the two offices and to remodel their Capitol quarters for use as legislative committee rooms. Also the Treasurer's vault, which was originally built in the Capitol for his office, would have to be moved and/or replaced, as would the teller cages. Those structures are not only historically valuable, they are also quite expensive to replace.

Finally, the legislature has not carefully studied its own space needs. Indeed, a space committee was appointed by the Legislative Council in December of 1982. However, the committee has yet to meet and devise a plan identifying legislative space needs and sketching out a method to meet those needs. I understand that legislative consideration of a computer purchase has spurred this desire to locate additional space. I also understand and I can sympathize with the desire to locate all of the Legislative Fiscal Bureau employees in the Capitol. But these and other legislative space needs should be specifically delineated and a plan to meet those needs should be carefully developed prior to consideration of action to force executive branch officials out of the Capitol.

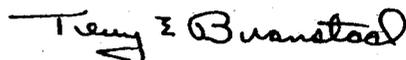
Furthermore, legislative branch space needs should be weighed against those of the executive and judicial branches and the public interest. In order to accomplish this, I suggest that a special committee be convened this summer to study Capitol space needs and to seek an agreement on the future allocation of that space. I pledge the full cooperation of the executive branch in such an effort.

In addition, I plan to instruct the Comptroller's Office to work closely with the Treasurer and Auditor to ensure the proper functioning of those offices, despite the 20 percent reduction in funding included in the legislative language at issue. Also, I will ask for a supplemental appropriation to fully fund these offices and I will urge the legislature to promptly approve that appropriation during the next session.

Finally, I am also vetoing legislative intent language in the Treasurer's appropriation which limits the allowable expenditure of \$17,000 of that appropriation. That limitation was placed in the bill at the time that the Treasurer's appropriation was increased by \$17,000. It was unintentionally kept in the bill when the House Appropriations Committee deleted the additional funds. Failure to delete that restriction would unnecessarily hamstring the Treasurer's Office.

For the above reasons, I hereby disapprove these items in accordance with Amendment 4 of the Amendments of 1968 to the Constitution of the State of Iowa. All other items of Senate File 530 are hereby approved as of this date.

Very truly yours,



Terry E. Branstad  
Governor

**CHAPTER 197**  
**EDUCATION PROGRAMS FUNDED**  
*S.F. 533*

**AN ACT** relating to and making appropriations to agencies, institutions, commissions, departments, and boards responsible for education programs of this state.

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

Section 1. There is appropriated from the general fund of the state to the Iowa commission for the blind for the fiscal year beginning July 1, 1983 and ending June 30, 1984, the following amount, or so much thereof as may be necessary, to be used by the following agency for the purposes designated:

	<u>1983-1984</u>
	<u>Fiscal Year</u>
 <b>IOWA COMMISSION FOR THE BLIND</b>	
For salaries, support, maintenance, and miscellaneous purposes .....	\$ 1,053,027

Sec. 2. There is appropriated from the general fund of the state to the Iowa college aid commission for the fiscal year beginning July 1, 1983 and ending June 30, 1984, the following amount, or so much thereof as may be necessary, to be used by the following agency for the purposes designated:

	<u>1983-1984</u>
	<u>Fiscal Year</u>
 <b>IOWA COLLEGE AID COMMISSION</b>	
For salaries, support, maintenance, and miscellaneous purposes .....	\$ 402,881

Sec. 3.

1. There is appropriated from the general fund of the state to the Iowa college aid commission for the fiscal year beginning July 1, 1983 and ending June 30, 1984, the sum of thirty thousand (30,000) dollars, or so much thereof as may be necessary, to be used for the purposes provided in sections 261.26 and 261.27. Notwithstanding section 261.27, the funds appropriated by this section shall be allocated to each of the classes of students which received funds during the fiscal year beginning July 1, 1980, which includes the fourth year class for the fiscal year beginning July 1, 1983.

2. In addition to the requirements of sections 261.26 and 261.27, the availability of funds appropriated by this section is subject to the following condition. The funds appropriated for fiscal year 1983-1984 shall not be released until delivery to the legislative fiscal bureau of the June 30, 1983, financial audits, conducted by an independent third party, of the participating colleges of optometry.

Sec. 4.

1. There is appropriated from the general fund of the state to the Iowa college aid commission for the fiscal year beginning July 1, 1983 and ending June 30, 1984, the sum of seven hundred eighty-four thousand (784,000) dollars, or so much thereof as may be necessary, to be paid

to the college of osteopathic medicine and surgery for the subvention program created pursuant to sections 261.18 and 261.19. Notwithstanding section 261.19, for each fiscal year of the fiscal biennium beginning July 1, 1983, the subvention shall be used for the admission and education of students enrolled in each of the four years of classes in the college of osteopathic medicine and surgery.

2. In addition to the requirements of sections 261.18 and 261.19, the availability of funds appropriated by this section is subject to the condition that one-half of the funds appropriated for fiscal year 1983-1984 shall not be released until delivery to the legislative fiscal bureau of the June 30, 1983, financial audits, conducted by an independent third party, of the college of osteopathic medicine and surgery.

Sec. 5. There is appropriated from the general fund of the state to the Iowa college aid commission for the fiscal year beginning July 1, 1983, and ending June 30, 1984, the sum of twenty-five thousand (25,000) dollars, or so much thereof as may be necessary, to provide for a national guard education program. Funds shall only be expended for Iowa residents who are enlisted members in good standing in the Iowa national guard who are enrolled as undergraduates in Iowa post-secondary educational institutions. Funds expended on behalf of each full-time undergraduate student shall not exceed two hundred fifty dollars per year. Funds expended on behalf of each half-time undergraduate student shall not exceed one hundred twenty-five dollars per year.

\*Sec. 6. There is appropriated from the funds appropriated to the Iowa college aid commission in section 261.25, subsection 1, an amount sufficient to make payments to individuals who were eligible to receive a tuition grant during any of the fiscal years beginning July 1, 1980 and ending June 30, 1983 but were found ineligible because they transferred from one accredited private institution to another but failed to notify the college aid commission of the transfer by the deadline date imposed by the commission. The amount of a payment is equal to the amount of the tuition grant that would have been received by an eligible recipient pursuant to section 261.12. The college aid commission shall publish information about the eligibility for the payments under this section and shall determine the names of those individuals eligible to receive payments. Upon the receipt of proof from an eligible individual that the individual was admitted and in attendance at the accredited private institution for a semester or the trimester equivalent, the college aid commission shall make the payments.\*

Sec. 7. There is appropriated from the general fund of the state to the state educational radio and television facility board for the fiscal year beginning July 1, 1983 and ending June 30, 1984 the following amount, or so much thereof as may be necessary, to be used by the following agency for the purposes designated:

1983-1984  
Fiscal Year

STATE EDUCATIONAL RADIO AND TELEVISION FACILITY BOARD

For salaries, support, maintenance, and miscellaneous purposes ..... \$ 6,020,139

Sec. 8. There is appropriated from the general fund of the state to the department of public instruction for the fiscal year beginning July 1, 1983 and ending June 30, 1984, the following amounts, or so much thereof as may be necessary, to be used in the manner designated:

\*Item veto; see message at end of this Act

	1983-1984 <u>Fiscal Year</u>
<b>1. GENERAL OFFICE ADMINISTRATION</b>	
a. For salaries, support, maintenance, and miscellaneous purposes .....	\$ 3,657,936
b. For fire service education .....	\$ 200,000
<b>2. VOCATIONAL EDUCATION ADMINISTRATION</b>	
For salaries, support, maintenance, and miscellaneous purposes .....	\$ 896,125
<b>3. VOCATIONAL EDUCATION</b>	
For vocational education aid to secondary schools .....	\$ 3,622,000
<p>Funds appropriated by this subsection are to be used for aid to school districts for development and the conduct of both continuing and new vocational programs, services and activities of vocational education through secondary schools, and for aid to existing jointly administered secondary vocational education programs, in accordance with chapters 258 and 280A, to purchase instructional equipment for vocational and technical courses of instruction in such schools, and to match federal reimbursement for continuing and new secondary vocational programs.</p>	
<b>4. VOCATIONAL REHABILITATION</b>	
For salaries, support, maintenance, and miscellaneous purposes .....	\$ 2,746,385
<b>5. PROFESSIONAL TEACHING PRACTICES COMMISSION</b>	
For the use of the professional teaching practices commission to carry out the provisions of chapter 272A .....	\$ 57,945
<b>6. VOCATIONAL YOUTH ORGANIZATION FUND</b>	
To carry out the provisions of section 258.14 .....	\$ 10,000
<b>7. SCHOOL FOOD SERVICE</b>	
For the purpose of providing assistance to students enrolled in public school districts and nonpublic schools of the state for breakfasts, lunches and minimal equipment programs with the funds being used as state matching funds for federal programs and which shall be disbursed according to federal regulations .....	\$ 3,300,000

### 8. 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. Such funding shall be limited to ten dollars per pupil and shall not exceed the comparable services offered to resident public school pupils

\$ 400,000

### 9. SCHOOL BUDGET REVIEW COMMITTEE

To carry out the provisions of section 442.13

\$ 30,000

### 10. NON-ENGLISH SPEAKING

To provide funding to public schools and for nonpublic school students for special instruction for non-English speaking students as provided in section 280.4

\$ 200,000

### 11. COMPUTER SOFTWARE CLEARINGHOUSE

To provide funding for planning for a computer software clearinghouse

\$ 10,000

### 12. MERGED AREA SCHOOLS

a. For general state financial aid to merged areas as defined in section 280A.2

\$ 56,455,501

It is the intent of the general assembly that funds appropriated in this paragraph shall be used only for allocation to merged area schools for general aid purposes. Funds appropriated in this paragraph shall not be allocated to the merged area schools pursuant to chapter 286A, but shall be allocated by a formula approved by the state board of public instruction. The formula shall provide each merged area school with the same amount of state financial aids as the merged area school received during the fiscal year beginning July 1, 1982 and ending June 30, 1983 and a proportionate amount of the remaining funds appropriated in this paragraph. The remaining funds shall be allocated to each merged area school based upon the proportion that the student contact hours of enrollment eligible to receive general state financial aid for the merged area school for the fiscal year beginning July 1, 1982 and ending June 30, 1983 bears to the total number of student contact hours of enrollment for all merged area schools for the fiscal year beginning July 1, 1982 and ending June 30, 1983. \*Notwithstanding section 8.33, unencumbered or unobligated funds appropriated in 1981 Iowa Acts, chapter 8, section 8, subsection 10, paragraph c, for the fiscal year beginning July 1, 1982 and ending June 30, 1983 are appropriated to the department of public instruction for the fiscal year beginning July 1, 1983 and ending June 30, 1984, to be allocated to the merged area schools for general aid purposes.\*

\*Item veto; see message at end of this Act

b. To provide funds for matching federal reimbursement for continuing and new vocational education programs in merged area schools in accordance with chapter 258 and chapter 280A, and to purchase instructional equipment for vocational and technical courses of instruction in such schools

\$ 8,700,000

c. To provide funds for the Iowa industrial start-up training program in merged area schools

\$ 275,000

Sec. 9. There is appropriated from the general fund of the state to the state board of regents for the fiscal year beginning July 1, 1983 and ending June 30, 1984 the following amounts, or so much thereof as may be necessary for use for the following designated purposes, however, as a condition for the appropriation of these funds, the state board of regents, for purposes of implementing and administering collective bargaining pursuant to chapter 20, shall act as the exclusive representative of the state of Iowa with respect to its faculty, scientific, and other professional staff.

1983-1984  
Fiscal Year

1. OFFICE OF STATE BOARD OF REGENTS

a. For salaries, support, maintenance, equipment, and miscellaneous purposes, including state board of regents members receiving a per diem, not to exceed forty dollars per day

\$ 439,970

Funds appropriated to the state board of regents shall be allocated to the institutions to be used for instructional purposes and direct instructional support.

b. For western Iowa continuing education

\$ 100,000

c. 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 in amounts as may be necessary 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

\$ 13,270,000

d. For support of the quad cities graduate study center

\$ 7,300

2. STATE UNIVERSITY OF IOWA

a. General university, including lakeside laboratory.

For salaries, support, maintenance, equipment, and miscellaneous purposes and for the pediatric department of the college of medicine to continue to fund the program of research at the current level in the cause, course, treatment, cure, and management of diabetes mellitus .....

\$ 106,624,411

b. University hospitals

(1) For salaries, support, maintenance, equipment, and miscellaneous purposes; for medical and surgical treatment of indigent patients as provided in chapter 255 .....

\$ 24,702,138

(2) For allocation by the dean of the college of medicine, with approval of the advisory board, to qualified participants, to carry out chapter 148C for the family practice program .....

\$ 1,382,080

c. As a condition of the appropriation made in paragraph b, funds appropriated in this section 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 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 forty-five 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 one hundred fifty 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.

d. As a condition of the appropriation made in paragraph b, it is the intent of the general assembly that before the general assembly authorizes the issuance of additional bonds under chapter 263A, the determination of the necessity that the construction be funded by the issuance of bonds shall be made by the state board of regents in consultation with the state health facilities council, the health policy corporation of Iowa, or a similar statewide health planning agency that may exist.

e. Psychiatric hospital

For salaries, support, maintenance, equipment, and miscellaneous purposes and for the care, treatment and maintenance of committed and voluntary public patients .....

\$ 5,324,166

f. State hygienic laboratory

For salaries, support, maintenance, equipment, and miscellaneous purposes .....

\$ 2,062,641

g. Hospital school For salaries, support, maintenance, equip- ment, and miscellaneous purposes .....	\$	3,737,522
h. Oakdale campus For salaries, support, maintenance, equip- ment, and miscellaneous purposes .....	\$	1,747,295
<b>3. IOWA STATE UNIVERSITY OF SCIENCE AND TECHNOLOGY</b>		
a. General university For salaries, support, maintenance, equip- ment, and miscellaneous purposes .....	\$	87,414,854
b. Agricultural experiment station For salaries, support, maintenance, equip- ment, and miscellaneous purposes .....	\$	10,279,927
c. Cooperative extension service in agriculture and home economics For salaries, support, maintenance, and miscellaneous purposes .....	\$	9,858,847
<b>4. UNIVERSITY OF NORTHERN IOWA</b>		
For salaries, support, maintenance, equip- ment, and miscellaneous purposes .....	\$	34,361,273
<b>5. STATE SCHOOL FOR THE DEAF</b>		
For salaries, support, maintenance, and miscellaneous purposes .....	\$	4,212,979
<b>6. IOWA BRAILLE AND SIGHT-SAVING SCHOOL</b>		
For salaries, support, maintenance, and miscellaneous purposes .....	\$	2,291,411

Sec. 10. There is appropriated from the general fund of the state to the state board of regents for the fiscal year beginning July 1, 1983 and ending June 30, 1984, the sum of twenty-one million one hundred nineteen thousand two hundred sixty-nine (21,119,269) dollars for fuel and electricity purposes at institutions under the state board of regents. If the amount actually expended for fuel and electricity purposes is less than twenty-one million one hundred nineteen thousand two hundred sixty-nine (21,119,269) dollars, the difference may be used for maintenance, equipment, and miscellaneous purposes.

Sec. 11. Upon the request of the Iowa educational radio and television facility board, the executive council shall sell the property and building located at 2801 Bell avenue in Des Moines, Iowa, and used by the Iowa educational radio and television facility board. The proceeds from the sale of the property and building are appropriated to the Iowa educational radio and television facility board to pay a portion of the costs of construction of a new building for the facility board. However, the executive council may direct that the building and property located at 2801 Bell avenue in Des Moines, Iowa, be used for another state purpose. If the building and property are used for another state purpose, the executive council shall determine by independent appraisal the fair market value of the building and property and, in that case, an appropriation equal to this amount may be considered by the general assembly meeting in 1984 to pay a portion of the costs of construction of a new building for the facility board.

Sec. 12. Section 257.30, Code 1983, is amended to read as follows:

257.30 **PRIVATE NONPUBLIC SCHOOL ADVISORY COMMITTEE.** ~~There is hereby established a private~~ A nonpublic school advisory committee is established which shall consist of five members, to be appointed by the governor, each of them shall to be a citizen of the United States and a resident of the state of Iowa. The term of the members shall be four years. The duties of the committee shall be to advise the state board of public instruction on matters affecting ~~private nonpublic~~ schools, including but not limited to the establishment of standards for teacher certification and the establishment of standards for, and approval of, all ~~private nonpublic~~ schools. Notice of meetings of the state board of public instruction shall be sent by the state board to members of the committee. ~~Committee members shall receive no compensation or expenses from public funds.~~

Committee members shall receive forty dollars per diem and shall be reimbursed for actual and necessary expenses incurred in performance of their duties. The per diem and expense money shall be paid from the appropriations to the department of public instruction.

Sec. 13. Section 261.12, subsection 1, paragraph b, Code 1983, is amended to read as follows:

b. For the fiscal year beginning July 1, ~~1979 one thousand six~~ 1983, and each following fiscal year two thousand one hundred dollars and for each following fiscal year one thousand seven hundred dollars.

Sec. 14. Section 261.17, subsection 3, Code 1983, is amended to read as follows:

3. The amount of a vocational-technical tuition grant shall not exceed the lesser of four hundred fifty dollars per year or the amount of the student's established financial need.

Sec. 15. Section 261.25, subsections 1 and 3, Code 1983, 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 ~~twelve million nineteen million one hundred sixty-six thousand six hundred~~ dollars for tuition grants.

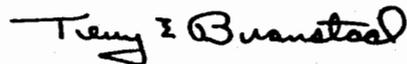
3. There is appropriated from the general fund of the state to the commission for each fiscal year the sum of ~~three~~ six hundred fifty seventy-two thousand four hundred seventy-two dollars for vocational-technical tuition grants.

Sec. 16. Sections 261.22 and 261.23, Code 1983, are repealed.

Sec. 17. All federal grants to and the federal receipts of agencies appropriated funds under this Act are appropriated for the purposes set forth in such federal grants or receipts.

Sec. 18. Moneys appropriated by this Act shall not be used for capital improvements.

Approved June 3, 1983, except the two items which I hereby disapprove and which are designated as Section 6; and that portion of Section 8, subsection 12, paragraph a which is herein bracketed in ink and initialed by me. These are all delineated with my reasons for vetoing in the item veto message pertaining to this Act to the Secretary of State this same date, a copy of which is attached hereto.



TERRY E. BRANSTAD  
Governor

The Honorable Mary Jane Odell  
Secretary of State  
State Capitol Building  
L O C A L

Dear Madam Secretary:

I hereby transmit Senate File 533, an act relating to and making appropriations to agencies, institutions, commissions, departments, and boards responsible for education programs of this state.

Senate File 533 is approved June 3, 1983, with the following exceptions which I hereby disapprove.

I am unable to approve the item designated in the Act as Section 6, which reads as follows:

Sec. 6. There is appropriated from the funds appropriated to the Iowa college aid commission in section 261.25, subsection 1, an amount sufficient to make payments to individuals who were eligible to receive a tuition grant during any of the fiscal years beginning July 1, 1980 and ending June 30, 1983 but were found ineligible because they transferred from one accredited private institution to another but failed to notify the college aid commission of the transfer by the deadline date imposed by the commission. The amount of a payment is equal to the amount of the tuition grant that would have been received by an eligible recipient pursuant to section 261.12. The college aid commission shall publish information about the eligibility for the payments under this section and shall determine the names of those individuals eligible to receive payments. Upon the receipt of proof from an eligible individual that the individual was admitted and in attendance at the accredited private institution for a semester or the trimester equivalent, the college aid commission shall make the payments.

I am unable to approve that portion of Section 8, subsection 12, paragraph a, which reads as follows:

Notwithstanding section 8.33, unencumbered or unobligated funds appropriated in 1981 Iowa Acts, chapter 8, section 8, subsection 10, paragraph c, for the fiscal year beginning July 1, 1982 and ending June 30, 1983 are appropriated to the department of public instruction for the fiscal year beginning July 1, 1983 and ending June 30, 1984, to be allocated to the merged area schools for general aid purposes.

Section 6 was a last minute legislative addition to Senate File 533. This section directs the Iowa College Aid Commission to reinstate Iowa tuition grants which were withdrawn over the past three years because the recipients neglected to inform the Commission of a college transfer by the date required for reporting a transfer. The Commission would be required to make these payments out of funds appropriated for future tuition grants. The Commission must also determine the names of those eligible for the payments and publicize the eligibility information.

The Iowa tuition grant program has been immensely successful in providing Iowa students with the financial ability to study at Iowa's fine private colleges and universities. Last year, over 10,000 Iowa students received a tuition grant. I strongly support this program and I am pleased that the legislature included in this bill my recommendation to substantially increase funding for it.

Because of the sizeable participation in this program, the Commission is forced to set deadlines and to require conformance with the terms of the tuition grant award. Indeed, in order to efficiently and fairly handle the more than 30,000 student documents received each year, the Commission must establish orderly procedures and deadlines for the program. One of these deadlines relates to the transfer notification.

Students receiving tuition grants are allowed to transfer from one college to another while retaining their grant. However, the Commission staff is then required to recalculate the revised amount of the grant, since grant amounts are based upon college costs. In order to recalculate the grant, the Commission must be notified of the transfer. Otherwise the grant will be sent to the original college, which will in turn notify the Commission that the student is not enrolled. As a result, the tuition grant will be withdrawn and the award will be made to another student. In short, the student must notify the Commission of a transfer in order to avoid losing a grant award.

In addition, the Commission's administrative rules clearly state that the student, to be eligible for a grant award, must meet the terms and conditions of the grant award. Indeed, the grant award to all students clearly specifies that any change in college must be reported to the Commission and failure to do so may result in the loss of the award.

This provision of Senate File 533 at issue here thus attempts to void the transfer notification condition of the tuition grant awards for the last three years. I cannot approve Section 6 for the following reasons.

1) The retroactive funding for these tuition grants will reduce next year's tuition grant appropriation. The fiscal estimates of this provision are as high as \$80,000 for each of the last three years. Thus, Section 6 could deny up to \$240,000 in tuition grants to needy students planning to go to a private college this fall. It would be unfair to penalize future students for the failure of past students to abide by the terms of their grant awards.

2) Many of the needy students who failed to receive a tuition grant because of the failure to provide a transfer notification were still able to be helped with federal or college funds. Moreover, federal or college student aid rules could require the repayment of the federal or college aid received upon the receipt of the retroactive tuition grant award. Thus, Section 6 of this bill could give the students an administrative headache and little financial assistance.

3) This provision of Senate File 533 would place an additional administrative burden on both the College Aid Commission and the private colleges. Section 6 would require the Commission and the private schools to spend a sizeable amount of time reconstructing records of students who may no longer be enrolled. This would be an additional administrative task for private colleges during an extremely busy time of the year for financial aid staff. The time spent trying to reconstruct records of students who may not be enrolled in the fall will detract from the attention that can be given to new students with financial needs.

4) The transfer notification deadline does not appear to be unreasonable. It is needed to fairly and efficiently award grants to the thousands of Iowa students who apply for them.

Moreover, the notification deadline is plainly spelled out to the student on the grant award and has been well-publicized. There would appear to be no reasonable excuse to violate the notification requirement.

While students and parents may occasionally get frustrated by particular procedures, they are needed for consistency and fairness. And no single rule violation should be singled out for special treatment. If rule changes are needed, it would be far better to work with the Commission to revise them than to tie retroactive rule changes to appropriations for new students.

The appropriation for the merged area schools contains a provision which would allow area schools to retain the unspent portion of their additional fiscal year 1983 utility and fuel funds for expenditure in fiscal year 1984. I am unable to approve that provision because it would result in inequitable treatment of utility budgets for state-funded agencies and institutions.

In 1981, the legislature appropriated \$600,000 for fiscal year 1982 and 1983 in additional utility and fuel funds for the area schools. These funds were intended to pay for any utility and fuel costs that were larger than expected. Due to a slower than expected rise in utility costs over the past year, up to \$300,000 of the special utility appropriation will not be spent this fiscal year.

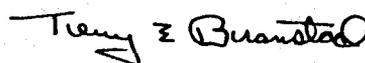
Ordinarily, that amount would revert to the state's general fund. However, this portion of Senate File 533 allows the area schools to retain the unspent funds and to roll them into the base upon which future budgets will be built.

Many state agencies experienced a similar surplus of utility appropriations and these extra funds are being reverted to the state's general fund. Indeed, the Board of Regents will be reverting over \$6 million to the general fund, most of which is the result of unspent utility funds. These reversions are welcome since they will provide a needed boost to the state's strained budget. State fiscal demands prevent an exemption of merged area schools from these utility reversions.

Moreover, while I understand the fiscal concerns of area schools, I question whether the merged area schools need to be singled out for this special treatment. The state has historically attempted to treat the area schools and the Regents institutions similarly when funding operational budgets. Indeed, my budget applied the same budgetary guidelines to the area school operational budgets as those applied to the Regents. However, the legislature reduced the Regents fiscal year 1984 utility budget significantly below my requests while increasing the merged area budget by \$400,000 over my recommendation. Since there is no evidence of significantly higher fuel rates for area schools than those paid by the Regents institutions, there would appear to be little reason to exempt the area schools from reverting their unspent utility funds to the state.

For the above reasons, I hereby disapprove these items in accordance with Amendment 4 of the Amendments of 1968 to the Constitution of the State of Iowa. All other items of Senate File 533 are hereby approved as of this date.

Very truly yours,



Terry E. Branstad  
Governor

**CHAPTER 198**

**TRANSPORTATION, PUBLIC SAFETY AND PUBLIC DEFENSE APPROPRIATIONS**

**S.F. 531**

**AN ACT** relating to transportation by making appropriations to state agencies whose responsibilities relate to transportation, public safety, and public defense and providing for the maintenance of the fiscal stability of certain state and local agencies by providing conditions by which they may be held liable for damages.

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

Section 1. There is appropriated from the general fund of the state to the following named agencies for the fiscal year beginning July 1, 1983 and ending June 30, 1984, the following amounts, or so much thereof as is necessary, for the purposes designated:

	<u>1983-1984</u> <u>Fiscal Year</u>
<b>1. IOWA LAW ENFORCEMENT ACADEMY</b>	
For salaries, support, maintenance, and miscellaneous purposes .....	\$ 847,656
<b>2. DEPARTMENT OF PUBLIC DEFENSE</b>	
<b>Military division</b>	
a. For salaries, support, maintenance, and miscellaneous purposes .....	\$ 2,996,016
b. For purchases of motor fuel and special fuel .....	\$ 28,993

Notwithstanding section 29A.33, the per capita annual allowance to units will be five dollars per capita to be paid on a semiannual basis in installments of two dollars fifty cents per capita for the fiscal year beginning July 1, 1983 and ending June 30, 1984. The per capita allowance shall be used for morale purposes and be for the welfare of the troops and in no circumstances expended for support and maintenance.

**3. OFFICE OF DISASTER SERVICES**

For salaries, support, maintenance, and miscellaneous purposes .....	\$ 121,703
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Sec. 2. There is appropriated from the general fund of the state to the department of public safety for the fiscal year beginning July 1, 1983 and ending June 30, 1984, the following amounts, or so much thereof as is necessary, to be used for funding the following functions and programs for the purposes designated:

	<u>1983-1984</u> <u>Fiscal Year</u>
<b>DEPARTMENT OF PUBLIC SAFETY</b>	
<b>1. ADMINISTRATIVE FUNCTION</b>	
a. For salaries, support, maintenance, and miscellaneous purposes of the department, criminal justice information system, and radio communications .....	\$ 4,603,217

b. For purchases of motor fuel and special fuel .....	\$	7,332
c. For payment of claims filed under the victim reparation program and for the payment of operational expenses .....	\$	200,000

It is the intent of the general assembly that only ten percent of the funds appropriated under this paragraph shall be used for the payment of operational expenses.

## 2. INSPECTION FUNCTION

a. For salaries, support, maintenance, and miscellaneous purposes of fire marshal's inspections, administration of the state building code, arson investigators including the state's contribution to the peace officers' retirement, accident, and disability system provided in chapter 97A in the amount of sixteen percent of the salaries for which the funds are appropriated .....	\$	1,034,684
b. For purchases of motor fuel and special fuel .....	\$	23,354
c. For repayment to the United States government for overpayments received in 1980 and 1981 for intermediate care facility inspections .....	\$	79,553

d. The fire marshal shall also determine which exits of the Wallace building and Hoover building should be equipped with panic bars and direct that the panic bars be installed by the department of general services with funds appropriated to the department of general services.

## 3. SECURITY FUNCTION

a. For salaries, support, maintenance, and miscellaneous purposes of the capitol security division .....	\$	674,862
b. For purchases of motor fuel and special fuel .....	\$	2,957

## 4. INVESTIGATION FUNCTION

a. For salaries, support, maintenance, and miscellaneous purposes, including lease or lease purchase of laboratory equipment, of the division of criminal investigation containing the bureaus of identification, drug law enforcement, welfare fraud, and beer and liquor law enforcement, including the state's contribution to the peace officers' retirement, accident, and disability system provided in chapter 97A in the amount of sixteen percent of the salaries for which the funds are appropriated .....	\$	4,636,947
b. For purchases of motor fuel and special fuel .....	\$	85,107
c. For undercover purchases by the division of criminal investigation agents and local law enforcement agents .....	\$	200,000

5. DIVISION OF HIGHWAY SAFETY AND UNIFORMED FORCE

a. For salaries, support, maintenance, and miscellaneous purposes including the state's contribution to the peace officers' retirement, accident, and disability system provided in chapter 97A in the amount of sixteen percent of the salaries for which the funds are appropriated

\$ 15,837,572

b. For purchases of motor fuel and special fuel

\$ 836,196

c. For various crime prevention programs sponsored within the department of public safety

\$ 54,000

d. Not later than July 1, 1984, the chief of the Iowa highway safety patrol shall have developed for implementation a plan which shall be effective on that date which provides that law enforcement motor vehicles shall no longer be assigned on an individual basis to each of the Iowa highway safety patrol personnel assigned to duty in the administrative headquarters located in the Wallace building and provides for a pool of seven law enforcement motor vehicles to be located at the Wallace building and allocated on a need basis by the chief of the Iowa highway safety patrol to the Iowa highway safety patrol personnel assigned to duty in the administrative headquarters.

e. By January 1, 1984, the Iowa highway safety patrol shall not have more than seven aircraft.

6. The department of public safety shall not increase any fees to political subdivisions of the state for services provided to local law enforcement agencies unless notification has been provided by the department of public safety of the fee increases prior to March 1, 1983. The department of public safety shall determine the actual costs of services provided to local law enforcement agencies and the current allocation of those costs between the department and the local law enforcement agencies and submit its report to the transportation and law enforcement appropriations subcommittee of the standing committees on appropriations.

Sec. 3. An employee of the department of public safety or the state conservation commission who retires after the effective date of this Act 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 that agreement. The employee shall be given credit for the service in that prior position as though it was covered by the agreement. This section shall not operate to reduce any retirement benefits the employee may have earned under other collective bargaining agreements or retirement programs. This section is repealed July 1, 1985.

Sec. 4. There is appropriated from the general fund of the state to the state department of transportation for the fiscal year beginning July 1, 1983 and ending June 30, 1984, the following amounts, or so much thereof as may be necessary, to be used for the following purposes:

1983-1984  
Fiscal Year

STATE DEPARTMENT OF TRANSPORTATION

1. a. For salaries, support, maintenance, and miscellaneous purposes

\$ 5,686,642

b. For purchases of motor fuel and special fuel ..... \$ 63,334

2. For public transit purposes to implement a state assistance plan ..... \$ 1,908,000

Notwithstanding chapter 8, it is the intent of the general assembly that funds appropriated for public transit purposes to implement a state assistance plan shall be allocated in whole or in part to a public transit system prior to the time actual expenditures are incurred if the allocation is first approved by the state department of transportation. A public transit system shall make application for advance allocations to the state department of transportation specifically stating the reasons why an advance allocation is required and this allocation shall be included in the total to be audited.

3. For deposit in the railroad assistance fund for branch line improvement ..... \$ 1,000,000

Sec. 5. There is appropriated from the road use tax fund to the state department of transportation for the fiscal year beginning July 1, 1983 and ending June 30, 1984, the following amounts, or so much thereof as may be necessary, to be used for the following purposes:

1983-1984  
Fiscal Year

STATE DEPARTMENT OF TRANSPORTATION

1. For salaries, support, maintenance, and miscellaneous purposes ..... \$ 12,661,021

2. For the purpose of making payments to the Iowa merit employment department for expenses incurred in administering the merit system on behalf of the state department of transportation, as required by chapter 19A ..... \$ 18,000

3. Unemployment compensation ..... \$ 12,250

Sec. 6. There is appropriated from the road use tax fund to the state comptroller for the fiscal year beginning July 1, 1983 and ending June 30, 1984, the sum of twenty-three thousand (23,000) dollars, or so much thereof as is necessary, to be used for the purpose of paying workers' compensation claims under chapter 85 on behalf of employees of the state department of transportation.

Sec. 7. There is appropriated from the primary road fund to the state department of transportation for the fiscal year beginning July 1, 1983 and ending June 30, 1984, the following amounts, or so much thereof as may be necessary, to be used for the following purposes:

1983-1984  
Fiscal Year

STATE DEPARTMENT OF TRANSPORTATION

1. For salaries, support, maintenance, and miscellaneous purposes ..... \$ 120,011,333

2. To be deposited in the state department of transportation materials and equipment revolving fund established by section 307A.7 for funding the increased replacement cost of vehicles ..... \$ 2,000,000

2. To be deposited in the state department of transportation materials and equipment revolving fund established by section 307A.7 for funding the increased replacement cost of vehicles ..... \$ 2,000,000

3. For the purpose of making payments to the Iowa merit employment department for expenses incurred in administering the merit system on behalf of the state department of transportation, as required by chapter 19A ..... \$ 342,000

4. Unemployment compensation ..... \$ 232,750

Sec. 8. There is appropriated from the primary road fund to the state comptroller for the fiscal year beginning July 1, 1983 and ending June 30, 1984, the sum of four hundred thirty-seven thousand (437,000) dollars, or so much thereof as is necessary, for the purpose of paying workers' compensation claims under chapter 85 on behalf of the employees of the state department of transportation.

Sec. 9. There is appropriated from the state aviation fund to the state department of transportation for the fiscal year beginning July 1, 1983 and ending June 30, 1984, the following amount, or so much thereof as may be necessary, to be used for the following purposes:

1983-1984  
Fiscal Year

For salaries, support, maintenance, and miscellaneous purposes ..... \$ 351,000

Sec. 10. There is appropriated from the primary road fund to the state department of transportation for the fiscal year beginning July 1, 1983 and ending June 30, 1984, the following amounts, or so much thereof as may be necessary, to be used for the following purposes:

1983-1984  
Fiscal Year

**STATE DEPARTMENT OF TRANSPORTATION**

1. For handicapped accessibility ..... \$ 91,000

2. For Cedar Rapids materials laboratory ..... \$ 188,000

3. Any unencumbered balance remaining as of June 30, 1987 of the funds appropriated by this section shall revert to the primary road fund on September 30, 1987.

Sec. 11. Section 25A.14, Code 1983, is amended by adding the following new subsection:

NEW SUBSECTION. 8. Any claim based upon or arising out of a claim of negligent design or specification, negligent adoption of design or specification, or negligent construction or reconstruction of a highway, secondary road, or street as defined in section 321.1, subsection 48, that was constructed or reconstructed in accordance with a generally recognized engineering or safety standard, criteria, or design theory in existence at the time of the construction or reconstruction. A claim under this chapter shall not be allowed for failure to upgrade, improve, or alter any aspect of an existing highway, secondary road, or street, to new, changed, or altered design standards. In respect to highways and roads, sealcoating, asphaltting, patching, resurfacing, ditching, draining, repairing, graveling, rocking, blading, or maintaining an existing highway or road does not constitute reconstruction. This subsection shall not apply to claims based upon gross negligence.

Sec. 12. Section 25A.14, Code 1983, is amended by adding the following new subsection:

**NEW SUBSECTION. 9.** Any claim based upon or arising out of a claim of negligent design or specification, negligent adoption of design or specification, or negligent construction or reconstruction of a public improvement as defined in section 384.37, subsection 1, or other public facility that was constructed or reconstructed in accordance with a generally recognized engineering or safety standard, criteria, or design theory in existence at the time of the construction or reconstruction. A claim under this chapter shall not be allowed for failure to upgrade, improve, or alter any aspect of an existing public improvement or other public facility to new, changed, or altered design standards. This subsection shall not apply to claims based upon gross negligence. This subsection takes effect July 1, 1984 and applies to all cases tried or retried on or after July 1, 1984.

Sec. 13. Section 100.18, subsection 5, Code 1983, is amended to read as follows:

5. The state fire marshal ~~or a designated subordinate~~ shall ~~annually inspect smoke detectors installed as required by~~ enforce the requirements of subsection 2 and shall implement a program of inspections to monitor compliance with the provisions of that subsection. Upon inspection, the state fire marshal shall issue a written notice to the owner or manager of a multiple-unit residential building informing the owner or manager of compliance or non-compliance with this section. The state fire marshal may contract with any political subdivision without fee assessed to either the state fire marshal or the political subdivision, for the performance of the inspection and notification responsibilities. The inspections authorized under this section are limited to the placement, repair, and operability of smoke detectors. Any broader inspection authority is not derived from this section. The state fire marshal shall adopt rules under chapter 17A as necessary to enforce this section including rules concerning the placement of smoke detectors and the use of acceptable smoke detectors. The smoke detectors shall display a label or other identification issued by an approved testing agency or another label specifically approved by the state fire marshal. The state fire marshal shall not require other than single-station smoke detectors. If smoke detectors are not required under subsection 4 due to the presence of an automatic smoke detection system, the state fire marshal shall not require other than the automatic smoke detection system.

Sec. 14. Section 306.9, Code 1983, is amended by inserting after unnumbered paragraph 2 the following new unnumbered paragraph:

**NEW UNNUMBERED PARAGRAPH.** It is further declared to be the policy of the state of Iowa that on construction of roads classified as freeway-expressway and which are designed with four-lane divided roadways, access controls shall be limited to the minimum level necessary to comply with federal aid requirements.

Sec. 15. Section 306A.10, Code 1983, is amended to read as follows:

**306A.10 NOTICE TO RELOCATE—COSTS PAID BY STATE.** Whenever the state department of transportation ~~shall determine,~~ city or county determines that relocation or removal of any utility facility now located in, over, along, or under any highway or street, is necessitated by the construction of a project on routes of the national system of interstate and defense highways including extensions within cities or on streets or highways resulting from interstate substitutions in a qualified metropolitan area under title 23, U.S.C., the utility owning or operating such the facility shall relocate or remove the same in accordance with statutory notice. The costs of relocation or removal, including the costs of installation in a new location, shall be ascertained by the ~~state department~~ authority having jurisdiction over the project or as determined in condemnation proceedings for such purposes and may be paid by the state out of the primary road fund as part of the cost of such federally aided project from participating federal aid or other funds.

Sec. 16. Section 306A.12, Code 1983, is amended to read as follows:

**306A.12 LIMITATION ON REIMBURSEMENT.** ~~No~~ A reimbursement shall not be made for any relocation or removal of facilities under this ~~division chapter~~ unless funds to be provided by federal aid amount to at least ninety eighty-five percent of each reimbursement payment.

Sec. 17. Section 308.4, subsection 3, Code 1983, is amended to read as follows:

3. There is appropriated from the general fund of the state to the state department of transportation the sum of ~~ninety-five~~ one hundred thousand ~~four hundred~~ dollars for each fiscal year beginning July 1, ~~1981~~ 1983, and ending June 30, 1988. The money is to be utilized for the acquisition and construction of highway-associated project components for the great river road. Each annual appropriation shall first be used to reimburse the great river road fund established in section 312.2, with remaining funds being available for a period of one fiscal year following the year of appropriation. The state department of transportation, in cooperation with the state conservation commission and the Mississippi river parkway commission, shall administer this subsection and shall issue rules for administration in accordance with chapter 17A. A report shall be submitted listing the expenditures for the previous year and cumulative expenditures of all funds appropriated by this section and the report shall be incorporated in the annual report required by section 17.9.

Sec. 18. Section 312.2, subsection 5, Code 1983, is amended to read as follows:

5. The treasurer of state shall before making the above allotments credit annually to the highway grade crossing safety fund the sum of ~~five~~ seven hundred thousand dollars, credit annually from the road use tax fund the sum of five hundred thousand dollars to the highway railroad grade crossing surface repair fund, credit monthly to the primary road fund the dollars yielded from an allotment of sixty-five hundredths of one percent of all road use tax funds for the express purpose of carrying out subsection 11 of section 307A.2, section 313.4, subsection 2, and section 307A.5, and credit annually to the primary road fund the sum of five hundred thousand dollars to be used for paying expenses incurred by the state department of transportation other than expenses incurred for extensions of primary roads in cities. All unobligated funds provided by this subsection, except those funds credited to the highway grade crossing safety fund, shall at the end of each year revert to the road use tax fund. Funds in the highway grade crossing safety fund shall not revert to the road use tax fund except to the extent they exceed five hundred thousand dollars at the end of any biennium. The cost of each highway railroad grade crossing repair project shall be allocated in the following manner:

- a. Twenty percent of the project cost shall be paid by the railroad company.
- b. Twenty percent of the project cost shall be paid by the highway authority having jurisdiction of the road crossing the railroad.
- c. Sixty percent of the project cost shall be paid from the highway railroad grade crossing surface repair fund.

Sec. 19. Section 312.2, subsection 9, Code 1983, is amended to read as follows:

9. The treasurer of state, before making the allotments provided for in this section, shall credit annually to the Iowa department of soil conservation ~~five~~ two hundred fifty thousand dollars from the road use tax funds. The department of soil conservation, in cooperation with the state department of transportation and the Iowa conservation commission shall expend ~~such~~ the funds, for the lease or other use of land intended for the planting or maintenance of wind erosion control barriers designed to reduce wind erosion interfering with the maintenance of highways in the state or the safe operation of vehicles ~~thereon~~ on the highway. However, the funds shall not be expended for wind erosion control barriers located more than forty rods from the highway.

Sec. 20. Section 312.2, Code 1983, is amended by adding the following new subsection:

**NEW SUBSECTION. 14.** The treasurer of state, before making the allotments provided for in this section, shall credit annually to the state department of transportation one hundred thousand dollars from the road use tax funds. The state department of transportation shall expend the funds for the planting or maintenance of trees or shrubs in shelter belts for erosion control to reduce wind erosion interfering with the maintenance of highways in the state or the safe operation of vehicles on the highways.

Sec. 21. Section 321.211, unnumbered paragraph 1, Code 1983, is amended to read as follows:

Upon suspending the license of any person as authorized the department shall immediately notify the licensee in writing and upon the licensee's request shall afford the licensee an opportunity for a hearing before the director or the director's authorized agent as early as practical within not to exceed thirty days after receipt of the request in the county in which the licensee resides unless the department and the licensee agree that such hearing may be held in some other county. Upon such hearing the director or the director's authorized agent may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers and may require a re-examination of the licensee. Upon such hearing the department shall either rescind its order of suspension or for good cause may extend the suspension of such license or revoke such license. There is appropriated each year from the general fund of the state to the department sixty ninety thousand dollars or so much thereof as may be necessary to be used to pay the cost of notice and personal delivery of service, if necessary to meet the notice requirement of this section. The department shall promulgate rules governing the payment of the cost of personal delivery of service. The reinstatement fees collected under section 321.191 shall be deposited in the general fund of the state in a manner provided in section 321.192, as reimbursement for the costs of notice under this section.

Sec. 22. Section 327G.30, Code 1983, is amended to read as follows:

**327G.30 ADJUSTMENT OF EXPENSE.** If a grade crossing surface of a railroad track and a highway, street, or alley shall require repairs or maintenance, the costs for such the maintenance may be paid equally by the owner of the track, the jurisdiction having primary authority over the highway, street, or alley, and the highway grade crossing surface repair fund as provided in section 312.2, subsection 5.

If the railroad corporation and the jurisdiction having authority agree on the method of crossing maintenance and establish an agreement to each contribute one-third of the costs as provided in section 312.2, subsection 5, a copy of the agreement shall be filed with the department which shall allocate an amount equal to one-third of the cost for the work if funds are available in the highway railroad grade crossing surface repair fund. The department shall make appropriate notification if the fund is exhausted in which case agreements shall not be made under the provisions of this section until additional funds are available. The fund shall be administered by the department.

Upon completion of the agreed repair work, a statement of costs shall be filed with the department by the railroad corporation in a form and manner prescribed by the department. The department, upon approval of the statement, shall pay to the railroad corporation an amount equal to one-third of the cost of the work from the highway railroad grade crossing surface repair fund as provided in section 312.2, subsection 5. The owner of the track and the jurisdiction entering into the agreement shall each pay one-third of the cost as provided in section 312.2, subsection 5.

Sec. 23. Section 331.655, subsection 1, paragraph a, Code 1983, is amended to read as follows:

a. For serving a notice and returning it, for the first person served, six dollars, and each additional person, six dollars except the fee for serving additional persons in the same household shall be three dollars for each additional service, or if the service of notice cannot be made or several attempts are necessary, the repayment of all necessary expenses actually incurred by the sheriff while attempting in good faith to serve the notice.

Sec. 24. Section 613A.4, Code 1983, is amended by adding the following new subsection:

**NEW SUBSECTION.** Any claim based upon or arising out of a claim of negligent design or specification, negligent adoption of design or specification, or negligent construction or reconstruction of a highway, secondary road, or street as defined in section 321.1, subsection 48, that was constructed or reconstructed in accordance with a generally recognized engineering or safety standard, criteria, or design theory in existence at the time of the construction or reconstruction. A claim under this chapter shall not be allowed for failure to upgrade, improve, or alter any aspect of an existing highway, secondary road, street, to new, changed, or altered design standards. In respect to highways and roads, sealcoating, asphaltting, patching, resurfacing, ditching, draining, repairing, graveling, rocking, blading, or maintaining an existing highway or road does not constitute reconstruction. This subsection shall not apply to claims based upon gross negligence.

Sec. 25. Section 613A.4, Code 1983, is amended by adding the following new subsection:

**NEW SUBSECTION.** Any claim based upon or arising out of a claim of negligent design or specification, negligent adoption of design or specification, or negligent construction or reconstruction of a public improvement as defined in section 384.37, subsection 1, or other public facility that was constructed or reconstructed in accordance with a generally recognized engineering or safety standard, criteria, or design theory in existence at the time of the construction or reconstruction. A claim under this chapter shall not be allowed for failure to upgrade, improve, or alter any aspect of an existing public improvement or other public facility to new, changed, or altered design standards. This subsection shall not apply to claims based upon gross negligence. This subsection takes effect July 1, 1984 and applies to all cases tried or retried on or after July 1, 1984.

Sec. 26. Section 613A.4, subsection 3, Code 1983, is amended to read as follows:

3. Any claim based upon an act or omission of an officer or employee of the municipality, exercising due care, in the execution of a statute, ordinance, or regulation whether the statute, ordinance or regulation is valid, or based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of the municipality or an officer or employee of the municipality, whether or not the discretion is abused.

Sec. 27. **LEGISLATIVE INTENT.** It is the intent of sections 11 and 24 of this legislation, to define those cases in which a state or municipality, by its highway or road construction or reconstruction policy, may be liable for negligent acts or omissions, and it is not the intent of this legislation to affect those rights, claims, or defenses which exist in the law and which are in areas of litigation other than highway or road construction or reconstruction. The rule of statutory construction that the express mention of one thing implies the exclusion of the other does not apply to this Act.

Sec. 28. **NEW SECTION.** The doctrine of joint and several liability shall not apply if a plaintiff is found to bear any comparative negligence with respect to any claim.

Sec. 29. Sections 11, 24 and 26 of this Act shall apply to all cases tried or retried after July 1, 1983. Section 28 of this Act shall apply to cases tried or retried on or after July 1, 1984.

Sec. 30. The legislative council is directed to establish a joint subcommittee of the senate committee on judiciary, the house committee on judiciary and law enforcement, and the senate and house committees on commerce, to be composed of eight members of the house and eight members of the senate, to study the matter of comparative negligence, comparative fault and

contributory negligence as they apply to the broad spectrum of tort law in Iowa, during the interim between the Seventieth General Assembly's first and second session. This joint subcommittee shall be authorized to meet for not less than five days.

Sec. 31. Notwithstanding the provisions of section 423.24, there is transferred from revenues collected under chapter 423 during the fiscal year beginning July 1, 1983 and ending June 30, 1984, from the use tax imposed on motor vehicles, trailers and motor vehicle accessories and equipment under section 423.7 the sum of one million (1,000,000) dollars which shall be transferred to the state department of transportation for public transit assistance for the fiscal year beginning July 1, 1983 and ending June 30, 1984. The funds transferred under this section to the state department of transportation for public transit assistance shall be considered an advance of funds to be received for public transit assistance under the Surface Transportation Assistance Act of 1982 and the road use tax fund shall receive reimbursement of the funds from receipts received by the state department of transportation for public transit assistance from the United States government pursuant to the Surface Transportation Assistance Act of 1982 during the fiscal period beginning July 1, 1983 and ending June 30, 1985.

Sec. 32. Notwithstanding the provisions of section 423.24, there is transferred from revenues collected under chapter 423 during each year of the fiscal period beginning July 1, 1983 and ending June 30, 1985 from the use tax imposed on motor vehicles, trailers and motor vehicle accessories and equipment under section 423.7 the sum of seven million five hundred thousand (7,500,000) dollars which shall be transferred to the special railroad facility fund to be used exclusively for the purposes provided in this section. The Iowa railway finance authority may enter into a partnership agreement as allowed under section 307B.7, subsection 7, for the purpose of acquiring the right-of-way of the Chicago, Rock Island and Pacific railroad. The funds shall be expended to supplement private investment capital obtained for that purpose by matching any private investment capital on an equal basis. The funds transferred to the special railroad facility fund under this section shall be considered an interest-free loan to be repaid to the road use tax fund from receipts credited to the special railroad facility fund under section 307B.23.

The Iowa railway finance authority shall obtain a lien against the railroad right-of-way and related materials to secure the loan and secure repayment. If the purchase of the railroad right-of-way is not completed by January 1, 1986, the entire amount of the loan shall become due and payable.

\*Sec. 33. If the governor finds that the estimated budget resources during the fiscal year beginning July 1, 1983 and ending June 30, 1984, are insufficient to pay all appropriations in full prior to February 1, 1984, and the governor's findings are concurred in by the executive council, the governor shall not make any reductions in allotment as allowed under section 8.31 until the transfers authorized by this section have been made.

Notwithstanding the provisions of section 423.24, there shall be transferred from the revenues collected under chapter 423 in the fiscal year beginning July 1, 1983 and ending June 30, 1984, from the use tax collected on motor vehicles, trailers and motor vehicle accessories and equipment under section 423.7 an amount necessary to provide the estimated budget resources necessary to pay all appropriations in full. However, the total amount transferred prior to February 1, 1984, shall not exceed twelve million five hundred thousand (12,500,000) dollars.

If upon transfer of the twelve million five hundred thousand (12,500,000) dollars authorized by this section, the governor finds that the estimated budget resources during the fiscal year

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\*Item veto; see message at end of this Act

are insufficient to pay all appropriations in full and the executive council concurs in the governor's findings, the governor may make the reductions of allotments allowed under section 8.31.

Any funds transferred to the general fund of the state under this section prior to February 1, 1984, shall be considered an interest-free loan and the loan shall be repaid from the general fund of the state to the road use tax fund not later than May 31, 1984.\*

Sec. 34. Notwithstanding section 312.2, subsection 5, the treasurer of state shall credit to the highway railroad grade crossing surface repair fund from the road use tax fund the sum of four hundred thousand dollars for each year of the fiscal biennium beginning July 1, 1983 and ending June 30, 1985. The moneys allocated under this section shall be in addition to the funds credited to the fund under section 312.2, subsection 5.

Sec. 35. All federal grants to and the federal receipts of the agencies appropriated funds under this Act are appropriated for the purposes set forth in such federal grants and receipts unless otherwise provided by the general assembly.

Approved June 3, 1983, except that item which I hereby disapprove and which is designated as Section 33 which is herein bracketed in ink and initialed by me. This is all delineated with my reasons for vetoing in the item veto message pertaining to this Act to the Secretary of State this same date, a copy of which is attached hereto.



TERRY E. BRANSTAD  
Governor

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\*Item veto; see message at end of this Act

The Honorable Mary Jane Odell  
Secretary of State  
State Capitol Building  
L O C A L

Dear Madam Secretary:

I hereby transmit Senate File 531, an act relating to transportation by making appropriations to state agencies whose responsibilities relate to transportation, public safety, and public defense and providing for the maintenance of the fiscal stability of certain state and local agencies by providing conditions by which they may be held liable for damages.

Senate File 531 is approved June 3, 1983, with the following exceptions which I hereby disapprove.

I am unable to approve that item designated in the Act as Section 33, which reads as follows:

Sec. 33. If the governor finds that the estimated budget resources during the fiscal year beginning July 1, 1983 and ending June 30, 1984, are insufficient to pay all appropriations in full prior to February 1, 1984, and the governor's findings are concurred in by the executive council, the governor shall not make any reductions in allotment as allowed under section 8.31 until the transfers authorized by this section have been made.

Notwithstanding the provisions of section 423.24, there shall be transferred from the revenues collected under chapter 423 in the fiscal year beginning July 1, 1983 and ending June 30, 1984, from the use tax collected on motor vehicles, trailers and motor vehicle accessories and equipment under section 423.7 an amount necessary to provide the estimated budget resources necessary to pay all appropriations in full. However, the total amount transferred prior to February 1, 1984, shall not exceed twelve million five hundred thousand (12,500,000) dollars.

If upon transfer of the twelve million five hundred thousand (12,500,000) dollars authorized by this section, the governor finds that the estimated budget resources during the fiscal year are insufficient to pay all appropriations in full and the executive council concurs in the governor's findings, the governor may make the reductions of allotments allowed under section 8.31.

Any funds transferred to the general fund of the state under this section prior to February 1, 1984, shall be considered an interest-free loan and the loan shall be repaid from the general fund of the state to the road use tax fund not later than May 31, 1984.

Section 33 of Senate File 531 would allow the transfer of up to \$12.5 million of the use tax on motor vehicles from the Road Use Tax Fund (RUTF) to the state's general fund if revenue estimates are less than total appropriations. This transfer is required to be implemented prior to any action to reduce state allotments under section 8.31 of the Code of Iowa. The transfer must be made prior to February 1, 1984 and the amounts transferred must be repaid to the RUTF no later than May 31, 1984.

I can understand the legislative desire to provide for alternatives to across-the-board budget cuts. I, too, view such cuts as one of the last resorts to be used to balance the state budget.

However, I cannot approve this section of Senate File 531 because it would not effectively forestall such a cut, it could tempt the General Assembly into funding on-going state programs with RUTF, and it could unnecessarily disrupt the expenditure of these funds for needed road projects.

This concept was added to Senate File 531 as an amendment during debate in the House. The House amendment did not specifically include a provision to repay these funds to the RUTF. However, intent language was added stating that the legislature would repay these funds no later than June 30, 1985. As a result, the ending fiscal year 1984 balance, which is calculated based on the status of the general fund on June 30, 1984, would have been increased by the amount of the transfer.

However, the conference committee report which was passed by the legislature requires repayment by May 31, 1984 — one month before the close of the 1984 fiscal year. Thus, the fiscal year 1984 ending balance for the general fund would not be affected by the transfer. There would be no net increase in the general fund balance.

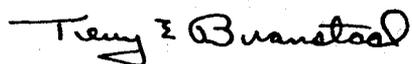
The Governor must base the decision to exercise a section 8.31 budget reduction on the expected ending general fund balance. Since Section 33 would have no impact on that balance, it would not act as an alternative to an across-the-board budget cut. Therefore, this section would apparently be unable to meet its intended purpose.

Moreover, the section could have adverse impacts. This provision would prevent the Department of Transportation from budgeting for the use of the \$12.5 million available for transfer since those funds would potentially be placed in the state's general fund for a few months of every year. This would lead to an unstable road repair program with fluctuations in the work force and in the accompanying supply system. Those funds would be better spent on highway projects where they could create jobs and economic activity, especially in light of the fact that they would provide no net benefit to the state's general fund.

Also, I am concerned that this provision could tempt the General Assembly into funding on-going state operations with funds intended for the RUTF. At one time, a portion of the sales tax on automobile parts and accessories was earmarked for the RUTF. However, a temporary diversion to balance the general fund and to meet budget priorities eventually resulted in a permanent loss of the revenue to the RUTF. I am concerned that the same temptation could exist as a result of this temporary effort to balance the general fund.

For the above reasons, I hereby disapprove this item in accordance with Amendment 4 of the Amendments of 1968 to the Constitution of the State of Iowa. All other items of Senate File 531 are hereby approved as of this date.

Very truly yours,



Terry E. Branstad  
Governor

**CHAPTER 199**  
**HERRICK BEQUEST APPROPRIATION**  
*H.F. 644*

**AN ACT** relating to the principal, interest and earnings on the special fund created for the bequest of Glenn Grover Herrick.

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

Section 1. There is appropriated from the special fund established by 1982 Iowa Acts, chapter 1265, from the interest and earnings of the funds in the special fund, the following amounts or so much thereof as may be necessary to the agency designated for the following purposes:

- 1. To the state board of regents for the redevelopment of the west approach of the old capitol building ..... \$ 160,000
- 2. To the state fair board for site planning and initial development of heritage village ..... \$ 50,000
- 3. To the state conservation commission for the following purposes:
  - a. An Iowa arboretum in Boone county ..... \$ 50,000
  - b. A depot restoration on a recreational trail and corridor between Waterloo and Cedar Rapids ..... \$ 130,000
  - c. A recreational trail between Dubuque and Dyersville ..... \$ 30,000
  - d. For projects at Living History Farms ..... \$ 50,000

Sec. 2. There is appropriated from the special fund established by 1982 Iowa Acts, chapter 1265, from the principal in the special fund, to the capitol planning commission the sum of one million (1,000,000) dollars, or so much thereof as may be necessary, for the planning of a new state historical building or center.

Sec. 3. 1982 Iowa Acts, chapter 1265, sections 1, 2, and 4, are amended to read as follows:

**SECTION 1.** The funds bequeathed by Mr. Glenn Grover Herrick from his estate are accepted and shall be deposited in a special fund in the state treasury and the principal and interest and earnings of such the funds be are subject to appropriation for the construction of a new state historical building or center. ~~Interest or earnings from the investment of the principal of the special fund shall be appropriated annually, consistent with the terms of the bequest, for projects other than a new state historical building or center as selected by the general assembly and approved by the governor upon recommendations by the committee created in section 4 of this Act.~~

**SEC. 2.** The capitol planning commission shall be is primarily responsible for the planning of the new historical building or center but shall consult with the state historical department, the state historical society, the committee created in section 4 of this Act, and other persons it determines can provide useful information for planning the building or center.

SEC. 4. Interest or earnings from investments of the funds in the special fund shall be credited to the special fund and invested in the manner provided in section 453.7. The governor shall appoint a committee to make recommendations to the general assembly annually regarding the disposition of interest or earnings credited to the special fund that are subject to appropriation for other projects. The committee shall be composed of two members of the senate, two members of the house of representatives and five citizens of the state. Not more than one senator, one representative and three of the citizens, respectively, shall be members of the same political party.

Approved June 6, 1983

## CHAPTER 200

### EXECUTIVE, LEGISLATIVE AND JUDICIAL AGENCIES APPROPRIATIONS

*H.F. 627*

AN ACT relating to and making appropriations to various executive, legislative and judicial departments and agencies and making coordinating amendments to the Code.

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

Section 1. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1983, and ending June 30, 1984, to the following named agencies, the following amounts, or so much thereof as necessary, to be used for the purposes designated:

	1983-1984 <u>Fiscal Year</u>
<b>1. OFFICE OF ADMINISTRATIVE RULES COORDINATOR</b>	
For salaries, support, maintenance, and miscellaneous purposes .....	\$ 60,921
<b>2. IOWA STATE ARTS COUNCIL</b>	
For salaries, support, maintenance, and miscellaneous purposes including funds to match federal grants .....	\$ 479,706
<b>3. DEPARTMENT OF JUSTICE</b>	
a. For the general office of attorney general for salaries, support, maintenance, and miscellaneous purposes .....	\$ 2,777,758
b. Prosecuting attorney training program For salaries, support, maintenance, and miscellaneous purposes which funds shall be used to attract federal and county funding .....	\$ 80,926

c. Prosecuting intern program; however, counties participating in the prosecuting intern program shall match funds appropriated by this paragraph .....	\$	52,500
<b>4. CAPITOL PLANNING COMMISSION</b>		
For per diem of forty dollars per day and expenses of the members in carrying out their duties under chapter 18A .....	\$	3,150
<b>5. OFFICE OF CITIZENS' AIDE</b>		
For salaries, support, maintenance, and miscellaneous purposes .....	\$	235,635
<b>6. COUNCIL ON STATE GOVERNMENTS</b>		
For support of the membership assessment .....	\$	44,600
<b>7. EXECUTIVE COUNCIL</b>		
For salaries, support, maintenance, and miscellaneous purposes .....	\$	65,785

**Sec. 2. DEPARTMENT OF JUSTICE—CONTINGENT APPROPRIATION.**

1. In addition to the funds appropriated under section 1, subsection 3 of this Act, there is appropriated from the general fund of the state to the department of justice for the fiscal year beginning July 1, 1983, and ending June 30, 1984, an amount not exceeding ninety-five thousand (95,000) dollars to be used for the enforcement of the Iowa competition law under chapter 553. The expenditure of the funds appropriated under this subsection is contingent upon receipt by the general fund of the state of an amount at least equal to the expenditures from damages awarded to the state or a political subdivision of the state by a civil judgment under chapter 553, if the judgment authorizes the use of the award for enforcement purposes.

2. In addition to the funds appropriated under section 1, subsection 3 of this Act, there is appropriated from the general fund of the state to the department of justice for the fiscal year beginning July 1, 1983, and ending June 30, 1984, an amount not exceeding thirty thousand (30,000) dollars to be used for public education relating to consumer fraud. The expenditure of the funds appropriated under this subsection is contingent upon receipt by the general fund of the state of an amount at least equal to the expenditures from damages awarded to the state or a political subdivision of the state by a civil consumer fraud judgment, if the judgment authorizes the use of the award for public education on consumer fraud.

Sec. 3. There is appropriated from the general fund of the state to the department of general services for the fiscal year beginning July 1, 1983, and ending June 30, 1984, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

	1983-1984	
	<u>Fiscal Year</u>	
<b>1. GENERAL OPERATIONS</b>		
For salaries, support, maintenance, and miscellaneous purposes .....	\$	5,059,051
<b>2. UTILITY COSTS</b>		
For payment of utility costs .....	\$	1,769,149

The department of general services may use funds appropriated under this subsection to fund energy conservation projects in the capitol complex which will have a one hundred percent payback within the fiscal year in which the funds are appropriated. However, in expending funds appropriated under this subsection, the department of general services shall provide lighting in each work area which is suitable to the type of work and the needs of the employee assigned to the work area.

3. 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

\$ 819,782

Sec. 4. There is appropriated from the revolving funds designated to the department of general services for the fiscal year beginning July 1, 1983, and ending June 30, 1984, the following amounts, or so much thereof as necessary, to be used for the purposes designated:

1983-1984  
Fiscal Year

DEPARTMENT OF GENERAL SERVICES—REVOLVING FUNDS

1. From the centralized printing permanent revolving fund established by section 18.57 for salaries, support, maintenance, and miscellaneous purposes

\$ 706,125

2. The remainder of the centralized printing permanent revolving fund is appropriated for the expense incurred in supplying paper stock, offset printing, copy preparation, binding, distribution costs, original payment of printing and binding claims and contingencies arising during the fiscal year beginning July 1, 1983 which are legally payable from this fund.

3. From the general service revolving fund established by section 18.9 for salaries, support, maintenance, and miscellaneous purposes

\$ 465,287

4. The remainder of the general service 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, 1983 which are legally payable from this fund.

5. From the vehicle dispatcher revolving fund established by section 18.119 for salaries, support, maintenance, and miscellaneous purposes

\$ 451,702

6. The remainder of the vehicle dispatcher revolving fund is appropriated for the purchase of gasoline, 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, 1983 which are legally payable from this fund.

Sec. 5. There is appropriated from the general fund of the state to the office of the governor for the fiscal year commencing July 1, 1983, and ending June 30, 1984, the following amounts or so much thereof as is necessary, to be used for the purposes designated:

1983-1984  
Fiscal Year

1. For salaries, support, maintenance, and miscellaneous purposes of the general office of the governor

\$ 666,941

2. For the governor's expenses connected with office

\$ 6,000

3. For salaries, support, and miscellaneous purposes of the governor's quarters at Terrace Hill

\$ 57,404

4. For the payment of expenses of ad hoc committees, councils and task forces appointed by the governor to research and analyze a particular subject area relevant to the problems and responsibilities of state and local government, including the employment of professional, technical and administrative staff and the payment of per diem, not exceeding forty dollars, and actual expenses of committee, council or task force members

\$ 25,000

Sec. 6. There is appropriated from the general fund of the state to the office of the lieutenant governor for the fiscal year beginning July 1, 1983, and ending June 30, 1984, the following amount, or so much thereof as necessary, to be used for the purposes designated:

1983-1984  
Fiscal Year

For salaries, support, maintenance, and miscellaneous purposes including the lieutenant governor's compensation and expenses as provided in subsection 2 of section 2.10 including service as a member of the legislative council and for per diem and expenses incurred while performing duties of the lieutenant governor when the general assembly is not in session

\$ 99,411

The senate majority and minority leaders shall appoint a five-person committee to study the office of lieutenant governor to determine the duties and responsibilities of the office and make recommendations to the senate.

Sec. 7. There is appropriated from the general fund of the state to the Iowa state historical department for the fiscal year beginning July 1, 1983, and ending June 30, 1984, the following amounts, or so much thereof as necessary, to be used for the purposes designated:

1983-1984  
Fiscal Year

1. For salaries, support, maintenance, and miscellaneous purposes, including the expenditure of not more than five thousand (5,000) dollars for the installation of a gift shop on the ground floor of the state capitol building near the cafeteria area

\$ 1,345,692

Notwithstanding the educational qualifications required for a professional archivist under section 19A.9, subsection 1, a graduate of an accredited four-year college or university with major coursework in public administration, political science, library science, history, government, historic preservation or archival management meets the educational qualifications for employment in the position of a professional archivist funded under this subsection.

2. For the state historical board for per diem and expenses

\$ 7,913

Sec. 8. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1983, and ending June 30, 1984, to the following named judicial department agencies, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1983-1984  
Fiscal Year

1. COURTS

For salaries of supreme court justices, appellate court judges, district court judges, district associate judges, judicial magistrates, and staff, maintenance, equipment, and miscellaneous purposes .....

\$ 11,300,513

2. BOARDS AND COMMISSION—  
JUDICIAL DEPARTMENT

For salaries, support, maintenance, and miscellaneous purposes of the board of law examiners and board of examiners of shorthand reporters and judicial qualifications commission .....

\$ 55,378

3. DISTRICT COURT ADMINISTRATORS

For salaries, support, maintenance, and miscellaneous purposes .....

\$ 1,448,570

Of the amount appropriated under this subsection, the total appropriation for the salaries of law clerks shall not exceed four hundred forty-five thousand two hundred thirty-five (445,235) dollars and the total number of full-time equivalent positions for law clerks shall not exceed twenty-four.

4. ADMINISTRATION

For salaries, support, maintenance, equipment, and miscellaneous purposes of the court administrator, and clerk of the supreme court .....

\$ 718,283

Sec. 9. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1983, and ending June 30, 1984, except as otherwise provided, to the following named agencies, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1983-1984  
Fiscal Year

1. BUREAU OF LABOR

For salaries, support, maintenance, and miscellaneous purposes .....

\$ 1,547,752

2. LEGISLATIVE FISCAL BUREAU

For salaries, support, maintenance, and miscellaneous purposes .....

\$ 585,996

Of the funds appropriated under this subsection, an amount not exceeding twenty-six thousand (26,000) dollars shall be used to employ a fiscal analyst, subject to the approval of the legislative council.

3. LEGISLATIVE SERVICE BUREAU

a. For salaries, support, maintenance, and miscellaneous purposes .....

\$ 1,001,666

b. For drafting, research, and Code data processing programs and services .....

\$ 15,000

4. NATIONAL CONFERENCE OF STATE  
LEGISLATURES

For support of the membership assessment .....

\$ 45,357

## 5. IOWA LIBRARY DEPARTMENT

a. For the state library for salaries, support, maintenance, and miscellaneous purposes .....	\$	936,607
b. For the regional library system for state aid .....	\$	1,130,808

Of the funds appropriated under this paragraph, each regional library district shall receive the same dollar amount for the fiscal year beginning July 1, 1983, as the district received for the fiscal year beginning July 1, 1982.

## 6. IOWA MERIT EMPLOYMENT DEPARTMENT

For the general office for salaries, maintenance, and miscellaneous purposes .....	\$	1,432,040
7. PIONEER LAWMAKERS .....	\$	250

## 8. OFFICE FOR PLANNING AND PROGRAMMING

a. Iowa highway safety program		
For salaries, support, maintenance, and miscellaneous purposes to provide a cost-effective traffic safety program through the administration of federal highway safety contracts to state and local governmental agencies .....	\$	77,000
b. Youth services administration		
For salaries, support, maintenance, and miscellaneous purposes to develop and administer employment opportunity programs for the youth .....	\$	79,980
c. General operating account		
For salaries, support, maintenance, and miscellaneous purposes to provide overall direction, planning, and administrative support to local, state, and federal programs .....	\$	557,813
d. Economic analysis and planning assistance		
For salaries, support, maintenance, and miscellaneous purposes .....	\$	162,069
e. Iowa council for children		
For salaries, support, maintenance, and miscellaneous purposes .....	\$	65,213
f. Statistical analysis center		
For salaries, support, maintenance, and miscellaneous purposes .....	\$	141,120
g. Iowa youth corps		
For salaries, support, maintenance, and miscellaneous purposes .....	\$	900,000
h. Community development block grant administration		
For salaries, support, maintenance, and miscellaneous purposes .....	\$	90,875

The criminal justice analyst position is transferred to the criminal and juvenile justice planning agency and shall continue to be funded under the agency's budget for the fiscal year beginning July 1, 1983.

**9. IOWA ACADEMY OF SCIENCE**

For support and maintenance ..... \$ 10,800

**10. COMMISSION ON UNIFORM STATE**

**LAWS**

For support of the commission and expenses of members ..... \$ 10,600

**11. LEGISLATIVE EXTENDED ASSISTANCE GROUP (LEAG)**

For the conduct of studies as authorized by the legislative council ..... \$ 30,000

**12. TERRACE HILL AUTHORITY**

For salaries, support, maintenance, and miscellaneous purposes for the operation of Terrace Hill and for conducting public tours ..... \$ 153,953

**13. CRIMINAL AND JUVENILE JUSTICE PLANNING AGENCY**

For salaries, support, maintenance, and miscellaneous purposes related to the operations of the criminal and juvenile justice planning agency which is a separate independent agency within the office of the governor, under the direct supervision of the governor, and responsible only to the governor or the general assembly as provided in chapter 80C:

- a. Criminal justice planning ..... \$ 210,221
- b. Juvenile justice planning ..... \$ 53,762
- c. Juvenile victim restitution program ..... \$ 125,000
- d. Jail training and technical assistance ..... \$ 40,000

The number of full-time equivalent positions in the criminal and juvenile justice planning agency existing as of March 1, 1983, shall not be reduced as a result of the separation of the agency from the office for planning and programming as provided in this subsection and chapter 80C.

Sec. 10. Section 13B.6, Code 1983, is amended to read as follows:

**13B.6 ACCOUNT ESTABLISHED.**

1. There is established in the state general fund an account to be known as the appellate defender operating account. The appellate defender is ~~authorized to~~ may bill a county for services rendered to the county by the office of the appellate defender. Receipts shall be deposited in the operating account established under this section. There is appropriated from the state general fund all amounts deposited in the appellate defender operating account for use in maintaining the operations of the office of appellate defender.

2. The criminal and juvenile justice planning agency shall provide internal accounting and related fiscal services for the office of the appellate defender as requested by the appellate defender.

Sec. 11. Section 18.75, subsection 8, Code 1983, is amended by striking the subsection.

Sec. 12. Section 18.115, subsection 5, Code 1983, is amended to read as follows:

5. All used motor vehicles turned in to the state vehicle dispatcher shall be disposed of by public auction, and the sales shall be advertised in a newspaper of general circulation one week in advance of sale, and the receipts from the sale shall be deposited in the depreciation fund to the credit of that unit within the department or agency turning in the vehicle; except that, in the case of a used motor vehicle of special design, the state vehicle dispatcher may, with the approval of the executive council, instead of selling it at public auction, authorize the motor vehicle to be traded for another vehicle of similar design.

Sec. 13. Section 18.120, Code 1983, is amended to read as follows:

18.120 REPLACEMENT FUND. The vehicle dispatcher shall maintain a depreciation fund for the purchase of replacement motor vehicles and additions to the fleet. The dispatcher's records shall show the total funds deposited by and credited to each department or agency thereof. At the end of each month, the state vehicle dispatcher shall render a statement to each state department or agency thereof for additions to the fleet and total depreciation on each motor vehicle assigned to and owned by such credited to that department or agency. Such depreciation expense shall be paid by the state departments or agencies in the same manner as other expenses of such department are paid, and shall be deposited in the depreciation fund to the credit of the individual motor vehicle within the department or agency thereof. The funds credited to each department or agency thereof shall remain the property of the department or agency. However, at the end of each biennium, the state vehicle dispatcher shall cause to revert to the fund from which it accumulated any unassigned depreciation.

Sec. 14. Section 2.53, Code 1983, is repealed.

Sec. 15. All federal grants to and the federal receipts of the agencies appropriated funds under this Act, not otherwise appropriated, are appropriated for the purposes set forth in the federal grants or receipts unless otherwise provided by the general assembly.

Approved June 7, 1983

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## CHAPTER 201

### CERTAIN DEPARTMENT OF SOCIAL SERVICES APPROPRIATIONS

*H.F. 641*

**AN ACT** relating to the administration and financing of current programs other than correctional and mental health programs under the jurisdiction of the department of social services for the fiscal period beginning July 1, 1983, and ending June 30, 1984.

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

Section 1. GENERAL ADMINISTRATION. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1983, and ending June 30, 1984, to the department of social services, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1983-1984  
Fiscal Year

1. For general administration, other than for the division of adult corrections, including salaries and support of not more than four hundred twenty-four and seven-tenths full-time equivalent positions annually not including positions in general administration relating to corrections, maintenance, and miscellaneous purposes .....

\$ 7,528,800

a. The commissioner shall develop a proposal which, if implemented, would reduce the number of upper-level management positions in the department by at least five percent. In the proposal, at least five percent of the filled positions in the table of organization of the department shall be designated as being upper-level management positions and these designated positions shall be selected from among the top twenty-five percent of the highest salaried positions in the department. The proposal shall provide for the reduction by reorganization, consolidation, layoff, attrition, or other means determined by the department, shall be based on a table of organization and the actual number of employees employed by the department on January 1, 1983, and shall be capable of implementation not later than July 1, 1984. In determining the actual number of management positions to be included in the reduction, a fractional number shall be increased or reduced to the nearest whole number. The reduction proposal may include recommendations which require legislative action, but the reduction shall be capable of implementation by July 1, 1984. The reduction proposal shall be submitted to the governor, the legislative council, and the members of the social services appropriations subcommittee by October 1, 1983. The reduction proposal shall not include reductions of personnel engaged in direct client work or contact. As used in this section, "permanent, full-time position" means a position which requires more than twenty hours per week of work for more than four consecutive months.

b. If a separate department of corrections is established and if the department of social services is renamed the department of human services, the commissioner of human services shall work with the director of the department of corrections in providing for the transfer of necessary funding for staff and support from the department of human services to the department of corrections. If the separate department of corrections is established, the proposal required to be developed in paragraph a shall apply only to the staff who will continue to be employees of the department of human services.

2. For purchases of motor fuel and special fuel .....

\$ 12,825

3. For distribution of federal surplus commodities, including salaries and support, maintenance, and miscellaneous purposes .....

\$ 100,000

For the fiscal year beginning July 1, 1983, and ending June 30, 1984, the department may receive and there is appropriated, in addition to its appropriations from the general fund of the state, such funds from damages awarded to the state by the civil antitrust judgment involving the sale of chickens, to the department for use in the distribution of federal surplus commodities, if the judgment allows the funds received to be used for such purposes.

Sec. 2. FIELD OPERATIONS. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1983, and ending June 30, 1984, to the department of social services for the division of field operations, the following amounts, or so much thereof as is necessary:

1983-1984  
Fiscal Year

- 1. For salaries and support of not more than two thousand one hundred ninety-four full-time equivalent positions annually, maintenance, and miscellaneous purposes ..... \$ 21,005,100
- 2. For purchases of motor fuel and special fuel ..... \$ 43,463

Sec. 3. SPECIAL PROGRAMS. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1983, and ending June 30, 1984, to the department of social services, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1983-1984  
Fiscal Year

SPECIAL PROGRAMS

- 1. For aid to families with dependent children ..... \$ 64,000,000

a. The department shall establish the schedule of basic needs for two persons at three hundred five dollars. The department shall establish the schedule of living costs for one person at one hundred fifty-four dollars, for two persons at four hundred dollars, for three persons at four hundred ninety-four dollars, for four persons at five hundred seventy-two dollars, for five persons at six hundred thirty-two dollars, for six persons at seven hundred three dollars, for seven persons at seven hundred seventy-three dollars, for eight persons at eight hundred forty-three dollars, for nine persons at nine hundred thirteen dollars, for ten persons at nine hundred eighty-three dollars, and for each additional person at seventy dollars per person.

The department shall not withhold an amount greater than ten percent of the schedule of basic needs in recouping an overpayment due to an error by a recipient under the aid to families with dependent children program, unless the recipient elects to have a greater amount withheld. If an overpayment is due to an error by the department, the department shall not withhold an amount greater than one percent of the schedule of basic needs, unless the recipient elects to have a greater amount withheld. However, if in a case of departmental error the amount withheld will not recoup the overpayment within twenty-four months, the department may establish a recoupment schedule which will recoup the overpayment over a twenty-four month period, provided the amount withheld does not exceed five percent of the schedule of basic needs.

b. The department of social services shall provide benefits under an unemployed parent program under the aid to families with dependent children program. The department shall withdraw its waiver request to the United States department of health and human services and shall not limit grants under the unemployed parent program to six months for any eligible group. The department may require a participant to apply for a certain number of jobs either on a monthly or a weekly basis.

c. The department shall provide assistance under the aid to families with dependent children program to eighteen year old persons in accordance with federal regulations.

d. The department shall seek to operate a community work program in each county for unemployed parents by contracting at reasonable cost with county boards of supervisors or another local organization designated by both the county board of supervisors and the department. The county board of supervisors or the designated local organization may charge the entity responsible for a work site a reasonable fee to cover the cost of workers' compensation liability insurance provided by or through the board or organization which is not reimbursed

through federal participation, and the administrative costs in providing the insurance, to program participants employed at the work site. However, the fee shall be the actual cost of coverage and administration, not to exceed fifty-five cents per hour per participant.

The work schedule of a participating unemployed parent who is employed in or obtains unsubsidized employment shall be arranged so that the work schedule does not interfere with the participant's ability to retain the unsubsidized employment. A participant shall be required to work only during those hours normally worked by regular employees at the work site, but shall not be required to work between the hours of six o'clock p.m. and seven o'clock a.m., unless the participant voluntarily agrees to work between those hours. A participant shall not be required to work on the participant's sabbath, on legal federal holidays, or on state public holidays, unless the participant voluntarily agrees to work on those days. A participant shall not be required to work more than four days per week.

With the approval of the department, a participant may establish the participant's own work program by arranging and performing voluntary community service work with an approved nonprofit agency which agrees to meet all requirements of the program.

In addition to the basic grant under the aid to families with dependent children program, a recipient shall receive a monthly allowance for costs incurred while participating in a community work program as provided by departmental rule. If a participant's work expenses exceed twenty-five dollars per month, the number of hours the participant is required to work shall be reduced, unless the government entity or nonprofit agency pays the excess expenses. Mileage expenses shall be calculated at eighteen cents per mile under the program. Clothing, shoes, gloves, and health and safety equipment necessary for the performance of work at a work site under the program, which the participant does not already possess, shall be provided to the participant by the entity responsible for the work site. The items provided shall remain the property of the entity responsible for the work site, unless the participant and the entity responsible for the work site agree to a different arrangement. Work sites under the program are subject to the occupational safety and health standards adopted pursuant to chapter 88 and federal law.

The department shall give each participant a copy of the rules and procedures governing the community work program. The procedures shall include notice of a participant's right to appeal any disqualification or decision affecting the participant under the program, the time limits for the appeal, and the conditions for continuance of the grant under the aid to families with dependent children program. The procedures shall include a grievance procedure for public complaints regarding the displacement of regular workers with participants. Upon the filing of a complaint, the department shall require the establishment of local impartial boards consisting of representatives of the legal profession, organized labor, private industry, and the department to hear and resolve the complaints. The department shall refer all complaints regarding violations of occupational safety and health standards to the labor commissioner.

Participation in a program funded under the federal Job Training Partnership Act, Pub. L. No. 97-300, meets the participation requirements of the community work program.

e. Of the funds appropriated in this subsection, one hundred sixty-five thousand (165,000) dollars, or so much thereof as is necessary, is appropriated to the department to continue the coordinated manpower services demonstration projects for recipients of aid to families with dependent children in two of the department's districts. The department shall continue the current monthly incentive allowances for participants in the coordinated manpower services demonstration projects.

The department shall administer the coordinated manpower services demonstration projects in such a manner as to assure the availability to the projects of the maximum amount of funds available to local service delivery areas under the federal Job Training Partnership Act,

Pub. L. No. 97-300. After March 31, 1984, funds appropriated in section 2 of this Act and allocated to the coordinated manpower services demonstration projects shall not be expended for job training.

2. 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. 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 forty-five 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 one hundred fifty 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 ..... \$ 129,050,000

Medical assistance shall be made available to children under twenty-one years of age who meet all eligibility criteria of the aid to families with dependent children program except that the children are not deprived of parental support.

The maximum co-payments allowed by federal law or regulation shall be placed on all optional services to all recipients under the medical assistance program. A fixed co-payment shall be established for each optional service. The co-pay requirement shall not apply to the services if federal law or regulation prohibits application of the requirement. However, a co-payment shall not be imposed on services furnished to individuals in residential care facilities.

3. For contractual services-medical carrier ..... \$ 2,040,000  
4. For work and training programs ..... \$ 42,000

5. For child support recoveries, including salary and support of not more than ninety-six full-time equivalent positions annually, except as otherwise provided in this subsection, maintenance, and miscellaneous purposes ..... \$ 830,000

The commissioner of social services, within the limitations of the funds appropriated in this subsection or funds transferred from the aid to families with dependent children program for this purpose, may establish new positions and add additional employees to the child support recovery unit when the commissioner determines that additional employees can reasonably be expected to recover for the aid to families with dependent children program and the nonpublic assistance support recovery program more than twice the amount of money required to pay the salary and support for those additional employees. The department shall demonstrate the cost effectiveness of the additional employees by reporting to the social services appropriations subcommittee the ratio of the total amount of administrative costs for child support recoveries to the total amount of the child support recoveries.

6. For state supplementary assistance, including state supplementary assistance for the blind ..... \$ 7,250,000

The department of social services shall increase the personal needs allowance for eligible persons residing in residential care facilities by two dollars on July 1, 1983.

7. For aid to Indians under section 252.43 ..... \$ 36,000

The tribal council shall not use more than ten percent of the funds for administrative expenses.

8. For home-based services ..... \$ 4,540,000

Of the funds appropriated by this subsection, nine hundred sixty thousand (960,000) dollars, or so much thereof as is necessary, is appropriated for the development and establishment of family-centered services in all districts of the department where such services are currently not available.

9. For foster care ..... \$ 20,950,000

The department, based on the recommendation of each district administrator, may transfer a portion of the funds appropriated by this subsection to the districts for use in providing in-home services designed to prevent the placement of children outside their own homes or to reunite children, who have been placed in foster care, with their parents. The commissioner of social services shall not transfer the funds unless the commissioner determines that the transfer will be cost effective.

No more than forty-five percent of all children in foster care funded under Title IV, Part E of the federal Social Security Act shall be in foster care for more than twenty-four months.

10. For community-based services ..... \$ 1,593,000

a. Of the funds appropriated by this subsection, two hundred seventy-five thousand (275,000) dollars, or so much thereof as is necessary, is appropriated to assist child care centers under section 237A.13.

Notwithstanding section 237A.13, subsection 4, funds unencumbered as of April 30, 1984, shall not be reallocated unless the unencumbered funds reclaimed exceed two thousand dollars.

b. Of the funds appropriated by this subsection, one hundred twenty thousand (120,000) dollars, or so much thereof as is necessary, is appropriated for child abuse prevention services.

c. Of the funds appropriated by this subsection, one hundred thousand (100,000) dollars, or so much thereof as is necessary, is appropriated for programs for displaced homemakers, and one hundred thousand (100,000) dollars, or so much thereof as is necessary, is appropriated for programs for victims of domestic abuse.

Funds appropriated by this paragraph for programs for displaced homemakers and for victims of domestic abuse may be used to provide start-up moneys for programs which will develop community support and establish means of support independent of long-term state funding. Where possible, special programs receiving state funds under this paragraph for more than one year should be established to receive declining amounts of state funding after the first twelve months of full operation and to be supported locally after thirty-six months of operation. Special programs deviating from these guidelines shall be reported to the joint social services appropriations subcommittee. The department shall consult persons knowledgeable in the respective subjects of domestic abuse and displaced homemakers with respect to establishment and selection of the programs.

d. Of the funds appropriated by this subsection, five hundred thousand (500,000) dollars, or so much thereof as is necessary, is appropriated to provide grants for community-based juvenile services to reduce the need for long-term state juvenile institutional placements and to encourage home-based treatment programs as alternatives to state juvenile institutional care. The department shall approve grants for additional community-based residential beds only if the beds are designed specifically to reduce the population at state juvenile institutions.

The commissioner of social services shall pay from funds appropriated by this subsection, as the entitled aid from the state under section 232.142, subsection 4, one-half of one percent of the total cost of the establishment, improvements, operation, and maintenance of approved county or multicounty juvenile homes.

11. For county-based reimbursement under section 232.141, subsection 4, paragraph d ..... \$ 1,600,000

A judge of the juvenile court shall certify the reasonableness of compensation paid to an attorney and charged to a county under section 232.141, subsection 1. The certification shall include a review of the hourly fee and the hours of service billed to the county.

The department shall collect information on expenses charged to the counties under section 232.141 and on the expenses reimbursed by the state under section 232.141, subsection 4, paragraph d, and shall report the information to the social services appropriations subcommittee by January 15, 1984. The report shall include a breakdown of the services and expenses charged and reimbursed under section 232.141. The department shall recommend cost containment alternatives which limit reimbursements under section 232.141, subsection 4, paragraph d.

12. For operation of the state training school and the Iowa juvenile home:

a. For salaries and support of not more than two hundred one full-time equivalent positions annually at the state training school, and of not more than one hundred fifteen full-time equivalent positions annually at the Iowa juvenile home, maintenance, and miscellaneous purposes ..... \$ 7,478,000

b. For purchases of motor fuel and special fuel ..... \$ 21,375

Within the limitations of the funds appropriated in this subsection, the department may establish new positions for two youth service workers for night coverage and for responding to emergency situations at the Iowa juvenile home.

13. For volunteers ..... \$ 83,000

Sec. 4. BLOCK GRANT SUPPLEMENTATION. There is appropriated from the general fund of this state for the fiscal year beginning July 1, 1983, and ending June 30, 1984, to the department of social services for supplementation of federal social services block grant funds and for allocation to the various counties for the purchase of local services for eligible individuals, the following amount, or so much thereof as is necessary:

1983-1984  
Fiscal Year  
\$ 3,115,000

1. The department shall increase the current income guidelines for income eligible persons receiving services funded with federal social services block grant funds by five and one-half percent for the fiscal year beginning July 1, 1983. The department shall allocate the funds appropriated by this section to the districts and then to the counties within the districts. Fifty percent of the allocation to each county shall be based on the county's allocation for the fiscal year beginning July 1, 1982, and the other fifty percent of the allocation shall be based on the federal poverty level in the county as determined by the United States census bureau. The county shall match every three dollars of funds allocated to the county with one dollar of local funds. The county board of supervisors shall determine, in accordance with departmental rules, the services which the county will fund. A county may use up to four percent of the

federal social services block grant funds and funds allocated to the county under this section for the purchase of child day care services without matching the federal and state funds with local funds.

2. A person receiving sheltered work or work activity services is eligible for funding under the federal social services block grant if the person's income, other than income from sheltered work or work activities, does not exceed the income eligibility standard for the person's family size, adopted by the department by rule. An eligible person may retain all income up to the income eligibility standard and one-half of all income above the standard. The eligible person shall pay the remaining one-half of the income to the provider as a client participation fee and the department's reimbursement to the provider shall be reduced by the same amount. If the required client participation fee equals or exceeds the department's reimbursement to the provider, the person is no longer eligible. However, if federal law or regulation prohibits the provider from collecting client participation fees, the department shall establish eligibility and income guidelines in accordance with the rules which were in effect immediately prior to July 1, 1983.

3. Notwithstanding 770 Iowa administrative code, rule 132.4(2)(b), if a recipient under the aid to families with dependent children program who is eligible for the child care work expense deduction under the program declines to take the deduction, the recipient is eligible for child day care services if the services are funded in the county plan for use of federal social services block grant funds in the county in which the recipient resides.

#### Sec. 5. REIMBURSEMENT RATES.

1. The current reimbursement methodologies under the medical assistance program shall be retained. Except for inpatient and outpatient hospital services, skilled nursing facility services, intermediate care facility services, intermediate care facility services for the mentally retarded, home health agency services, rural health clinic services, and rehabilitation agency services, the current reimbursement rates for medical assistance providers shall not be increased by more than six percent for the fiscal year beginning July 1, 1983.

a. Physician fees reimbursed under the medical assistance program shall be limited to the amount of reimbursements under 770 Iowa administrative code, rule 79.1(2), as effective on July 1, 1983, or to the amount of reimbursements allowed by application of the economic index under Title XVIII of the federal Social Security Act, whichever is less.

b. Medical assistance payments for all mandatory and optional services, except for hospital services, physician services, intermediate care facility services, intermediate care facility services for the mentally retarded, services provided to recipients in state mental health institutes, medical transportation services other than ambulance services, and the material costs of products which are reimbursed at the acquisition cost, shall be reduced by a factor of two and one-half percent.

c. Beginning July 1, 1983, the basis for establishing the maximum medical assistance reimbursement rate for intermediate care facilities shall be the seventy-fourth percentile of all facilities' per diems as calculated from the June 30, 1981 compilation of unaudited financial and statistical reports, increased by a six percent inflation factor. The compilation is composed of facility cost reports received prior to May 1, 1981.

d. The department shall study the cost-effectiveness of establishing a limited formulary of nonlegend drugs prescribed by a physician and eligible for reimbursement under the medical assistance program and the appropriate reimbursement rate to pharmacists for providing these nonlegend drugs under the formulary. The department shall report the results of the study to the general assembly by January 15, 1984. However, the department may implement a reimbursement program under a formulary prior to January 15, 1984, if the department determines that the program would be cost-effective.

2. For the fiscal year beginning July 1, 1983:

a. The maximum reimbursement rate for residential care facilities utilizing the cost-related reimbursement system shall be established at the point where fifty-one percent of all state supplementary assistance recipients who are residential care facility residents are receiving full cost coverage for care, based on actual facility rates on file with the department on August 1, 1982.

b. The flat reimbursement rate for residential care facilities shall be established at eleven dollars and eighty-five cents per day.

3. For the fiscal year beginning July 1, 1983, the current reimbursement rates for all foster family homes shall be increased, on the average, by six percent. However, that average increase shall be distributed in such a manner as to increase the reimbursements to all foster family age categories by the same dollar amount.

The department shall reimburse a licensed or approved public or private juvenile shelter care facility in this state, pursuant to rule, for the services provided by the facility for which the department is authorized to pay, subject to the maximum reimbursement rate established by rule. In lieu of the reimbursement for the actual services provided, a facility may choose to receive a uniform monthly payment. The department shall calculate a facility's uniform monthly payment rate by multiplying the facility's unit cost by either the actual average monthly utilization rate for the facility for the last completed twelve-month period or the projected average monthly utilization rate for the facility for the current twelve-month period, whichever is greater. The applicable utilization rate shall not exceed the licensed or approved capacity of the facility. If the uniform monthly payments to the facility exceed the facility's allowable costs, the facility shall reimburse the department the excess amount. If a facility which receives a uniform monthly payment provides units of service in excess of the facility's applicable monthly utilization rate over a six-month period, the department shall semiannually pay the facility an amount calculated by multiplying the facility's unit cost by the number of excess units of service provided.

4. The current reimbursement rate for subsidized adoptions under section 3, subsection 8 of this Act shall be increased by six percent for the fiscal year beginning July 1, 1983 and shall be distributed in the same manner as foster family home reimbursements.

5. For the fiscal year beginning July 1, 1983, the current reimbursement rates for purchase of service providers shall be increased by no more than six percent. If a provider's current reimbursement rate on June 30, 1983, is fifteen percent less than the provider's previous reimbursement rate, the department shall not apply the allowable percentage increase to the current rate, but shall apply the increase to the average of the provider's actual cost-based rates issued during the period beginning July 1, 1981, and ending June 30, 1983. If a provider's current reimbursement rate is lower than the cost-based rate which the provider could charge, the department shall not apply the allowable percentage increase to the current rate, but shall apply the increase to the cost-based rate the provider could charge. The department, in conjunction with providers participating in the purchase of service system, shall study the current reimbursement system for purchase of services and shall recommend to the social services appropriations subcommittee changes in the system to make the system more equitable.

6. The department shall collect information relating to the method of reimbursing optometrists and psychologists under the medical assistance program and shall make a recommendation concerning the adoption of a percentile reimbursement methodology to the social services appropriations subcommittee during the 1984 session of the general assembly. Optometrists and psychologists shall cooperate with the department in the collection of the information, and beginning July 1, 1983, shall include their usual, customary, and reasonable charges on their medical assistance reimbursement forms.

**Sec. 6. INVOLUNTARY TRANSFERS.** If a skilled nursing facility or an intermediate care facility receives payments under Title XIX of the federal Social Security Act for one or more patients in the facility, the facility shall not involuntarily transfer any patient to another facility if that patient had previously been receiving medical assistance under chapter 249A for care in the facility and has been disqualified for that medical assistance because of an increase in income, but agrees to pay all of the patient's income and resources not exempt under guidelines in Title XIX of the federal Social Security Act for continued care in the facility and that payment equals or exceeds the medical assistance reimbursement rate for the particular facility.

**Sec. 7. WAIVER.** The department, in conjunction with provider and consumer groups, shall develop a proposal for a statewide program of home and community-based services to be provided under a waiver under Title XIX of the federal Social Security Act. The department may include in the proposal one or more pilot projects or limited coverage programs of services funded under a Title XIX waiver if the costs of the community-based services provided to eligible persons will not exceed the costs of institutional services which would otherwise be provided to the eligible persons. The proposal shall include the provision of in-home health services under the state supplementary assistance program. The department shall report the plan to the general assembly in January, 1984. The department shall report its progress in developing the waiver proposal to the governor, to the legislative council, and to the members of the social services appropriations subcommittee by October 1, 1983. The report shall include the impact of the waiver proposal on the funding of in-home health services under the state supplementary assistance program. The department shall seek to implement the waiver proposal no later than March 31, 1984.

**Sec. 8. TRANSFERS.** Except as provided in section 3, subsection 5 of this Act, funds appropriated under section 3, subsections 1, 2, and 11 of this Act, shall not be transferred or used for any other purposes than specified in those subsections, notwithstanding section 8.39. However, funds appropriated under section 3, subsections 1, 2, and 11 of this Act may be transferred under section 8.39 among those subsections and may be used for the purposes specified in those subsections.

**Sec. 9. ADDITIONAL STAFF.** Notwithstanding the limitations on full-time equivalent positions in section 1, subsection 1, section 2, subsection 1, and section 3, subsections 5 and 12 of this Act, the department of social services may add staff above the limitations if the department receives additional federal funding not originally anticipated and budgeted, including but not limited to increased federal funding from the Emergency Jobs Appropriations Act, Pub. L. No. 98-8.

**Sec. 10. FEDERAL FUNDS.** All federal grants to and the federal receipts of the department of social services are appropriated for the purposes set forth in the federal grants or receipts.

**Sec. 11. CAPITAL IMPROVEMENTS EXCLUDED.** Funds appropriated by this Act shall not be used for capital improvements.

**Sec. 12.** The department of social services shall adopt administrative rules under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph b, relating to the recoupment of overpayments, the community work program, and the coordinated manpower services demonstration projects under the aid to families with dependent children program in section 3, subsection 1, paragraphs a, d, and e of this Act, medical assistance co-payments in section 3, subsection 2 of this Act, raising income guidelines for income eligible persons, allocations to the counties and sheltered work and work activity services under the social services block grant supplementation program in section 4 of this Act, and medical assistance, purchase of

service provider, and other reimbursements in section 5 of this Act, and may adopt administrative rules under section 17A.4, subsection 2 and section 17A.5, subsection 2, paragraph b, relating to the schedule of basic needs and the schedule of living costs, the unemployed parent program, and benefits to eighteen year old persons under the aid to families with dependent children program in section 3, subsection 1, paragraphs a, b, and c of this Act, medical assistance benefits to children under twenty-one years of age in section 3, subsection 2 of this Act, personal needs allowances under the state supplementary assistance program in section 3, subsection 6 of this Act, and child day care services under the social services block grant supplementation program in section 4 of this Act, and the rules shall become effective immediately upon filing, unless a later effective date is specified in the rules.

Sec. 13. Section 249A.4, subsection 8, unnumbered paragraph 1, Code 1983, is amended to read as follows:

Shall advise and consult at least semiannually with a council composed of the president, or his or her the president's representative who is a member of the professional organization represented by the president, of the Iowa Medical Society ~~medical society~~, the Iowa Society ~~society~~ of Osteopathic Physicians ~~osteopathic physicians~~ and Surgeons ~~surgeons~~, the Iowa State Dental Society ~~state dental society~~, the Iowa State Nurses Association ~~state nurses association~~, the Iowa Pharmaceutical Association ~~pharmacists association~~, the Iowa Podiatry Society ~~podiatry society~~, the Iowa Optometric Association ~~optometric association~~, the community mental health centers association of Iowa, the Iowa psychological association, the Iowa Hospital Association ~~hospital association~~, the Iowa Osteopathic Hospital Association ~~osteopathic hospital association~~, opticians' association of Iowa ~~Ophthalmic Dispensers, Inc., (opticians)~~ and the Iowa Nursing Home Association ~~health care association~~, the Iowa assembly of home health agencies, the Iowa council of health care centers, and the Iowa association of homes for the aging, together with one person designated by the Iowa state board of chiropractic examiners; one state representative from each of the two major political parties appointed by the speaker of the house, one state senator from each of the two major political parties appointed by the lieutenant governor, each for a term of two years; the president or the president's representative of the association for retarded citizens; four public representatives, two of whom shall be appointed each year by the governor for staggered terms of two years each, and none of whom shall be members of, or practitioners of or have a pecuniary interest in any of the professions or businesses represented by, any of the several professional groups and associations specifically represented on the council under this subsection, and at least one of whom shall be a recipient of medical assistance; the commissioner of public health, or a representative designated by ~~him~~ the commissioner, and the dean of the college of medicine, University ~~university~~ of Iowa, or a representative designated by ~~him~~ the dean.

Approved June 8, 1983

**CHAPTER 202****GRANTS AND AIDS FOR AGRICULTURAL AFFAIRS, ECONOMIC DEVELOPMENT  
AND ENERGY AND NATURAL RESOURCES MANAGEMENT***H.F. 638*

**AN ACT** relating to and appropriating from the general fund of the state and various trust funds for various operations and grants and aids to departments and agencies of the state whose responsibility relates to agricultural affairs, economic development, and energy and natural resources management.

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

Section 1. DEPARTMENT OF AGRICULTURE. There is appropriated from the general fund of the state and the trust funds indicated to the department of agriculture for the fiscal year beginning July 1, 1983 and ending June 30, 1984 the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

	1983-1984 <u>Fiscal Year</u>
<b>1. GENERAL ADMINISTRATION</b>	
a. From the general fund for salaries and support of not more than fifty-nine and one-half full-time equivalent positions annually, maintenance, and miscellaneous purposes .....	\$ 1,311,197
It is the intent of the general assembly that the collection of agricultural statistics under sections 3 and 4 of this Act not commence until January 1, 1984.	
b. From the fertilizer fund to be transferred to the administration division .....	\$ 39,216
c. From the dairy trade practice fund to be transferred to the administration division .....	\$ 67,685
d. From the commercial feed fund to be transferred to the administration division .....	\$ 39,216

The department of agriculture shall establish annual subscription fees for the regular and periodic publications of the department. Fees collected from subscribers shall be deposited in the general fund of the state.

It is the intent of the general assembly that the department of agriculture solicit funds from private sources for the support of agricultural promotion activities.

**2. REGULATORY DIVISION**

From the general fund for salaries and support of not more than one hundred sixty-two and twenty-eight hundredths full-time equivalent positions annually, maintenance, and miscellaneous purposes .....	\$ 3,639,005
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It is a condition of the funds appropriated by this subsection that the department of agriculture is required to inspect a food service establishment only once a year, notwithstanding the provisions of section 170A.3 requiring an inspection twice a year.

3. LABORATORY DIVISION

a. From the general fund for salaries and support of not more than one hundred eight and sixty-two hundredths full-time equivalent positions annually, maintenance, and miscellaneous purposes .....	\$	645,270
b. From the commercial feed fund to be transferred to the laboratory division .....	\$	690,223
c. From the pesticide fund to be transferred to the laboratory division .....	\$	418,791
d. From the fertilizer fund to be transferred to the laboratory division .....	\$	612,812

Sec. 2. BRUCELLOSIS INDEMNITY. There is appropriated from the general fund of the state to the department of agriculture for the fiscal year beginning July 1, 1983 and ending June 30, 1984, the sum of twenty-five thousand (25,000) dollars, or so much thereof as is necessary, to make grants to counties to pay the indemnity and the expenses of the inspection and testing of animals as provided in chapters 163A and 164. The secretary of agriculture shall not approve a grant under this section to a county unless the board of supervisors has levied the maximum levy for the county brucellosis eradication fund under section 331.421, subsection 5, for the fiscal year beginning July 1, 1983 and ending June 30, 1984 and all funds in the county brucellosis eradication fund including all unobligated funds transferred from the county tuberculosis eradication fund, have been expended. However, no individual claimant, in a single county, shall receive more than five thousand (5,000) dollars in the fiscal year.

Sec. 3. Section 159.11, Code 1983, is amended to read as follows:

159.11 ASSESSOR AGRICULTURAL STATISTICS. Agricultural statistics shall be collected each even-numbered year by the assessors under the supervision of the department, which shall design and distribute blank forms and instructions surveys, collect data and publish county estimates of agricultural items. The department may make public announcements of the information collected and may provide copies without fee to vocational agricultural schools, state agricultural extension service and libraries. The department shall establish subscription fees for access by other parties to the information collected under this section. The fees shall be deposited in the general fund of the state. Production and acreage data collected under this section and provided by the department to the department of revenue shall not be adjusted for accuracy by the department of revenue.

Sec. 4. Section 159.12, Code 1983, is amended to read as follows:

159.12 RETURNS BY ASSESSOR. The assessor department shall require each person whose property is listed, requested to make answers to such inquiries as may be necessary to allow the return of the statistics, carefully footed and summarized, to the department on or before the fifteenth day of April of each even-numbered year.

Sec. 5. STATE CONSERVATION COMMISSION. There is appropriated from the general fund of the state and the funds indicated to the state conservation commission and its divisions for the fiscal year beginning July 1, 1983 and ending June 30, 1984 the following amounts, or so much thereof as may be necessary, to be used for the purposes designated:

1983-1984  
Fiscal Year

1. DIVISION OF LANDS AND WATERS

a. For deposit in the state conservation fund from the general fund of the state for salaries and support of not more than two hundred

fifty-nine and eighty-four hundredths full-time equivalent positions annually, maintenance, equipment, and miscellaneous purposes and for maintenance of state parks, waters, and forests, and including not more than one million five hundred thousand four hundred thirty (1,500,430) dollars during the fiscal year beginning July 1, 1983 which shall be available for the administration fund from the state conservation fund in compliance with the provisions of section 107.17

\$ 6,654,464

b. From fees deposited under section 321G.7 for the development and maintenance of snowmobile facilities on lands under the jurisdiction of the commission

\$ 100,000

2. DIVISION OF FISH AND GAME

a. From the state fish and game protection fund for salaries and support of not more than two hundred ninety-four and sixty-eight hundredths full-time equivalent positions annually, maintenance, equipment, and miscellaneous purposes including not more than one million eight hundred seventy-one thousand two hundred eighty (1,871,280) dollars during the fiscal year beginning on July 1, 1983 which shall be available each fiscal year from the state fish and game protection fund for the administration fund in compliance with the provisions of section 107.17

\$ 11,575,852

b. From the fees deposited under section 321G.7 to the fish and game protection fund for enforcement of snowmobile laws as part of the state snowmobile program

\$ 48,286

c. From the fees deposited under section 106.52 to the fish and game protection fund for administration and enforcement of navigation laws and water safety

\$ 726,608

d. Funds remaining in the fish and game protection fund during the fiscal year 1983-1984 which are not specifically appropriated by this section are appropriated and may be used for capital projects and contingencies arising during the fiscal year beginning July 1, 1983. A contingency shall not include any purpose or project which was presented to the general assembly by way of a bill or a proposed bill and which failed to be enacted into law. For the purpose of this subsection, a necessity of additional operating funds may be construed as a contingency. Before any of the funds authorized to be expended by this subsection are allocated for contingencies, it shall be determined by the executive council, in consultation with the chairpersons and ranking members of the appropriation subcommittees on natural resources, that a contingency exists and that the contingency was not existent while the general assembly was in session and that the proposed allocation shall be for the best interests

of the state. If a contingency arises or could reasonably be foreseen during the time the general assembly is in session, expenditures for the contingency must be authorized by the general assembly.

**3. STATE ADVISORY BOARD FOR PRESERVES**

From the general fund of the state for salaries and support of not more than one full-time equivalent position annually, maintenance, and miscellaneous purposes for carrying out the duties of the board ..... \$ 50,495

**4. GREEN THUMB PROGRAM**

From the general fund for deposit in the green thumb fund for the employment of not more than twelve full-time equivalent positions annually under the green thumb program established pursuant to chapter 601H ..... \$ 148,830

Sec. 6. MARINE FUEL TAX FUND. There is appropriated from the marine fuel tax fund to the state conservation commission and its divisions for the fiscal year beginning July 1, 1983 and ending June 30, 1984 the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

	1983-1984
	<u>Fiscal Year</u>
1. For deposit in the state conservation fund for maintenance and development of boating facilities and access to public waters .....	\$ 293,326
2. For deposit in the state fish and game protection fund for the administration and enforcement of navigation laws and boat safety .....	\$ 166,496

The balance of the amounts computed as provided in section 324.84 for the fiscal year beginning July 1, 1983 and ending June 30, 1984 is appropriated for the purposes provided in section 324.79, subsections 1, 2, 3 and 5. The unencumbered or unobligated balances of funds specifically allocated for such projects for the fiscal year ending June 30, 1984, shall revert on June 30, 1986 to the fund from which appropriated.

**Sec. 7. ADMINISTRATION FUND.**

1. The transfer of funds from the state conservation fund and the state fish and game protection fund to the administration funds shall not exceed the amounts specified in subsections 1 and 2 of section 5 of this Act. Such funds shall be used for salaries and support of not more than one hundred thirteen and ninety-four hundredths full-time equivalent positions annually.

2. All receipts and refunds and reimbursements related to activities funded by the administration fund are appropriated to the administration fund. All refunds and reimbursements relating to activities of the state fish and game protection fund shall be credited to the state fish and game protection fund.

3. The state conservation commission shall establish a priority list of watersheds above publicly-owned lakes and areas within those watersheds which are of highest importance based on soil loss to be used for the allocation of funds set aside in subsection 4 of section 15 of this Act for permanent soil conservation practices on watersheds above publicly-owned lakes.

4. It is the intent of the general assembly that members of the state conservation commission shall be limited to the normal mileage reimbursement for travel to commission meetings. Except for out-of-state trips authorized by the executive council, state aircraft shall not be used to transport commissioners to meetings unless the individual commissioner reimburses the state for costs exceeding the amount the commissioner would have been reimbursed for mileage.

Sec. 8. OPEN SPACES SCHOOL TAX PAYMENT. There is appropriated from the general fund of the state to the state conservation commission the amount of forty thousand (40,000) dollars to pay school taxes for the fiscal year beginning July 1, 1983 on the lands acquired under the open spaces acquisition program, commenced in Acts of the Sixty-fifth General Assembly, 1973 Session, chapter 74, which would otherwise be subject to the levy of school taxes. The assessed value of the open spaces land shall be that determined pursuant to section 427.1, subsection 31, and the commission may protest the assessed value in the manner provided by law for any property owner to protest an assessment. For the purposes of chapter 442, the assessed value of the open spaces land shall be included in the valuation base of the school district and the payments made pursuant to this section shall be considered as property tax revenues and not as miscellaneous income. The county treasurer shall certify the taxes due to the commission. If the total amount of taxes due certified to the commission exceeds the amount appropriated, the taxes due shall be reduced proportionately so that the total amount equals the amount appropriated.

Sec. 9. IOWA DEVELOPMENT COMMISSION. There is appropriated from the general fund of the state to the Iowa development commission for the fiscal year beginning July 1, 1983 and ending June 30, 1984 the following amount, or so much thereof as is necessary, to be used for the purposes designated:

1983-1984  
Fiscal Year

1. For salaries and support of not more than sixty-two full-time equivalent positions annually, maintenance, and miscellaneous purposes ..... \$ 3,006,382

2. From funds appropriated by subsection 1 the Iowa development commission shall allocate not to exceed thirty-five thousand (35,000) dollars for the seven regional tourism districts, not to exceed seven thousand (7,000) dollars per district, for each district which provides on a dollar-to-dollar matching basis funds equal to the amount allocated by the Iowa development commission.

3. It is the intent of the general assembly that the Iowa development commission shall operate international offices in Europe and Asia within the limits of the funds approved for the commission. \*It is the intent of the general assembly that by July 1, 1985 at least fifty percent of the funding of the international offices be supported by sources other than the state.\* The commission is authorized to seek voluntary contributions and impose charges or assessments for the services provided by the international offices.

4. It is the intent of the general assembly that the members of the Iowa development commission shall be limited to the normal mileage reimbursement for travel to commission meetings. Except for out-of-state trips authorized by the executive council, state aircraft shall not be used to transport commission members to meetings unless the individual commissioner reimburses the state for costs exceeding the amount the commissioner would have been reimbursed for mileage.

5. It is the intent of the general assembly that the Iowa development commission solicit funds from private sources for the support of promotion activities.

\*Item veto; see message at end of this Act

6. It is the intent of the general assembly that the salaries allocated for the tourism and travel division of the Iowa development commission, after subtracting the salaries for the tourism information centers, not exceed twenty-four percent of the funds allocated for that division.

\*7. It is a condition of the funds appropriated by subsection 1 that if the governor finds that the estimated budget resources during the fiscal year beginning July 1, 1983 and ending June 30, 1984 are insufficient to pay all appropriations in full, the governor is authorized to and shall revert to the general fund the unobligated and unencumbered balance of the three hundred ninety-six thousand seven hundred nineteen (396,719) dollars appropriated by subsection 1 for advertising to promote tourism and conventions, attendance at travel shows, issuing economic impact reports, printing brochures, hosting writers and agents and for a special research project on high technology before making reductions in allotments as allowed under section 8.31.\*

Sec. 10. ENERGY POLICY COUNCIL. There is appropriated from the general fund of the state to the energy policy council for the fiscal year beginning July 1, 1983 and ending June 30, 1984 the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

		1983-1984 <u>Fiscal Year</u>
<b>ENERGY POLICY COUNCIL</b>		
<b>1. OPERATIONS</b>		
For salaries and support of not more than eleven and six-tenths full-time equivalent positions annually, maintenance, and miscellaneous purposes .....	\$	381,998
<b>2. PUBLIC BUILDINGS ENERGY CONSERVATION ADMINISTRATION</b>		
For salaries and support of not more than five and thirty-five hundredths full-time equivalent positions annually, maintenance, and miscellaneous purposes .....	\$	105,331

Sec. 11. STATE FAIR BOARD. There is appropriated from the general fund of the state to the Iowa state fair board for the fiscal year beginning July 1, 1983 and ending June 30, 1984 the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

		1983-1984 <u>Fiscal Year</u>
1. For maintenance of state fair buildings and grounds .....	\$	76,500
2. For premiums .....	\$	9,000
3. For state aid to agricultural societies (local fairs) .....	\$	189,000

4. The appropriation contained in subsection 3 for state aid to agricultural societies is conditional upon full compliance with all other statutes which regulate and prescribe the conditions under which the aid is available. The moneys shall not be used for other than the payment of cash premiums, and a county shall not receive more than one thousand eight hundred ninety

\*Item veto; see message at end of this Act

(1,890) dollars except that in a county where there are two definitely separate county extension offices, each society shall receive state aid in the amount it would be entitled to if it were the only society in the county. In counties having more than one fair entitled to state aid, the state aid available shall be prorated to the fairs based on cash premiums paid by the fairs. If the amount appropriated does not fund all claims, the state aid shall be reduced proportionately to equal the amount appropriated.

Sec. 12. GEOLOGICAL SURVEY. There is appropriated from the general fund of the state to the Iowa geological survey for the fiscal year beginning July 1, 1983 and ending June 30, 1984 the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

	1983-1984
	<u>Fiscal Year</u>
1. For salaries and support of not more than thirty-nine and five-tenths full-time equivalent positions annually, maintenance, a drilling equipment truck, and miscellaneous purposes for the general office .....	\$ 1,249,255
2. For reimbursement to federal agencies for cooperative contracts .....	\$ 270,775
3. It is the intent of the general assembly that fifty percent of the funds appropriated to construct monitoring wells in alluvial and unconsolidated aquifers shall be used in the Dakota aquifer.	

Sec. 13. HERBERT HOOVER BIRTHPLACE FOUNDATION. There is appropriated from the general fund of the state to the Herbert Hoover birthplace foundation for the fiscal year beginning July 1, 1983 and ending June 30, 1984 the following amount, or so much thereof as is necessary, to be used for the purposes designated:

	1983-1984
	<u>Fiscal Year</u>
For assistance with capital improvements .....	\$ 1,500

Sec. 14. MISSISSIPPI RIVER PARKWAY COMMISSION. There is appropriated from the general fund of the state to the Mississippi river parkway commission for the fiscal year beginning July 1, 1983 and ending June 30, 1984 the following amount, or so much thereof as is necessary, to be used for the purposes designated:

	1983-1984
	<u>Fiscal Year</u>
For support, maintenance, and miscellaneous purposes .....	\$ 15,000

Sec. 15. DEPARTMENT OF SOIL CONSERVATION. There is appropriated from the general fund of the state to the department of soil conservation for the fiscal year beginning July 1, 1983 and ending June 30, 1984 the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

	1983-1984
	<u>Fiscal Year</u>
1. For salaries and support of not more than one hundred ninety-six and ninety-three hundredths full-time equivalent positions annually, maintenance, assistance to soil conservation districts, and miscellaneous purposes .....	\$ 3,800,301

2. For soil conservation grants which shall be allocated by the state soil conservation committee as follows:

- a. To conduct soil surveys in conjunction with federal, state, and local agencies in Iowa ..... \$ 345,000
- b. To finance the state share of the small watershed program known as the Pub. L. No. 566 program ..... \$ 25,000
- c. To provide financial incentives for soil conservation practices in accordance with the provisions of subsection 4 of this section ..... \$ 8,494,000
- 3. For assistance to county commissions under chapter 93A ..... \$ 99,000

4. The following requirements apply to the funds appropriated by subsection 2, paragraph c:

- a. Not more than five percent may be allocated for cost sharing to abate complaints filed under sections 467A.47 and 467A.48.
- b. Not more than ten percent may be allocated for financial incentives not exceeding seventy-five percent of the approved cost of permanent soil conservation practices under chapter 467A on watersheds above publicly-owned lakes in accordance with the priority list required in subsection 3 of section 7 of this Act.
- c. The committee may allocate funds to conduct research and demonstration projects to promote conservation tillage practices.
- d. Not more than ten percent of a district's allocation may be allocated by the soil conservation district commissioners for one-time incentive payments on the per acre basis, but not exceeding ten dollars per acre, to encourage no-till planting methods on Iowa land that is row cropped.
- e. Except for the allocations subject to paragraphs a and b, these funds shall not be used alone or in combination with other public funds to provide a financial incentive payment greater than fifty percent of the approved cost for voluntary permanent soil conservation practices and priority shall be given to family-operated farms.

5. The provisions of section 8.33 shall not apply to the funds appropriated by subsection 2. Unencumbered or unobligated funds remaining on June 30, 1987 from funds appropriated for the fiscal year beginning July 1, 1983 shall revert to the general fund on September 30, 1987.

6. The funds appropriated by subsection 3 shall be allocated at one thousand (1,000) dollars to each county commission for assistance in compiling inventories under chapter 93A. If a county commission has not compiled an inventory as required by chapter 93A, the unexpended balance of the assistance shall revert to the general fund of the state.

Sec. 16. DEPARTMENT OF WATER, AIR AND WASTE MANAGEMENT. There is appropriated from the general fund of the state to the department of water, air and waste management for the fiscal year beginning July 1, 1983 and ending June 30, 1984 the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1983-1984  
Fiscal Year

- 1. For salaries and support of not more than one hundred eighty-three full-time equivalent positions annually, maintenance, and miscellaneous purposes ..... \$ 2,800,064

During the fiscal year for which funds are appropriated by this section the department of water, air and waste management shall not require the installation or use of equipment to control the emission of dust or other particulate matter on facilities for the storage of grain which are located within the ambient air quality attainment areas for suspended particulates.

2. For salaries and support of not more than one full-time equivalent position annually, maintenance, and miscellaneous purposes for the river coordinator including membership fees in the Missouri and Mississippi river basin association .....	\$	57,555
3. For the state's contribution to the AIDEX superfund .....	\$	50,000
4. For membership in a radioactive waste compact .....	\$	50,000
5. For payments to the governing bodies responsible for publicly-owned sewage treatment facilities which are eligible for grants under section 202 of the federal Water Pollution Control Act, 33 U.S.C. 466 et seq., as amended by the federal Clean Water Act of 1977, Pub. L. No. 95-217, in an amount equal to five percent of the amount approved as the eligible cost of the project by the water, air and waste management commission .....	\$	2,000,000

The provisions of section 8.33 shall not apply to the funds appropriated by this subsection. Unencumbered or unobligated funds remaining on June 30, 1987 from funds appropriated for the fiscal year beginning July 1, 1983, shall revert to the general fund on September 30, 1987.

Sec. 17. IOWA STATE WATER RESOURCES RESEARCH INSTITUTE. There is appropriated from the general fund of the state to the Iowa state water resources research institute for the fiscal year beginning July 1, 1983 and ending June 30, 1984 the sum of one hundred thirty-five thousand (135,000) dollars or so much thereof as is necessary for research approved by the panel provided in section 18 of this Act.

Sec. 18. A panel is established to advise the Iowa state water resources research institute on the areas of research to be conducted with the funds appropriated by section 17 of this Act. The panel is composed of the administrative head of the following agencies or that person's representative: Iowa geological survey, department of air, water and waste management, department of soil conservation, energy policy council, and department of agriculture. The representative of the Iowa geological survey shall serve as the chairperson and call the meetings of the panel.

Sec. 19. All federal grants to and the federal receipts, not otherwise appropriated, of the agencies appropriated funds under this Act are appropriated for the purposes set forth in the federal grants or receipts, unless otherwise provided by the general assembly. Full-time equivalent positions funded entirely with federal funds are exempt from the limits on the number of full-time equivalent positions provided in this Act, but are approved only for the period of time for which federal funds are available for the position.

Sec. 20. The state of Iowa acting on behalf of itself, its citizens and its political subdivisions accepts any funds awarded or allocated to it, its citizens and political subdivisions as a result of

petroleum overcharge cases. These petroleum overcharge funds which are not otherwise appropriated or allocated by the general assembly shall be deposited in the general fund of the state and maintained in a separate account. Notwithstanding section 453.7, interest and earnings on investments from the funds in the separate account shall be credited to the separate account. Attorney fees incurred by the state to obtain these petroleum overcharge funds shall be paid by the comptroller from the interest and earnings on these funds, subject to the approval of the attorney general and the executive council.

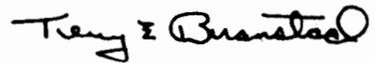
Sec. 21. There is appropriated from the funds deposited in the general fund under section 20 of this Act to the energy policy council for the fiscal year beginning July 1, 1983 and ending June 30, 1984 the sum of thirty-one thousand eighty (31,080) dollars or so much thereof as may be necessary to be used for the administration of a program of grants to local governments for energy management programs.

Sec. 22. Section 441.21, subsection 1, paragraph e, Code 1983, is amended to read as follows:

e. The actual value of agricultural property shall be determined on the basis of productivity and net earning capacity of the property determined on the basis of its use for agricultural purposes capitalized at a rate of seven percent and applied uniformly among counties and among classes of property. Any formula or method employed to determine productivity and net earning capacity of property shall be adopted in full by rule.

Sec. 23. Section 22 becomes effective January 1, 1984.

Approved June 9, 1983, except the two items which I hereby disapprove and which are designated as that portion of Section 9, subsection 3, which is herein bracketed in ink and initialed by me; and the item designated in the act as Section 9, subsection 7 which is herein bracketed in ink and initialed by me. These are all delineated with my reasons for vetoing in the item veto message pertaining to this Act to the Secretary of State this same date, a copy of which is attached hereto.



TERRY E. BRANSTAD  
Governor

The Honorable Mary Jane Odell  
Secretary of State  
State Capitol Building  
L O C A L

Dear Madam Secretary:

I hereby transmit House File 638, an act relating to and appropriating from the general fund of the state and various trust funds for various operations and grants and aids to departments and agencies of the state whose responsibility relates to agricultural affairs, economic development, and energy and natural resources management.

House File 638 is approved June 9, 1983, with the following exceptions which I hereby disapprove:

I am unable to approve that portion of Section 9, subsection 3, which reads as follows:

It is the intent of the general assembly that by July 1, 1985 at least fifty percent of the funding of the international offices be supported by sources other than the state.

I am unable to approve the item designated in the Act as Section 9, subsection 7, which reads as follows:

7. It is a condition of the funds appropriated by subsection 1 that if the governor finds that the estimated budget resources during the fiscal year beginning July 1, 1983 and ending June 30, 1984 are insufficient to pay all appropriations in full, the governor is authorized to and shall revert to the general fund the unobligated and unencumbered balance of the three hundred ninety-six thousand seven hundred nineteen (396,719) dollars appropriated by subsection 1 for advertising to promote tourism and conventions, attendance at travel shows, issuing economic impact reports, printing brochures, hosting writers and agents and for a special research project on high technology before making reductions in allotments as allowed under section 8.31.

I commend legislators for adopting my recommendation to create an Asian Office of the Iowa Development Commission (IDC). The existing European office has helped Iowa become one of the top exporting states in the country and the developing of markets in Asia hold great potential for increased Iowa commodity and manufacturing exports. However, House File 638 also includes legislative intent language stating that at least 50 percent of the funding for both the Asian and European offices come from sources other than state by July 1, 1985. Since the bill also authorizes the IDC to seek voluntary contributions or impose service charges, the apparent intent of this provision is to have the IDC begin imposing fees on the businesses making use of the foreign offices and to require private fundraising efforts to finance the offices. I must disapprove this intent language because it would adversely affect our export marketing efforts.

The IDC has found, as a result of the operation of the European office, that in general small to medium size Iowa businesses derive the most benefit from a foreign office. For example, of the 292 Iowa companies interested in exporting for the first time, 93 percent have less than 100 employees. For the most part, these Iowa companies do not have the necessary expertise to

export or negotiate in the international market. A foreign office provides those small businesses with that expertise. In addition, a foreign office can open export doors for Iowa businesses which have no daily contacts with prospective overseas customers.

If more Iowa businesses could augment their sales by entering foreign markets, the state economy would improve and more jobs would be created. According to the U.S. Department of Commerce, over 32,000 Iowa manufacturing jobs are now directly related to exports. And, more export markets means even more Iowa jobs. Thus, maximum use of the foreign offices is in the economic interest of the state of Iowa.

However, many small Iowa companies may not be able to afford to pay fees for the use of foreign offices. Moreover, I fear that many Iowa businesses would view the fees as a disincentive to the use of the offices. Indeed, a recent survey indicated that 81 percent of the Iowa businesses involved or interested in exporting believe that there should be no user fees for foreign office services. That viewpoint is understandable considering the fact that 33 other states and localities provide overseas assistance without charge. In short, a mandatory user fee could reduce the use of the foreign offices by the businesses that need them most. And, that would hamper the job creation and economic development goals of our state.

Apparently, the intent of the bill is also to require a private fundraising effort to finance the foreign office costs. A fundraising effort could severely compromise IDC staff time, particularly during the start-up stage of the Asian office. Fundraising is labor and time intensive and every staff hour used to raise private funding for the office is one hour lost for increasing Iowa's overseas markets. Moreover, this provision sets a bad precedent for the standards to be used to judge the performance of the offices. I fear that success in obtaining private funds, rather than increased foreign market development, would be used as a performance measuring stick for these offices if this legislative intent language is allowed to become law.

Therefore, the provision of House File 638 at issue here could hamper Iowa's export development program by reducing the use of the foreign offices by small businesses while limiting the staff time that can be spent on export development. The provision disapproved here is thus contrary to the legislature's effort to increase foreign markets for Iowa companies by opening a new foreign office. Moreover, it is contrary to the economic development and job creation goals of Iowans.

Section 9, subsection 7, of House File 638 requires the Governor to revert to the general fund the unobligated, unencumbered balance of a portion of the IDC appropriation used for travel, tourism and economic development promotion. This reversion would occur only if the Governor estimated that the fiscal year 1984 budget is out of balance and it is designed to prevent an across-the-board cut.

As I indicated in a message accompanying Senate File 531 which included a similar provision, I understand the legislature's desire to avoid across-the-board budget cuts. I, too, view such a cut as one of the last resorts to balance the state budget. However, I cannot approve this subsection because it does not make good economic, budgetary or administrative sense.

This proposal inappropriately singles out the travel and tourism portion of our economic development effort for budget cuts. Iowa now appropriates fewer state funds to travel and tourism than almost any other state. However, a recent study completed for the IDC shows

that Iowa has the potential to attract a significant number of tourism dollars. According to the study, this potential can be realized only by substantially increasing the state's financial commitment to travel and tourism. Indeed, studies show that such a commitment can create jobs in the state more rapidly than almost any other state economic development effort. Therefore, I recommended a substantial increase in state appropriations for this purpose and the legislature wisely approved most of that recommendation.

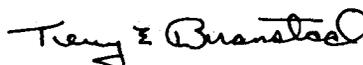
However, this proposal would place travel and tourism funds first on the budget cutting block. If a budget problem does ensue, this provision would have the state revert its new-found commitment to this growth industry. That would cost Iowa jobs and economic growth and the potential state revenue associated with them.

Moreover, it is unlikely that a \$396,719 reversion would prevent an across-the-board cut. That amount represents only .0002 percent of the state budget. A shortfall of that size could, in all probability, be made up in administrative savings without resorting to a Section 8.31 budget reduction.

Section 9, subsection 7, would also be a nightmare to administer. The legislature did not appropriate by line item the funds required to be reverted. Rather, the funds affected by this provision are but a portion of the lump sum, \$3,006,382 appropriation made to the IDC. Apparently, legislators selected \$396,719 for reversion on the basis of two budget decision packages requested by the department. However, other portions of the approved lump sum appropriation also included similar promotional advertising. And to compound the administrative confusion, a separate accounting system is not established for each decision package — the accounting system can not differentiate among decision packages. Therefore, it would not be administratively possible to separately track and thus revert the \$396,719 indicated in House File 638.

For the above reasons, I hereby disapprove this item in accordance with Amendment 4 of the Amendments of 1968 to the Constitution of the State of Iowa. All other items of House File 638 are hereby approved as of this date.

Very truly yours,



Terry E. Branstad  
Governor

**CHAPTER 203**  
**CORRECTIONAL AND MENTAL HEALTH PROGRAMS FUNDED**  
*S.F. 592*

**AN ACT** relating to the administration and financing of correctional and mental health programs under the jurisdiction of the department of social services or its successor agencies for the fiscal period beginning July 1, 1983, and ending June 30, 1984.

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

Section 1. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1983, and ending June 30, 1984, to the department of social services for general administration for the division of adult corrections, including salaries and support, maintenance, and miscellaneous purposes the following amount, or so much thereof as is necessary:

	1983-1984
	<u>Fiscal Year</u>
\$	1,095,000

Sec. 2. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1983, and ending June 30, 1984, to the department of social services for operation of the Iowa veterans home, including salaries and support, maintenance, and miscellaneous purposes, the following amount, or so much thereof as is necessary:

	1983-1984
	<u>Fiscal Year</u>
\$	17,646,000

Sec. 3. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1983, and ending June 30, 1984, to the department of social services the following amounts, or so much thereof as is necessary, to be used for adult correctional services as designated:

	1983-1984
	<u>Fiscal Year</u>

1. For operation of adult correctional institutions, including salaries and support, maintenance, and miscellaneous purposes, provided that the commissioner of social services, in order to keep expenditures from exceeding the amount of funds appropriated by this subsection, shall declare a prison overcrowding state of emergency in the state's prisons whenever the population of the prison system exceeds two thousand six hundred forty-five inmates for forty-five consecutive days. Upon the declaration of a prison overcrowding state of emergency, the board of parole shall consider all inmates, except for inmates convicted

of class "A" felonies, for parole who are within nine months of their tentative discharge date. If the board of parole's actions do not reduce the population of the prison system below two thousand six hundred twenty inmates within ninety days of the date of the declaration of the prison overcrowding state of emergency, the tentative discharge dates of all inmates, whose most serious offenses for which the inmates are currently incarcerated are crimes against property and who are incarcerated in state prisons on the date of the declaration, shall be reduced by ninety days by the director of the division of adult corrections. However, the tentative discharge date of a prisoner sentenced under section 204.406, 204.413, 902.7, 902.8, or 906.5 shall not be reduced under this subsection prior to completion of the mandatory minimum sentence required by the section. The commissioner of social services shall terminate a prison overcrowding state of emergency in the state's prisons whenever the population of the prison system is reduced below two thousand six hundred twenty inmates. The department shall adopt administrative rules which identify all offenses as either crimes against property or crimes against persons. As used in this subsection, "prison" means a correctional facility operated by the division of corrections and funded under this subsection, "prison system" means the prisons of this state which are the Iowa correctional institution for women, the Iowa state men's reformatory, the Iowa state penitentiary, the Iowa security and medical facility, the north central correctional facility, the Mount Pleasant correctional facility, the Clarinda correctional treatment facility, the correctional release center, and the rehabilitation camps, and "tentative discharge date" means the date at which an inmate is scheduled for release including good conduct and work time currently received . . . . . \$ 46,427,000

If the department of social services changes the allocations to the various adult correctional institutions on which the appropriation in this subsection was based, the department shall notify the chairpersons and ranking members of the corrections and mental health appropriations subcommittee and the legislative fiscal bureau of the changes to the allocations.

Of the funds appropriated by this subsection, thirty thousand (30,000) dollars, or so much thereof as is necessary, is appropriated to the department of social services for the provision of legal services, to be supervised by the appellate defender, to inmates of adult correctional institutions in civil cases involving prison litigation.

The division of adult corrections shall use funds appropriated in this subsection to continue to contract for the services of a muslim imam.

The department shall use funds appropriated by this subsection to continue to provide at least correspondence courses, graduation equivalent diploma program, college courses, adult basic education, and a reentry course to inmates at the Iowa correctional institution for women.

\*The division of adult corrections shall establish a plan to reduce the inmate population of the men's reformatory to eight hundred eighty-five inmates by September 1, 1984. On and after September 1, 1984, the superintendent of the men's reformatory shall not admit additional inmates to the men's reformatory if the inmate population of the men's reformatory equals or exceeds eight hundred eighty-five inmates.\*

An impact statement prepared by the legislative fiscal bureau shall be attached to any bill introduced in the general assembly which reasonably could have an effect on the inmate populations of the adult correctional institutions.

The department shall provide the general assembly with evidence from independent experts of the validity and effectiveness of the inmate classification system and shall suggest changes in the system to make it more effective by January 15, 1985.

- 2. For the inmate classification system ..... \$ 135,000
- 3. For the correctional training center ..... \$ 306,000
- 4. For federal prison reimbursements ..... \$ 390,000

5. The department shall identify all individuals currently in the correctional system and those individuals entering the system who are mentally retarded, as defined in section 222.2, subsection 5. In assigning a mentally retarded offender, or an offender with an inadequately developed intelligence or with impaired mental abilities, to a correctional facility, the department shall consider both the program needs and the security needs of the offender. The division of adult corrections shall consult with the mental health and mental retardation commission to obtain the commission's advice concerning the identification, correctional facility assignment, and program needs of mentally retarded offenders.

- 6. Community-based corrections ..... \$ 14,130,000

Funds appropriated under this subsection may be used for the acquisition or improvement of residential correctional facilities as provided in section 8.45.

Of the funds appropriated in this subsection, four hundred thousand (400,000) dollars shall be used for the renovation or replacement of residential facilities and judicial district offices as follows: one hundred fifty thousand (150,000) dollars for the Hope House residential facility in Iowa City; two hundred thousand (200,000) dollars for the first judicial district department of correctional services; and fifty thousand (50,000) dollars for the fifth judicial district department of correctional services.

A judicial district which uses funds appropriated under this subsection may contract for services from or provide funds to private agencies to provide education, job placement, or counseling services to ex-offenders intended to facilitate the transition from incarceration to living in a free society.

\*Item veto; see message at end of this Act

- 7. For parole services, including salaries and support, maintenance, and miscellaneous purposes ..... \$ 1,161,500
- 8. For a legal assistance program to provide civil legal assistance to inmates of the Iowa correctional system in matters of child custody, bankruptcy, and dissolution of marriage ..... \$ 25,000
- 9. For reimbursement of counties for temporary confinement of work release and parole violators, as provided by sections 247A.10, 901.7, and 906.17 ..... \$ 47,500

10. The department shall develop a long-range corrections planning process and an ongoing five-year corrections master plan. The director of the division of adult corrections shall report to the general assembly by January 15, 1984 concerning the status and content of the master plan. The master plan shall include goals and objectives and operations and funding needs. The master plan shall include, but not be limited to, an analysis of current and future inmate populations, incarceration costs, needs of inmates placed in community correctional programs, and inmate, staff, and public safety needs. The master plan shall incorporate incarceration policies based on the least restrictive incarceration alternative which is consistent with public safety and inmate needs, including the alternative of incarcerating inmates in community correctional facilities. The department shall seek input from knowledgeable experts and from the public in the formulation of the master plan.

Sec. 4. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1983, and ending June 30, 1984, to the board of parole, including salaries and support, maintenance, and miscellaneous purposes, the following amount, or so much thereof as is necessary:

1983-1984  
Fiscal Year  
\$ 440,000

The board of parole shall develop and use objective parole criteria in evaluating inmates for parole, with the goal of increasing parole rates without increasing the risk to society of release on parole, and with the goal of granting those paroles more uniformly throughout the year.

Sec. 5. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1983, and ending June 30, 1984, to the department of social services, for the state mental health institutes the following amount, or so much thereof as is necessary:

1983-1984  
Fiscal Year

- 1. For salaries and support, maintenance, and miscellaneous purposes ..... \$ 31,087,000

2. As long as there is a demonstrated need, the department of social services shall continue to operate a geriatric program at the state mental health institute at Mount Pleasant. A reduction in the patient population at the institute necessary as a result of the correctional addition at the institute shall not be achieved by eliminating a specific program, unless the institute's citizens' advisory board or the general assembly determines that there is no longer a demonstrable need for the specific program.

3. All funds received from client participation shall be deposited in the general fund of the state.

4. A state mental health institute shall not accept physical custody of a child alleged to be a child in need of assistance, on guest status or otherwise, for more than thirty days. A child found to be a child in need of assistance shall not be placed in a state mental health institute or other appropriate secure facility unless the juvenile court finds that the standard for involuntary commitment in chapter 229 has been met. The finding may be made by the court under section 232.103 at any time prior to the expiration of a dispositional order.

5. The superintendents of the state mental health institutes at Cherokee and Independence, in discharging the duties imposed by section 230.20, shall not include the costs of the psychiatric residency and chaplain intern programs maintained at those institutes in computing the institutes' respective daily charges to patients. The commissioner of social services shall seek to maintain reasonably uniform daily charges at the four mental health institutes.

Sec. 6. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1983, and ending June 30, 1984, to the department of social services, for the state hospital-schools the following amount, or so much thereof as is necessary:

1983-1984  
Fiscal Year

1. For salaries and support, maintenance, and miscellaneous purposes ..... \$ 48,366,000

2. All funds received from client participation shall be deposited in the general fund of the state.

3. The state hospital-schools' per-patient-per-day cost as determined pursuant to section 222.73 shall be billed at eighty percent for the fiscal year, except as otherwise provided by subsection 4.

4. If more than twenty percent of the cost of a patient's care is initially paid from any source other than state-appropriated funds, the amount so paid shall be subtracted from the per-patient-per-day cost of that patient's care computed pursuant to section 222.73 and the patient's county of legal settlement shall be billed for the full balance of the cost so computed.

Sec. 7. A state hospital-school or mental health institute shall, upon receipt of a payment made under chapter 249A for the care of a patient, segregate an amount equal to that portion of the payment which is required by law to be made from nonfederal funds. The money segregated shall be deposited in the medical assistance fund of the department of social services. In the calculation of per diem rates, charges assessed to the county shall be credited with one hundred percent of client participation for eligible Title XIX, medical assistance patients at the state hospital-schools.

Sec. 8. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1983, and ending June 30, 1984, to the state community mental health and mental retardation services fund established in section 225C.7, the following amount, or so much thereof as is necessary:

1983-1984  
Fiscal Year  
\$ 2,360,000

Sec. 9. The general assembly and the corrections and mental health appropriations subcommittee shall review the general assembly's action which abolished the hospital-schools revolving fund, reverted current moneys in the fund to the general fund of the state in order to balance the state budget on June 30, 1983, and appropriated reverted funds to the hospital-schools for the fiscal year beginning July 1, 1983. The review shall include an examination of the continuing need for a hospital-schools revolving fund which could channel moneys to the community mental health and mental retardation services fund provided pursuant to chapter 225C.

Sec. 10. Billings by the central warehouse and supply depot established in section 218.100 to institutions under the control of the department of social services shall not include the costs incurred by the central warehouse and supply depot in the distribution of federal surplus commodities.

Sec. 11. Notwithstanding section 217.23, subsection 2, the department of social services may expend moneys from the support allocation of the department as reimbursement for replacement or repair of personal items of the department's employees damaged or destroyed by clients of the department during the employee's tour of duty. The reimbursement shall not exceed one hundred fifty dollars for each item.

Sec. 12. NEW SECTION. 13B.7 SUPERVISORY DUTY. The appellate defender may supervise the provision of legal services, funded by an appropriation to the department of social services, to inmates of adult correctional institutions in civil cases involving prison litigation.

Sec. 13. NEW SECTION. EXCHANGE OF OFFENDERS UNDER TREATY—CONSENT BY GOVERNOR. If a treaty in effect between the United States and a foreign country provides for the transfer or exchange of convicted offenders to the country of which the offenders are citizens or nationals, the governor or the governor's designee, on behalf of the state and subject to the terms of the treaty, may authorize the transfer or exchange of offenders.

Sec. 14. Section 216.8, subsection 1, unnumbered paragraph 1, and paragraph b, Code 1983, are amended to read as follows:

No A product appearing possessing the performance characteristics of a product listed in the price lists prepared pursuant to section 216.7 shall not be purchased by any department or agency of state government from any other a source other than Iowa state industries, except:

b. When the state director releases, in writing, the obligation of the department or agency to purchase the product from Iowa state industries, after determining that Iowa state industries is unable to meet the performance characteristics of the purchase request for the product, and a copy of the release is attached to the request to the state comptroller for payment for a similar product, or when Iowa state industries is unable to furnish needed articles products, comparable in both quality and price to those available from alternative sources, within a reasonable length of time. Any disputes arising between a purchasing authority department or agency and Iowa state industries regarding similarity of articles products, or comparability of quality or price, or the availability of the product shall be referred to the director of the department of general services, whose decision shall be subject to appeal as provided in section 18.7.

Sec. 15. Section 216.9, subsection 4, Code 1983, is amended to read as follows:

4. The fund established by this section shall not revert to the general fund of the state at the end of any annual or biennial period and the investment proceeds earned from the balance of the fund shall be credited to the fund and used for the purposes provided for in this section.

Sec. 16. Section 218.74, unnumbered paragraph 1, Code 1983, is amended to read as follows:

A revolving farm fund is created in the state treasury in which the department of social services shall deposit receipts from agricultural products, nursery stock, agricultural land rentals, and the sale of livestock. However, before any agricultural operation is phased out, the department which proposes to discontinue this operation shall notify the governor, chairpersons and ranking members of the house and senate appropriations committees, and cochairpersons and ranking members of the subcommittee in the senate and house of representatives which has handled the appropriation for this department in the past session of the legislature. Before any department sells farmland under the control of the department,

that department shall notify the governor, chairpersons and ranking members of the house and senate appropriations committees, and cochairpersons and ranking members of the joint appropriations subcommittee that handled the appropriation for the department during the past legislative session. The department may pay from the fund for the operation, maintenance, and improvement of farms and agricultural or nursery property under the control of the department. A purchase order for five thousand dollars or less payable from the fund is exempt from the general purchasing requirements of chapter 18. Notwithstanding section 8.33, unencumbered or unobligated receipts in the revolving farm fund at the end of a fiscal year shall not revert to the general fund of the state and the investment proceeds earned from the balance of the fund shall be credited to the fund and used for the purposes provided for in this section.

Sec. 17. NEW SECTION. 246.50 CLARINDA CORRECTIONAL FACILITY. The state correctional facility for men at Clarinda shall be known as the "Clarinda correctional facility". The facility shall be utilized as a secure men's correctional facility primarily for chemically dependent, mentally retarded, and socially inadequate offenders, and shall be operated by the director in accordance with this chapter.

Sec. 18. All federal grants to and the federal receipts of the department of social services are appropriated for the purposes set forth in the federal grants or receipts. The veterans per diem payable for veterans at the veterans home and funds received under Title XIX of the federal Social Security Act by the state mental health institutes and state hospital-schools shall be deposited in the general fund.

Sec. 19. TRANSITION TO THE NEW DEPARTMENT OF CORRECTIONS. The department of social services or its successor agency shall provide staffing and support for the board of corrections from July 1, 1983 until October 1, 1983. In addition to the staffing and support provided by the department of social services or its successor agency, the acting director of the department of corrections shall employ a transition team to help organize the department and to identify with the department of social services or its successor agency the administrative support staff, equipment, and other resources to be transferred to the department of corrections. Employees so transferred or reassigned shall not lose any rights, privileges, or benefits accrued that were associated with their status prior to the effective date of this Act. Employees of the department of social services or its successor agency employed on the transition team shall receive their salaries during the transition period from the department of social services or its successor agency.

On October 1, 1983, all policies, procedures, and rules established for or by the division of adult corrections of the department of social services or its successor agency shall apply respectively to the department of corrections, its employees, residents, and inmates, until otherwise changed as provided by law or rule adopted by the board of corrections. All applicable contracts and leasing arrangements shall be transferred to the jurisdiction of the department of corrections on October 1, 1983. All equipment, supplies, and property in the custody of the division of adult corrections of the department of social services or its successor agency shall be transferred to the department of corrections on October 1, 1983.

Sec. 20. TRANSFER OF FUNDS. Funds appropriated to the department of social services or its successor agency for the division of adult corrections or for adult correctional services in sections 1 and 3 of this Act shall be transferred and be available for the use of the department of corrections on and after October 1, 1983. On and after October 1, 1983, any reference to the "division of adult corrections of the department of social services or its successor agency" appearing in this Act shall be deemed a reference to the "department of corrections".

Sec. 21. APPROPRIATION. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1983, and ending June 30, 1984, to the board of corrections, the following amount, or so much thereof as is necessary:

	1983-1984
	<u>Fiscal Year</u>
\$	150,000

Sec. 22. Any reference to the "division of adult corrections of the department of social services" or to the "department of social services", appearing in an Act of the general assembly shall be construed to mean "department of corrections" or "department of human services", as the case may be, consistent with the intent of Senate File 464, when Senate File 464 is enacted into law.

Sec. 23. Except for funds appropriated under section 3, subsection 3, funds appropriated by this Act shall not be used for capital acquisitions or improvements.

Approved June 9, 1983, except the one item which I hereby disapprove and which is designed as the portion of Section 3 which is herein bracketed in ink and initialed by me. This is delineated with my reasons for vetoing in the item veto message pertaining to this Act to the Secretary of State this same date, a copy of which is attached hereto.

*Terry E. Branstad*

TERRY E. BRANSTAD  
Governor

The Honorable Mary Jane Odell  
Secretary of State  
State Capitol Building  
L O C A L

Dear Madam Secretary:

I hereby transmit Senate File 532, an act relating to the administration and financing of correctional and mental health programs under the jurisdiction of the Department of Social Services or its successor agencies for the fiscal period beginning July 1, 1983, and ending June 30, 1984.

Senate File 532 is approved June 9, 1983, with the following exception which I hereby disapprove.

I am unable to approve that portion of Section 3 which reads as follows:

The division of adult corrections shall establish a plan to reduce the inmate population of the men's reformatory to eight hundred eighty-five inmates by September 1, 1984. On and after September 1, 1984, the superintendent of the men's reformatory shall not admit additional inmates to the men's reformatory if the inmate population of the men's reformatory equals or exceeds eight hundred eighty-five inmates.

The foregoing portion of Section 3 of Senate File 532 requires the Division of Adult Corrections to establish a plan to reduce the inmate population at the Anamosa men's reformatory to 885 inmates by September 1, 1984. It also prohibits the Anamosa superintendent from accepting any additional inmates on or after September 1, 1984, if the inmate population is 885 or greater. Thus, an effective population cap is placed on the men's reformatory.

This provision was added to Senate File 532 in subcommittee by legislators who were concerned about the prison population levels at Anamosa. Indeed, periodically during the past year the population at Anamosa has exceeded the level for which it was funded. While I can understand this concern about the prison population at Anamosa, I must disapprove this effort to place a prison cap on the men's reformatory.

First, requiring the superintendent at Anamosa to turn away inmates if the population there is 885 or greater would reduce the administrative flexibility needed to properly and safely manage our prison system. Presently, those inmates entering our prison system are carefully screened through a classification system and sent to the corrections facility which best suits their needs and the security requirements of the system. Medium security male inmates are sent to the Anamosa, Rockwell City or Mount Pleasant correctional facilities. In addition, those inmates representing the greatest security risk are sent to Anamosa and those requiring less secure facilities are sent to Rockwell City and Mount Pleasant. This proposed cap at Anamosa could effectively require prison officials to send inmates to Mount Pleasant and Rockwell City even though those facilities cannot secure those inmates properly. The public's safety could thus be threatened.

Moreover, this proposed cap at Anamosa could divert inmates to other institutions and cause the population at those facilities to increase beyond all previous expectations. This could present serious management and safety problems for prison officials and the public. Also, such a cap could arbitrarily prevent an inmate from receiving appropriate work experience or training which may be offered only at the Anamosa facility. In short, prison officials need the flexibility to control the inmate population at individual institutions so that inmate needs and the public's safety can be protected.

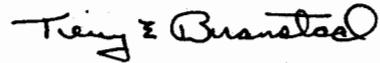
Second, while there have been prison population problems at Anamosa, the present inmate count at the men's reformatory is 1,013. And, that is approximately the population level for which funding has been provided. While the design capacity of the institution may be somewhat less than 1,000, state prison officials have assured me that Anamosa has the management space for that number of inmates. Indeed, Anamosa prison officials have done a commendable job of efficiently and safely managing prison populations of over 1,100. Thus, Anamosa can be properly managed and funded without the proposed reduction in the inmate population.

Third, the cap may not be needed to reduce the population at Anamosa. Legislative capital appropriations should allow for the opening of the Oakdale facility and the expansion of the Mount Pleasant unit by September 1, 1984. These additional 464 prison beds are designed to reduce the inmate population at both Fort Madison and Anamosa. Indeed, prison officials expect the additional prison capacity to allow them to reduce the Anamosa population below 900 by September of 1984. Therefore, the intent of the proponents of this provision — to reduce the Anamosa prison population — may be met without an Anamosa prison cap.

Moreover, the legislature has retained the system-wide prison population cap. While I believe a more appropriate prison population control mechanism would be a classified sentencing system, the system-wide cap does act to regulate the overall prison population without tampering with the population at each institution.

For the above reasons, I hereby disapprove this item in accordance with Amendment 4 of the Amendments of 1968 to the Constitution of the State of Iowa. All other items of Senate File 532 are hereby approved as of this date.

Very truly yours,



Terry E. Branstad  
Governor

**CHAPTER 204**  
**JUDICIAL APPROPRIATIONS, PROCEDURES AND FEES**  
*S.F. 549*

**AN ACT** relating to court structure and procedures by appropriating for certain court costs, by increasing certain filing fees, by adding one member to the court of appeals, by allowing a division of the court of appeals to hear cases and petitions, by increasing the fee for filing and docketing a simple misdemeanor, and by appropriating funds for designated legal assistance services, for dispute resolution centers and for additional judicial salaries and support.

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

Section 1. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1983 and ending June 30, 1984 to the following named judicial department agencies the following amounts, or so much thereof as necessary, to be used for the purposes designated:

		<u>1983-1984</u> <u>Fiscal Year</u>
<b>JUDICIAL DEPARTMENT</b>		
a. For salaries and support for four additional district court judges authorized in 1983 Iowa Acts, Senate File 495 .....	\$	285,000
b. For salaries and support within the state and district court administrators' offices and for conducting such studies of the judicial system of this state necessary to provide for the implementation of 1983 Iowa Acts, Senate File 495 .....	\$	214,000
c. For the payment of increased salaries of alternate district associate judges as provided in 1983 Iowa Acts, Senate File 495 .....	\$	11,942
d. For the payment of expenses of the judges of the court of appeals as provided in 1983 Iowa Acts, Senate File 495 .....	\$	11,763
e. For the payment of jury and witness fees as provided in 1983 Iowa Acts, Senate File 495 .....	\$	1,900,000
f. For salary and support of one additional judge on the court of appeals authorized in sections 5 and 11 of this Act .....	\$	95,000
The appropriations made by this subsection are in addition to other appropriations to the named judicial department agencies for the 1983-1984 fiscal year.		

g. For allocation to the legal services corporation of Iowa and the legal aid society of Polk county to be used to provide legal aid services to the poor ..... \$ 120,000

The court administrator shall apportion the money appropriated by this paragraph between the legal services corporation of Iowa and the legal aid society of Polk county in the same proportion as the federal legal services corporation apportioned funds between the two organizations for the federal fiscal year beginning October 1, 1982. It is the intent of the general assembly that the appropriation made by this paragraph is a one-time appropriation to alleviate the immediate financial needs of these agencies and the general assembly anticipates that other resources will be available in future years for these services.

h. For the payment of grants to dispute resolution programs and not to exceed four thousand (4,000) dollars for administrative expenses of the court administrator ..... \$ 75,000

Except for administrative expenses, the funds appropriated under paragraph h shall be used for grants to dispute resolution programs funded pursuant to Acts of the Sixty-ninth General Assembly, 1982 Session, chapter 1260, section 84. A program administrator awarded funding for a dispute resolution program by the court administrator of the judicial department for the fiscal year beginning July 1, 1982, may submit an application to the court administrator for funding for the fiscal year beginning July 1, 1983, on forms prescribed and furnished by the court administrator. The court administrator with the advice of the judicial coordinating committee established by the supreme court shall allocate the funds to the dispute resolution programs that provide nonjudicial resolution of disputes at the community or county level. At least twenty-five percent of the amount budgeted for the annual operation of an existing dispute resolution program or that portion of a dispute resolution program which is improved or expanded shall be obtained from sources other than the grant provided under this paragraph h.

Sec. 2. Section 331.705, subsection 1, paragraphs a through v, Code 1983, are amended to read as follows:

a. For filing a petition, appeal, or writ of error and docketing them, ~~twenty-five~~ thirty-five dollars. Four dollars of the fee shall remain in the county treasury for the use of the county and ~~twenty-one~~ thirty-one dollars of the fee shall be paid into the state treasury. One dollar shall be deposited in the judicial retirement fund created in section 605A.4 to be used to pay retirement benefits of the judicial retirement system. The remainder of the fee shall be deposited in the general fund of the state. In counties having a population of one hundred thousand or over, an additional one dollar shall be charged and collected, to be known as the journal publication fee and used for the purposes provided for in section 618.13.

b. For an attachment, two dollars.

c. For a cause tried by jury, five dollars.

d. For a cause tried by the court, two dollars and fifty cents.

e. For an equity case, three dollars.

f. For an injunction or other extraordinary process or order, five dollars.

g. For a cause continued on application of a party by affidavit, two dollars.

h. For a continuance, one dollar.

i. For entering a final judgment or decree, one dollar and fifty cents.

j. For taxing costs, one dollar.

k. For issuing an execution or other process after judgment or decree, two dollars.

l. b. For payment in advance of various services and docketing procedures for civil cases, excluding small claims, twenty-five dollars.

c. In small claims actions, in addition to the filing fee specified in section 631.6, the following fees shall be charged for the following services:

- (1) For a cause tried by the court, two dollars and fifty cents.
- (2) For an equity case, three dollars.
- (3) For an injunction or other extraordinary process or order, five dollars.
- (4) For a cause continued on application of a party by affidavit, two dollars.
- (5) For a continuance, one dollar.
- (6) For entering a final judgment or decree, one dollar and fifty cents.
- (7) For taxing costs, one dollar.
- (8) For issuing an execution or other process after judgment or decree, two dollars.
- (9) For filing and docketing a transcript of judgment from another county, one dollar.
- (10) For entering a rule or order, one dollar.
- (11) For issuing a writ or order, not including subpoenas, two dollars.
- (12) For entering a judgment by confession, two dollars.
- (13) For entering a satisfaction of a judgment, one dollar.
- (14) For a copy of records or papers filed in the clerk's office, transcripts, and making a complete record, fifty cents for each one hundred words.
- (15) For taking and approving a bond and sureties on the bond, two dollars.

d. For filing, entering, and endorsing a mechanic's lien, three dollars, and if a suit is brought, the fee is taxable as other costs in the action.

m. e. For a certificate and seal, two dollars.

n. For filing and docketing a transcript of judgment from another county, one dollar.

o. For entering a rule or order, one dollar.

p. For issuing a writ or order, not including subpoenas, two dollars.

q. For issuing a commission to take depositions, two dollars.

r. For entering a sheriff's sale of real estate, two dollars.

s. For entering a judgment by confession, two dollars.

t. For entering a satisfaction of a judgment, one dollar.

u. For a copy of records or papers filed in the clerk's office, transcripts, and making a complete record, fifty cents for each one hundred words.

v. For taking and approving a bond and sureties on the bond, two dollars.

Sec. 3. Section 602.55, subsections 1, 2, and 3, Code 1983, are amended to read as follows:

1. One-half to the treasurer of state to be credited to the general fund of the state.

2. ~~One-third~~ One-fourth to the county treasurer to be credited to the general fund of the county.

3. ~~One-sixth~~ One-fourth to the treasurer of state to be credited to the judicial retirement fund created in section 605A.4.

Sec. 4. Section 602.63, unnumbered paragraph 1, Code 1983, is amended to read as follows:

The clerk of the district court of the county in which a judicial magistrate resides shall furnish the judicial magistrate, district associate judge, or district judge acting as judicial magistrate, a docket in which shall be entered all proceedings except small claims. Such docket shall be indexed and shall contain in each case the title and nature of the action; place of hearing; appearances; and notations of the documents filed with the judicial magistrate, of the proceedings in the case and orders made, of the verdict and judgment including costs, of any satisfaction of the judgment, of whether the judgment was certified to the clerk of the district court, of whether an appeal was taken, and of the amount of the appeal bond. All costs in

criminal cases shall be assessed and distributed as in chapter 606, except that the cost of filing and docketing of a complaint or information for a nonindictable misdemeanor shall be ~~six~~ eight dollars which shall be distributed pursuant to section 602.55. The ~~six~~ eight dollar cost for filing and docketing a complaint or information for a nonindictable misdemeanor shall not apply in cases of overtime parking. If the judgment and costs are not fully and immediately satisfied in criminal cases, the judicial magistrate shall promptly certify a copy of the judgment to the clerk of the district court indicating thereon the portion unsatisfied; and the clerk shall index and file the judgment, whereupon it shall be a judgment of the district court without recording.

Sec. 5. Section 684.34, subsection 1, Code 1983, is amended to read as follows:

1. The court of appeals shall consist of a chief judge and ~~four~~ five associate judges, any three of whom shall constitute a quorum.

Sec. 6. Section 684.34, Code 1983, is amended by adding the following new subsection:

**NEW SUBSECTION.** The court of appeals may be divided into divisions of three or more judges in a manner as it may prescribe by rule. The divisions may hold open court separately and cases may be submitted to each division separately in accordance with rules the court may prescribe. The rules shall provide for submitting a case or petition for rehearing or hearing en banc at the direction of the chief judge or at the request of a specified number of judges designated in the rules. The court of appeals shall prescribe all rules necessary to provide for the submission of cases to the whole court or to a division.

Sec. 7. Section 684.51, Code 1983, is amended to read as follows:

684.51 **LAW CLERKS.** The court of appeals may employ not more than ~~five~~ six attorneys or graduates of a reputable law school as defined in section 610.2, to act as legal assistants to the court. Salaries shall be as prescribed by the court administrator.

Sec. 8. Section 805.6, subsection 1, paragraph a, Code 1983, is amended to read as follows:

a. The commissioner of public safety and the state conservation director, acting jointly, shall adopt a uniform, combined citation and complaint which shall be used for charging all traffic violations in Iowa under state law or local regulation or ordinance, and which shall be used for charging all other violations which are designated by section 805.8 to be scheduled violations. This subsection ~~shall not be deemed to~~ does not prevent the charging of any of those violations by information, by private complaint filed under the provisions of chapter 804, or by a simple notice of fine where permitted by section 321.236, subsection 1. Each uniform citation and complaint shall be serially numbered and shall be in quintuplicate, and the officer shall deliver the original and a copy to the court where the defendant is to appear, two copies to the defendant, and a copy to the law enforcement agency of the officer. The court shall forward the copy of the uniform citation and complaint in accordance with section 321.207 when applicable. The uniform citation and complaint shall contain spaces for the ~~parties~~ parties' names; the address of the alleged offender; the registration number of the offender's vehicle; the information required by section 805.2; a promise to appear as provided in section 805.3 and a place where the cited person may sign the promise to appear; a list of the scheduled fines prescribed by section 805.8, either separately or by group, and a statement that the court costs in scheduled offense cases, whether or not a court appearance is required or is demanded, ~~shall be six~~ are eight dollars; a brief explanation of sections 805.9 and 805.10; and a space where the defendant may sign an admission of the violation when permitted by section 805.9; and the uniform citation and complaint shall require that the defendant appear before a court at a specified time and place. The uniform citation and complaint also may contain a space for the imprint of a credit card, and may contain any other information which the commissioner of public safety and the state conservation director may determine.

Sec. 9. Section 805.6, subsection 1, paragraph c, subparagraphs (1) and (2), Code 1983, are amended to read as follows:

(1) If the offense is one to which a scheduled fine is applicable, an amount equal to one and one-half times the scheduled fine plus five eight dollars costs; ~~or~~.

(2) If the violation charged involved or resulted in an accident or injury to property and the total damages are less than two hundred fifty dollars, the amount of fifty dollars and five eight dollars costs.

(3) If the violation is for any offense for which a court appearance is mandatory, the amount of one hundred dollars plus five eight dollars costs.

Sec. 10. Section 805.9, Code 1983, is amended to read as follows:

#### 805.9 ADMISSION OF SCHEDULED VIOLATIONS.

1. In cases of scheduled violations, the defendant, before the time specified in the citation and complaint for appearance before the court, may sign the admission of violation on the citation and complaint and deliver or mail the citation and complaint, together with the minimum fine for the violation, plus five eight dollars costs, to a scheduled violations office in the county. The office shall, if the offense is a moving violation under chapter 321, forward a copy of the citation and complaint and admission to the department of transportation as required by section 321.207. ~~Thereupon~~ In this case the defendant shall is not be required to appear before the court. The admission ~~shall constitute~~ constitutes a conviction.

2. A defendant charged with a scheduled violation by information may obtain two copies of the information from the court and, before the time ~~he or she~~ the defendant is required to appear before the court, deliver or mail ~~such the~~ copies, together with his or her the defendant's admission, fine, and five eight dollars costs, to the scheduled violations office in the county. The procedure, fine, and costs ~~shall be~~ are the same as when the charge is by citation and complaint, with the admission and the number of the defendant's operator's or chauffeur's license placed upon the information, when the violation involves the use of a motor vehicle.

3. When section 805.8 and this section are applicable but the officer does not deem it advisable to release the defendant and no court in the county is in session:

a. If the defendant wishes to admit the violation, the officer may release the defendant upon observing the person mail the citation and complaint, admission, and minimum fine, together with five eight dollars costs, to a traffic violations office in the county, in an envelope furnished by the officer. The admission ~~shall constitute~~ constitutes a conviction and judgment in the amount of the scheduled fine plus five eight dollars costs. The officer may allow the defendant to use a credit card pursuant to rules adopted ~~pursuant to~~ under section 805.14 by the department of public safety or to mail a check in the proper amount in lieu of cash. If the check is not paid by the drawee for any reason, the defendant may be held in contempt of court. The officer shall advise the defendant of the penalty for nonpayment of the check.

b. If the defendant does not comply with paragraph "a" of this subsection, the officer may release the defendant upon observing ~~him~~ the defendant mail to a court in the county the citation and complaint and one and one-half times the minimum fine together with five eight dollars costs, or in lieu of one and one-half times the fine and the costs, a guaranteed arrest bond certificate as provided in section 321.1, subsection 70, as bail together with the following statement signed by the defendant:

"I agree that either (1) I will appear pursuant to this citation or (2) if I do not appear in person or by counsel to defend against the offense charged in this citation the court is authorized to enter a conviction and render judgment against me for the amount of one and one-half times the scheduled fine plus five eight dollars costs."

c. If the defendant does not comply with paragraph "a" or "b", or ~~in any event~~ when section 804.7 is applicable, the officer may arrest and confine the defendant if authorized by the latter section, and proceed ~~with him~~ according to chapter 804.

4. ~~Any~~ A defendant who admits a scheduled violation may ~~nevertheless~~ appear before court. The procedure, costs, and fine, without suspension of the fine, after the hearing ~~shall be~~ are the same as in the traffic violations office.

5. A defendant charged with a scheduled violation who does not fully comply with subsection 1, 2, 3, or 4 of this section before the time required to appear before the court must, at that time, appear before the court. ~~If such~~ the defendant admits the violation, the procedure and fine, without suspension, after the hearing ~~shall be~~ are the same before the court as before the traffic violations office with ~~five~~ eight dollars court costs, without prejudice, when applicable, to proceedings under section 321.487.

6. The ~~five~~ eight dollars in costs imposed by this section are the total costs collectible from ~~any~~ a defendant upon either an admission of a violation without hearing, or upon a hearing pursuant to subsection 4. Fees shall not be imposed upon or collected from ~~any~~ a defendant for the purposes specified in section 331.705, subsection 1, paragraph "i", "j", or "t".

Sec. 11. 1983 Iowa Acts, Senate File 495, section 6102, subsection 1, if Senate File 495 is enacted into law, is amended to read as follows:

1. The court of appeals consists of ~~five~~ six judges, any three of whom constitute a quorum.

Sec. 12. 1983 Iowa Acts, Senate File 495, section 6102, if Senate File 495 is enacted into law, is amended by adding the the following new subsection:

NEW SUBSECTION. The court of appeals may be divided into divisions of three or more judges in a manner as it may prescribe by rule. The divisions may hold open court separately and cases may be submitted to each division separately in accordance with rules the court may prescribe. The rules shall provide for submitting a case or petition for rehearing or hearing en banc at the direction of the chief judge or at the request of a specified number of judges designated in the rules. The court of appeals shall prescribe all rules necessary to provide for the submission of cases to the whole court or to a division.

Sec. 13. 1983 Iowa Acts, Senate File 495, section 6203, if Senate File 495 becomes law, is amended to read as follows:

SEC. 6203. NEW SECTION. 602.6203 LAW CLERKS. The court of appeals may employ not more than ~~five~~ six attorneys or graduates of a reputable law school to act as legal assistants to the court.

Sec. 14. 1983 Iowa Acts, Senate File 495, section 9105, subsection 1, paragraphs a through v, if Senate File 495 becomes law, are amended to read as follows:

a. For filing a petition, appeal, or writ of error and docketing them, ~~twenty-five~~ thirty-five dollars. Four dollars of the fee shall be deposited in the court revenue distribution account established under section 602.9108, and ~~twenty-one~~ thirty-one dollars of the fee shall be paid into the state treasury. Of the amount paid to the state treasury, one dollar shall be deposited in the judicial retirement fund established in section 602.2104 to be used to pay retirement benefits of the judicial retirement system, and the remainder shall be deposited in the general fund of the state. In counties having a population of one hundred thousand or over, an additional five dollars shall be charged and collected, to be known as the journal publication fee and used for the purposes provided for in section 618.13.

b. For an attachment, two dollars.

c. For a cause tried by jury, five dollars.

d. For a cause tried by the court, two dollars and fifty cents.

e. For an equity case, three dollars.

f. For an injunction or other extraordinary process or order, five dollars.

g. For a cause continued on application of a party by affidavit, two dollars.

h. For a continuance, one dollar.

i. For entering a final judgment or decree, one dollar and fifty cents.

j. For taxing costs, one dollar.

k. For issuing an execution or other process after judgment or decree, two dollars.

b. For payment in advance of various services and docketing procedures, excluding small claims, twenty-five dollars.

c. In small claims actions, in addition to the filing fee specified in section 631.6, the following fees shall be charged for the following services:

- (1) For a cause tried by the court, two dollars and fifty cents.
- (2) For an equity case, three dollars.
- (3) For an injunction or other extraordinary process or order, five dollars.
- (4) For a cause continued on application of a party by affidavit, two dollars.
- (5) For a continuance, one dollar.
- (6) For entering a final judgment or decree, one dollar and fifty cents.
- (7) For taxing costs, one dollar.
- (8) For issuing an execution or other process after judgment or decree, two dollars.
- (9) For filing and docketing a transcript of judgment from another county, one dollar.
- (10) For entering a rule or order, one dollar.
- (11) For issuing a writ or order, not including subpoenas, two dollars.
- (12) For entering a judgment by confession, two dollars.
- (13) For entering a satisfaction of a judgment, one dollar.
- (14) For a copy of records or papers filed in the clerk's office, transcripts, and making a complete record, fifty cents for each one hundred words.
- (15) For taking and approving a bond and sureties on the bond, two dollars.

d. For filing, entering, and endorsing a mechanic's lien, three dollars, and if a suit is brought, the fee is taxable as other costs in the action.

- m. e. For a certificate and seal, two dollars.
- n. For filing and docketing a transcript of judgment from another county, one dollar.
- o. For entering a rule or order, one dollar.
- p. For issuing a writ or order, not including subpoenas, two dollars.
- q. For issuing a commission to take depositions, two dollars.
- r. For entering a sheriff's sale of real estate, two dollars.
- s. For entering a judgment by confession, two dollars.
- t. For entering a satisfaction of a judgment, one dollar.
- u. For a copy of records or papers filed in the clerk's office, transcripts, and making a complete record, fifty cents for each one hundred words.
- v. For taking and approving a bond and sureties on the bond, two dollars.

Sec. 15. 1983 Iowa Acts, Senate File 495, section 9106, subsection 1, if Senate File 495 becomes law, is amended to read as follows:

1. Notwithstanding section 602.9105, the fee for the filing and docketing of a complaint or information for a simple misdemeanor shall be ~~six~~ eight dollars, provided that a fee for filing and docketing a complaint or information shall not be collected in cases of overtime parking.

Sec. 16. 1983 Iowa Acts, Senate File 495, section 9106, subsection 4, if Senate File 495 becomes law, is amended to read as follows:

4. All fees and costs for the filing of a complaint or information or upon forfeiture of bail received from a magistrate shall be distributed by the clerk as follows:

a. One-half shall be remitted monthly by the clerk to the treasurer of state to be credited to the general fund of the state.

b. ~~One-third~~ One-fourth shall be deposited in the court revenue distribution account established under section 602.9108.

c. ~~One-sixth~~ One-fourth shall be remitted monthly by the clerk to the treasurer of state to be credited to the judicial retirement fund established under section 602.2104.

Sec. 17. During the fiscal year beginning July 1, 1983, and ending June 30, 1984, the county board of supervisors may transfer money from the court expense fund to the county general fund in order to replenish the revenue loss from the general fund due to the operation of 1983 Iowa Acts, Senate File 495, section 602.9108, subsection 2, paragraph a. The amount transferred shall not exceed the amount remitted to the treasurer of state pursuant to 1983 Iowa Acts, Senate File 495, section 602.9108, subsection 2, paragraph a.

Approved June 9, 1983

## CHAPTER 205

### SALARY ADJUSTMENTS AND EXPENSES

*H.F. 646*

**AN ACT** relating to the compensation and benefits for public officials and employees by specifying salary rates and ranges and providing adjustments for salary, health insurance, and per diem, making coordinating amendments to the Code, and appropriating funds.

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

#### Section 1.

1. The salary rates specified in the section are effective for the fiscal years indicated and the salary rates for the fiscal year beginning July 1, 1984, are effective for subsequent fiscal years until otherwise provided by the general assembly. The salary rates for the fiscal year beginning July 1, 1983, are the same as for the fiscal year beginning July 1, 1982. The salaries provided for in this section shall be paid from funds appropriated to the department or agency specified in this section pursuant to any Act of the general assembly or if the appropriation is not sufficient, from the salary adjustment fund.

2. The following annual salary rates shall be paid to the person holding the position indicated:

	<u>1983-1984</u> <u>Fiscal Year</u>	<u>1984-1985</u> <u>Fiscal Year</u>
<b>a. DEPARTMENT OF AGRICULTURE</b>		
Salary for the secretary of agriculture . . . .	\$ 38,500	\$ 41,000
<b>b. OFFICE OF THE ATTORNEY GENERAL</b>		
Salary of the attorney general . . . . .	\$ 50,700	\$ 54,000
<b>c. OFFICE OF THE AUDITOR OF STATE</b>		
Salary of the auditor of state . . . . .	\$ 38,500	\$ 41,000
<b>d. OFFICE OF THE GOVERNOR</b>		
Salary of the governor . . . . .	\$ 60,000	\$ 64,000

e. OFFICE OF THE SECRETARY OF STATE

Salary of the secretary of state .....	\$	38,500	\$	41,000
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f. OFFICE OF THE TREASURER OF STATE

Salary of the treasurer of state .....	\$	38,500	\$	41,000
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Sec. 2.

1. The salary rates specified in this section are effective for the fiscal years indicated and the salary rates for the fiscal year beginning July 1, 1984, are effective for subsequent fiscal years until otherwise provided by the general assembly. The salary rates for the fiscal year beginning July 1, 1983, are the same as for the fiscal year beginning July 1, 1982. The salaries provided for in this section shall be paid from funds appropriated to the department which the person represents and from funds appropriated by section 3 of this Act.

2. The following annual salary rates shall be paid to the persons holding the positions indicated:

		1983-1984		1984-1985
		<u>Fiscal Year</u>		<u>Fiscal Year</u>
a. Chief justice of the supreme court .....	\$	62,100	\$	66,200
b. Each justice of the supreme court .....	\$	57,100	\$	60,900
c. Chief judge of the court of appeals .....	\$	55,400	\$	59,100
d. Each associate judge of the court of appeals .....	\$	54,200	\$	57,800
e. Each chief judge of a judicial district .....	\$	53,000	\$	56,500
f. Each district court judge except the chief judge of a judicial district .....	\$	50,700	\$	54,000
g. Each district associate judge .....	\$	42,000	\$	44,800
h. Each part-time judicial magistrate .....	\$	11,700	\$	12,500

Sec. 3. There is appropriated from the general fund of the state for each fiscal year of the fiscal biennium beginning July 1, 1983, ending June 30, 1985, the following amounts, or so much thereof as is necessary, to be used to fund increases in judicial salaries and related benefits as provided in section 2 of this Act and for the state's contribution to the judicial retirement system provided for in chapter 605A required because of the increased salaries .....

	\$	59,300	\$	639,500
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Sec. 4.

1. The salary rates specified in this section are effective for the fiscal years indicated and the salary rates for the fiscal year beginning July 1, 1984, are effective for subsequent fiscal years until otherwise provided by the general assembly. The salary rates for the fiscal year beginning July 1, 1983, are the same as for the fiscal year beginning July 1, 1982. The salaries provided for in this section shall be paid from funds appropriated to the department or agency specified in this section or pursuant to this Act.

2. The following annual salary rates shall be paid to the persons holding the positions indicated:

		1983-1984		1984-1985
		<u>Fiscal Year</u>		<u>Fiscal Year</u>
a. Chairperson of the public employment relations board .....	\$	39,750	\$	42,400
b. Two members of the public employment relations board, each .....	\$	36,800	\$	39,300

Sec. 5. Persons receiving the salary rates established under section 1, 2, or 4 of this Act shall not receive any additional salary adjustments provided by this Act.

Sec. 6.

1. The governor shall establish a salary for appointed nonelected persons in the executive branch of state government holding a position enumerated in section 7 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, the availability of qualified candidates for the position, and subordinates' salaries.

2. The governor in establishing salaries as provided in section 7 of this Act shall take into consideration other employee benefits which may be provided for an individual including, but not limited to, housing.

3. A person whose salary is established by section 7 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 necessary travel and expenses incurred in the performance of duties or fringe benefits normally provided to employees of the state.

Sec. 7. The following annual salary ranges are effective for the positions specified in this section and for the fiscal years indicated. The ranges for the fiscal year beginning July 1, 1984, are effective for subsequent fiscal years until otherwise provided by the general assembly. The salary ranges for the fiscal year beginning July 1, 1983, are the same as for the fiscal year beginning July 1, 1982. The governor shall determine the salary to be paid to the person indicated at a rate within the salary ranges indicated from funds appropriated by the general assembly for that purpose.

1. The following salary ranges are effective for the fiscal years beginning July 1, 1983, July 1, 1984, and as otherwise provided in this section:

	1983-1984		1984-1985	
	Fiscal Year		Fiscal Year	
	Minimum	Maximum	Minimum	Maximum
a. Salary range 1 . . . . .	\$ 5,800	\$17,500	\$ 6,000	\$18,200
b. Salary range 2 . . . . .	21,000	35,000	21,800	36,400
c. Salary range 3 . . . . .	29,200	40,800	30,400	42,400
d. Salary range 4 . . . . .	35,000	46,700	36,400	48,600
e. Salary range 5 . . . . .	40,800	52,500	42,400	54,600

2. The following are range one positions: members of the board of parole, members of the state health facilities council, and members of the transportation commission of the department of transportation.

3. The following are range two positions: executive director of the commission on aging, appellate defender, director of the Iowa state arts council, director of the Iowa civil rights commission, executive director of the college aid commission, executive secretary of the Iowa criminal and juvenile justice planning agency, executive secretary of the committee on employment of the handicapped, members of the appeal board of the Iowa department of job service, director of disaster services of the department of public defense, director of the real estate commission, and director of the department of substance abuse.

4. The following are range three positions: director of the commission for the blind, administrator of the credit union department, director of the energy policy council, secretary of the state fair board, state geologist, industrial commissioner, labor commissioner, director of the department of soil conservation, director of state historical department, director of the

Iowa law enforcement academy, state librarian, and superintendent of the transportation regulation authority.

5. The following are range four positions: superintendent of banking, director of the Iowa beer and liquor control department, director of the state conservation commission, executive director of the Iowa department of public broadcasting, director of the Iowa merit employment department, director of the department of corrections, director of the Iowa department of job service, director of the department of general services, commissioner of health, director of the office for planning and programming, executive director of the department of water, air and waste management, commissioner of insurance, and commissioner of public safety.

6. The following are range five positions: state comptroller, superintendent of public instruction, executive secretary of the state board of regents, director of the department of revenue, director of the Iowa development commission, commissioner of social services or its successor agency, chairperson and members of the Iowa state commerce commission, consumer advocate, and director of the department of transportation.

Sec. 8. Funds appropriated to the salary adjustment fund by this Act may be expended to fund salaries established pursuant to sections 6 and 7 of this Act if funds appropriated to the agencies represented by or employing the persons holding the positions specified in section 7 of this Act are insufficient to pay salaries provided for in section 7 of this Act. The governor shall report to the legislative fiscal committee the salary rates established pursuant to section 7 of this Act.

Sec. 9. The following annual salary ranges are effective for the positions specified in this section and for the fiscal years indicated. The salary shall be paid to the person indicated at a rate determined as otherwise provided by law within the salary ranges from funds provided for that purpose.

	<u>1983-1984</u>		<u>1984-1985</u>	
	<u>Fiscal Year</u>		<u>Fiscal Year</u>	
	<u>Minimum</u>	<u>Maximum</u>	<u>Minimum</u>	<u>Maximum</u>
1. For the court administrator .....	\$35,000	\$46,700	\$36,400	\$48,600
2. For each full-time shorthand reporter of the district court .....	15,450	25,850		

The salary range for the fiscal year beginning July 1, 1984 is effective for subsequent fiscal years until otherwise provided by the general assembly.

Sec. 10. The annual salary rates or ranges provided in sections 1, 2, 4, 7, and 9 of this Act become effective for the fiscal year beginning July 1, 1983, with the pay period beginning July 1, 1983, and for the fiscal year beginning July 1, 1984, with the pay period beginning June 29, 1984.

Sec. 11. 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 such purposes and as set forth in the federal grants or receipts.

Sec. 12.

1. There is appropriated from the general fund of the state to the salary adjustment fund provided for in section 8.43, for the fiscal years beginning July 1, 1983, and July 1, 1984, the following amounts or so much as may be necessary, to be distributed to the various departments to supplement other funds appropriated by the general assembly:

- a. For the fiscal year beginning July 1, 1983 ..... \$ 7,529,000
- b. For the fiscal year beginning July 1, 1984 ..... \$ 46,239,200

2. There is appropriated from the road use tax fund of the state to the state department of transportation for the fiscal years beginning July 1, 1983, and July 1, 1984, the following

amounts or so much as may be necessary, to be distributed to supplement other funds appropriated by the general assembly:

- a. For the fiscal year beginning July 1, 1983 ..... \$ 99,000
- b. For the fiscal year beginning July 1, 1984 ..... \$ 522,000

3. There is appropriated from the primary road fund to the state department of transportation the following amounts for the fiscal years beginning July 1, 1983, and July 1, 1984, or so much thereof as may be necessary, to supplement other funds appropriated by the general assembly:

- a. For the fiscal year beginning July 1, 1983 ..... \$ 1,013,500
- b. For the fiscal year beginning July 1, 1984 ..... \$ 4,883,300

4. The amounts appropriated in subsections 1, 2, and 3 shall be used to fund the following annual pay adjustments, expense reimbursement, and benefits not in conflict with the Code:

- a. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the blue collar bargaining unit.
- b. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the public safety bargaining unit.
- c. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the security bargaining unit.
- d. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the technical bargaining unit.
- e. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the professional fiscal and staff bargaining unit.
- f. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the university of northern Iowa faculty bargaining unit.
- g. The annual pay adjustments, related benefits, and expense reimbursement referred to in sections 16 and 17 of this Act for employees not covered by a collective bargaining agreement.

Sec. 13. 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 authorization is provided for those funds, unless otherwise provided, in an amount necessary to fund salary adjustments provided in this Act.

Sec. 14.

1. Of the funds appropriated in section 12, subsection 1 of this Act, for the fiscal year beginning July 1, 1984, the following amounts shall be allocated to the designated political subdivisions or public agencies as provided in subsection 2:

	1984- 1985
	<u>Fiscal Year</u>
a. To merged area schools as defined in section 280A.2 .....	\$ 2,484,400
b. To the judicial district departments of correctional services as defined in section 905.1 .....	\$ 568,000
c. To the seven regional libraries of the regional library system as defined in section 303B.2 .....	\$ 34,900
d. To the substance abuse treatment facilities receiving substance abuse program grants as provided in section 125.25 .....	\$ 198,000

e. To local boards of health receiving in-home health care grants .....	\$	128,000
f. Local homemaker-chore service programs .....	\$	433,600

The state comptroller shall allocate and distribute each of the amounts specified in subsection 1 in the same proportion that the payroll for each individual program for the fiscal year ending June 30, 1983, is to the annual payroll for all programs for that fiscal year. Moneys received by local programs under this section shall be used to pay the state's share of the authorized salary increases for the local program employees for the designated fiscal year.

Sec. 15. Funds appropriated from the general fund of the state in this Act shall be used only for salaries supported from general fund appropriations of the state.

Sec. 16.

1. The merit system pay plans and executive council exempt pay plans provided for in section 19A.9, subsection 2, as they exist for the fiscal year ending June 30, 1984, shall be increased for employees who are not included in a collective bargaining agreement made final under chapter 20 by four percent for the fiscal year beginning July 1, 1984, effective with the pay period beginning June 29, 1984. The merit employment commission shall revise the merit system pay plans and the governor, with the approval of the executive council, shall revise the executive council exempt pay plans as provided under section 19A.9, subsection 2, by increasing the salary levels for the various grades and steps within the respective plans by four percent. All employees who are not included in a collective bargaining agreement made final under chapter 20 and who are not included in subsection 4 shall have their salaries adjusted accordingly.

2. The pay plans for state employees who are exempt from chapter 19A and who are included in the state comptroller's centralized payroll system, the department of transportation's payroll system, and the board office employees of the state board of regents shall be increased by the same percent and in the same manner included 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 6, and employees under the state board of regents' merit system, but subsection 2 does apply to office employees of the state board of regents.

4. Each appointing authority shall determine the percentage increase for each professional and managerial employee's salary provided for under this section and may increase the base salaries of the professional and managerial employees by different percentages in accordance with rules of the merit employment department and policies of the state comptroller, but the total percentage increase of all salaries of the professional and managerial employees under each appointing authority's jurisdiction made using the appropriations authorized by this Act for the fiscal year beginning July 1, 1984, shall not exceed six and six-tenths percent of those salaries as they exist on June 28, 1984. As used in this section, "professional and managerial employee" means a professional employee as defined in section 20.3, subsection 11 or a representative of a public employer or supervisory employee as defined in section 20.4, subsection 2.

5. A merit increase shall not be granted to a state employee who is not included in a collective bargaining agreement made final under chapter 20 for the pay period beginning July 1, 1983, through the pay period ending June 28, 1984.

6. Except for the employees covered by subsection 4, a merit increase may be granted to a state employee who is not included in a collective bargaining agreement made final under chapter 20 during the period beginning June 29, 1984, through the period ending June 27, 1985.

7. The policies for implementation of this section shall be approved by the governor except those policies governing the board office employees of the state board of regents.

Sec. 17. The funds allocated to the state board of regents for the purpose of providing increases for employees not covered by a collective bargaining agreement shall be used as follows:

1. The amount necessary to fund the fiscal year beginning July 1, 1984, an average base salary increase of six and six-tenths percent of base salaries of faculty members and professional and scientific staff members, except board office employees as provided for in section 16 of this Act, paid during the preceding fiscal year, to be allocated to faculty members and professional and scientific staff members at the discretion of the state board of regents.

2. For employees under the state board of regents' merit system who are not included in the collective bargaining agreement made final under chapter 20, except board office employees, the amount necessary to increase the state board of regents' merit system pay plans as they exist for the fiscal year ending June 30, 1984, by increasing the salary levels for each grade and step within the plans by four percent for the fiscal year beginning July 1, 1984.

3. A within-range step increase (merit increase) shall not be granted to an employee of the state board of regents who is not included in a collective bargaining agreement made final under chapter 20 for the fiscal year beginning July 1, 1983, and ending June 30, 1984.

4. Except for the provisions of subsection 1, a within-range step increase (merit increase) may be granted to a state employee who is not included in a collective bargaining agreement made final under chapter 20 during the period beginning July 1, 1984, through the period ending June 30, 1985.

Sec. 18. All funds appropriated by this Act to the salary adjustment fund for the department of transportation and for the state agencies paid through the state comptroller's centralized payroll system shall be used to fund salary and fringe benefit expenditures for the following periods of time:

1. For the fiscal year beginning July 1, 1983, beginning with the biweekly paydate of July 8, 1983, and ending with the biweekly paydate of June 22, 1984.

2. For the fiscal year beginning July 1, 1984, beginning with the biweekly paydate of July 6, 1984, and ending with the biweekly paydate of June 21, 1985.

Sec. 19.

1. There is appropriated from the general fund of the state to the state comptroller for the fiscal year beginning July 1, 1984, and ending June 30, 1985, the sum of one hundred seven thousand six hundred (107,600) dollars to be allocated to the counties for the purpose of providing average pay increases of not more than six and six-tenths percent of the full-time shorthand reporters of the district courts except as otherwise provided in subsection 2.

2. The state comptroller shall allocate and distribute the amount to each county to be credited to the county general fund in the same proportion that the county's annual payroll for full-time shorthand reporters for the fiscal year ending June 30, 1983, is to the annual payroll for full-time shorthand reporters for all counties for that fiscal year. However, if the salaries of shorthand reporters are not paid by the counties effective July 1, 1984, the amount shall be allocated to the public agency which pays the salaries of shorthand reporters.

Sec. 20. Section 2.10, subsections 1, 2, and 3, Code 1983, are amended to read as follows:

1. Every member of the general assembly except the speaker of the house and majority and minority floor leaders of the senate and house shall receive an annual salary of ~~twelve fourteen thousand eight six~~ six hundred dollars for the year ~~1981 1985~~ 1981 1985 and ~~thirteen thousand seven hundred~~ thirteen thousand seven hundred dollars for the year ~~1982~~ 1982 ~~subsequent~~ subsequent years while serving as a member of the general assembly. The majority and minority floor leaders of the senate and house shall receive an annual salary of ~~fifteen seventeen thousand one hundred~~ seventeen thousand one hundred dollars for the year ~~1981~~ 1981 and ~~sixteen thousand~~ sixteen thousand dollars for the year ~~1982~~ 1982 ~~1985~~ 1985 and ~~subsequent~~ subsequent years while serving in such capacity. In addition, each such member shall receive the sum of ~~thirty~~ forty dollars per day for expenses of office, except travel, for each day the general assembly is in session commencing with the first day of a legislative session and ending with the day of final adjournment of each legislative session as indicated by the journals of the house and senate, except that in the event the length of the first regular session of the general assembly exceeds one hundred ~~twenty ten~~ ten calendar days and the second regular session exceeds one hundred calendar days, such payments shall be made only for one hundred ~~twenty ten~~ ten calendar days for the first session and one hundred calendar days for the second session. However, members from Polk county shall receive ~~fifteen~~ twenty-five dollars per day. Travel expenses shall be paid at the rate established by section 18.117 for actual travel in going to and returning from the seat of government by the nearest traveled route for not more than one time per week during a legislative session. However, any increase from time to time in the mileage rate established by section 18.117 shall not become effective for members of the general assembly until the convening of the next general assembly following the session in which the increase is adopted; and this provision shall prevail over any inconsistent provision of any present or future statute.

2. The lieutenant governor shall receive an annual salary of ~~nineteen~~ twenty-one thousand ~~two nine~~ nine hundred dollars for the year ~~1981 1985~~ 1981 1985 and ~~twenty thousand five hundred~~ twenty thousand five hundred dollars for the year ~~1982~~ 1982 ~~subsequent~~ subsequent years. Personal expense and travel allowances shall be the same for the lieutenant governor as for a senator. The lieutenant governor while performing administrative duties of the office of lieutenant governor when the general assembly is not in session or serving as the president of the senate during special sessions of the general assembly shall receive sixty dollars per diem and reimbursement for expenses incurred in performing such duties. The salary, per diem, and expenses of the lieutenant governor provided for under this subsection, including office and staff expenses, shall be paid from funds appropriated to the office of the lieutenant governor by the general assembly.

3. The speaker of the house shall receive an annual salary of ~~nineteen~~ twenty-one thousand ~~two nine~~ nine hundred dollars for the year ~~1981~~ 1981 and ~~twenty thousand five hundred~~ twenty thousand five hundred dollars for the year ~~1982~~ 1982 ~~1985~~ 1985 and ~~subsequent~~ subsequent years while serving as the speaker of the house. Expense and travel allowances shall be the same for the speaker of the house as provided for other members of the general assembly.

Sec. 21. Chapter 2, Code 1983, is amended by adding the following new section:

**NEW SECTION.** A member of the general assembly may elect to become a member of a state health or medical service group insurance plan for employees of the state established under chapter 509A subject to the following conditions:

1. The member shall pay the total premium for the plan selected.
2. The member shall authorize a payroll deduction of the total premium during the member's pay plan selected pursuant to subsection 5 of section 2.10.
3. The premium rate will be the same as the premium rate paid by a state employee for the plan selected except the state will provide no matching funds.

In order to implement this section a member of the general assembly may elect to become a member of a state health or medical service group insurance plan effective July 1, 1983 or as otherwise authorized in the contract of the state. If a member of the general assembly elected to be paid the member's total salary during each pay period during the first six months of 1983, that member may become a member of the state health or medical service group insurance plan by paying the premium due until that member's salary and payroll deductions commence.

Approved June 10, 1983

## CHAPTER 206

### CERTAIN SERVICE PROGRAMS AND AGENCIES FUNDED

*H.F. 613*

**AN ACT** relating to the funding of state agencies for designated service programs including health programs, specialized child health service programs, substance abuse programs, civil rights, veterans' services, and programs for minority, elderly, and disadvantaged persons for the fiscal year beginning July 1, 1983, and ending June 30, 1984.

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

Section 1. There is appropriated from the general fund of the state to the commission on the aging for the fiscal year beginning July 1, 1983, and ending June 30, 1984, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

	1983-1984 <u>Fiscal Year</u>
1. For salaries and support of not more than twenty-five and six-tenths full-time equivalent positions annually, maintenance, and miscellaneous purposes .....	\$ 202,000
2. For the administration of area agencies on aging .....	\$ 117,600
3. For the senior citizen employment program .....	\$ 108,000
4. For the older Iowans legislature .....	\$ 14,000
5. For elderly services programs .....	\$ 800,000

All funds appropriated under this subsection shall be received and disbursed by the commission in accordance with sections 249B.15 through 249B.21, shall not be used for administrative purposes, and shall be used for citizens of Iowa over sixty-five years of age to increase the availability of chore, telephone reassurance, adult day care, and home repair, including the winterizing of homes and the construction of entrance ramps which meet the requirements of section 104A.4 and make residences accessible to the physically handicapped, and other

elderly services. A coordinated comprehensive individual assessment program for the elderly may be created in each area agency for the aging to oversee the training of interdisciplinary teams for the purpose of assessing elderly individuals to determine their health, social, and financial needs in enabling these individuals to remain in their homes and their communities. Funds appropriated under this subsection may be used for elderly services not specifically enumerated in this paragraph only if approved by an area agency on aging for provision of the services within the area. Funds appropriated under this subsection may be used to supplement federal funds under federal regulations.

Sec. 2. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1983, and ending June 30, 1984, the following amounts, or so much thereof as is necessary, to be used by the following agencies for the purposes designated:

	1983-1984 <u>Fiscal Year</u>
<b>1. IOWA STATE CIVIL RIGHTS COMMISSION</b>	
For salaries and support of not more than twenty-four full-time equivalent positions annually, maintenance, and miscellaneous purposes .....	\$ 691,846
<b>2. SPANISH-SPEAKING PEOPLES COMMISSION</b>	
For salaries and support of not more than one full-time equivalent position annually, maintenance, and miscellaneous purposes .....	\$ 41,089
<b>3. COMMITTEE ON THE EMPLOYMENT OF THE HANDICAPPED</b>	
For salaries and support of not more than four full-time equivalent positions annually, maintenance, and miscellaneous purposes .....	\$ 128,356
<b>4. COMMISSION ON THE STATUS OF WOMEN</b>	
For salaries and support of not more than three full-time equivalent positions annually, maintenance, and miscellaneous purposes .....	\$ 91,071

Sec. 3. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1983, and ending June 30, 1984, the following amounts, or so much thereof as is necessary, to be used by the following agencies for the purposes designated:

	1983-1984 <u>Fiscal Year</u>
<b>1. BOARD OF MEDICAL EXAMINERS</b>	
For salaries and support of not more than fourteen full-time equivalent positions annually, maintenance, and miscellaneous purposes .....	\$ 640,548
<b>2. BOARD OF NURSE EXAMINERS</b>	
For salaries and support of not more than sixteen full-time equivalent positions annually, maintenance, and miscellaneous purposes .....	\$ 532,781

It is the intent of the general assembly that a licensed practical nurse may practice in head start programs without the need of supervision of a licensed registered nurse or a licensed physician. To the extent that subrule 590 IAC 6.3(3) conflicts with this provision, the subrule is void.

3. BOARD OF PHARMACY EXAMINERS

For salaries and support of not more than twelve full-time equivalent positions annually, maintenance, and miscellaneous purposes

\$ 358,179

The board of pharmacy examiners shall insure that enough revenue is received to reimburse the general fund of the state for the state's portion of the costs incurred for the auditing of pharmacies.

4. BOARD OF DENTAL EXAMINERS

For salaries and support of not more than two full-time equivalent positions annually, maintenance, and miscellaneous purposes

\$ 110,313

Sec. 4. There is appropriated from the general fund of the state to the state department of health for the fiscal year beginning July 1, 1983, and ending June 30, 1984, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1983-1984  
Fiscal Year

1. ADMINISTRATION

For salaries and support of not more than sixty-seven and one-fourth full-time equivalent positions annually, maintenance, and miscellaneous purposes

\$ 989,219

2. HEALTH FACILITIES DIVISION

For salaries and support of not more than fifty-one full-time equivalent positions annually, maintenance, and miscellaneous purposes

\$ 694,634

3. HEALTH PLANNING AND DEVELOPMENT DIVISION

For salaries and support of not more than nineteen and sixty-seven one-hundredths full-time equivalent positions annually, maintenance, and miscellaneous purposes

\$ 257,494

4. DISEASE PREVENTION DIVISION

For salaries and support of not more than fifty-one and six-tenths full-time equivalent positions annually, maintenance, and miscellaneous purposes

\$ 1,042,348

5. LICENSING AND CERTIFICATION DIVISION

For salaries and support of not more than sixteen full-time equivalent positions annually, maintenance, and miscellaneous purposes

\$ 538,228

The licensing and certification division shall prepare estimates of projected revenues 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 revenues equal projected costs and any imbalance in revenues and costs in a fiscal year is offset in a subsequent fiscal year.

## 6. PERSONAL AND FAMILY HEALTH SERVICES

a. For salaries and support of not more than forty-four and thirty-five one-hundredths full-time equivalent positions annually, maintenance, and miscellaneous purposes . . . . . \$ 1,164,699

The department shall allocate from the funds appropriated under this paragraph at least four hundred seventy-two thousand three hundred four (472,304) dollars for the fiscal year beginning July 1, 1983, and ending June 30, 1984, for the birth defects and genetics counseling program.

Of the funds appropriated in this paragraph, the following amounts shall be allocated to the 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 . . . . .	\$	252,000
(2) Childhood cancer diagnostic and treatment network program . . . . .	\$	48,847
(3) Rural comprehensive care for hemophilia patients . . . . .	\$	69,199
(4) Muscular dystrophy and related genetic disease programs . . . . .	\$	100,000
(5) Statewide perinatal programs . . . . .	\$	45,000

Of the funds allocated to the mobile and regional child health specialty clinics pursuant to subparagraph (1), twenty-one thousand (21,000) dollars is intended to be used for the high risk infant follow-up program which may be conducted through the mobile and regional child health specialty clinics.

The birth defects and genetic counseling service shall develop a sliding fee scale to determine the amount a person receiving the services is required to pay for the services.

The university of Iowa hospitals and clinics shall receive an allocation for indirect costs of no more than eight percent from the funds for each program.

It is the intent of the general assembly that the childhood cancer diagnostic and treatment network program and the rural comprehensive care for hemophilia patients be continued at the university of Iowa hospitals and clinics at the funding level of the fiscal year beginning July 1, 1982, and ending June 30, 1983. To provide for the contingency that federal funds would not be available to maintain that funding level, there is appropriated from the general fund of the state to the office of the state comptroller for the fiscal year beginning July 1, 1983, and ending June 30, 1984, the sum of seventy-four thousand four hundred fifty (74,450) dollars, or so much thereof as is necessary. The state comptroller, upon receipt of verified amounts of federal funds received by the university of Iowa hospitals and clinics for the programs specified in this paragraph, shall pay to the university of Iowa hospitals and clinics an amount equal to the difference between the amount of the original grant application and the amount of the grant as approved by the United States department of health and human services. Any funds remaining from this appropriation shall revert to the state general fund on June 30, 1984.

It is the intention of the human resources appropriations subcommittee that one hundred eighty-thousand three hundred seventy-seven (180,377) dollars of the maternal and child health block grant appropriated to the state department of health by the general assembly for the federal fiscal year beginning October 1, 1983, and ending September 30, 1984, shall be allocated to the statewide perinatal care program.

b. Sexual abuse investigations.

For medical procedures required by section  
709.10 ..... \$ 25,000

c. Sudden infant death syndrome.

For reimbursing counties for expenses  
resulting from autopsies of suspected victims  
of sudden infant death syndrome required  
under section 331.802 ..... \$ 15,000

7. COMMUNITY HEALTH SERVICES

a. Community health division.

For salaries and support of not more than  
thirty-eight full-time equivalent positions an-  
nually, maintenance, and miscellaneous pur-  
poses ..... \$ 1,819,356

The department shall allocate from the funds appropriated under this lettered paragraph nine hundred twenty-two thousand six hundred ninety-three (922,693) dollars for the fiscal year beginning July 1, 1983, and ending June 30, 1984 for the chronic renal disease program. The types of assistance to eligible recipients under the program may include hospital and medical expenses, home dialysis supplies, insurance premiums, travel expenses, prescription and nonprescription drugs, and lodging expenses for persons in training. The program expenditures shall not exceed these allocations. If projected expenditures will exceed the allocations, the department shall establish by administrative rule a mechanism to reduce financial assistance under the renal disease program in order to keep expenditures within the allocations.

b. In-home health care grants.

For grants to local boards of health for the  
public health nursing program ..... \$ 2,060,000

Funds appropriated under this paragraph shall be used to maintain and expand the existing public health nursing program for elderly and low-income persons with the objective of preventing or reducing inappropriate institutionalization. The department shall not retain more than one percent of the amount appropriated under this paragraph for the costs of administering the public health nursing program. The remainder of the appropriation shall be allocated for use in the counties of the state. The funds shall not be used for any other purpose. As used in this paragraph, "elderly person" means a person who is sixty years of age or older and "low-income person" means a person whose income and resources are below the guidelines established by the department.

One-fourth of the total amount to be allocated shall be divided so that an equal amount is available for use in each county in the state. Three-fourths of the total amount to be allocated shall be divided so that the share available for use in each county is proportionate to the number of elderly and low-income persons living in that county in relation to the total number of elderly and low-income persons living in the state.

In order to receive allocations under this paragraph, the local board of health having jurisdiction, after consultation with other in-home health care provider agencies in the jurisdiction, shall prepare a proposal for the use of the allocated funds available for that jurisdiction that will provide the maximum benefits of expanded public health nursing care to elderly and low-income persons in the jurisdiction. The proposal shall include a statement assuring that the appropriate local agencies have participated in the formulation of the proposal. After approval of the proposal by the department, the department shall enter into a

contract with the local board of health. The local board of health may subcontract with a non-profit nurses' association, an independent nonprofit agency, a suitable local governmental body, or a person as defined in section 4.1, subsection 13, to use the allocated funds to provide public health nursing care. Local boards of health shall make an effort to subcontract with agencies that are currently providing services to prevent duplication of services.

If by July 30, 1983, the department is unable to conclude contracts for use of the allocated funds in a county, the department shall consider the unused funds appropriated under this paragraph an unallocated pool. The department shall prior to December 31, 1983, reallocate the funds in the unallocated pool among the counties in which the department has concluded contracts under this paragraph. The reallocation shall be made to those counties in substantially the same manner as the original allocations. The reallocated funds are available for use in those counties during the period beginning January 1 and ending June 30 of each fiscal year of the biennium.

The department shall adopt rules defining eligibility for public health nursing care paid for from funds appropriated by this paragraph. The rules shall require each local agency receiving funds to establish and use a sliding fee scale for those persons able to pay for all or a portion of the cost of the care.

The department shall annually evaluate the success of the public health nursing program. The evaluation shall include the extent to which the program reduced or prevented inappropriate institutionalization, the extent to which the program increased the availability of public health nursing care to elderly and low-income persons, and the extent of public health nursing care provided to elderly and low-income persons. The department shall submit a report of each annual evaluation to the governor and the general assembly.

c. For grants to county boards of supervisors for the homemaker-home health aide program .....

\$ 6,950,000

Funds appropriated under this paragraph shall be used to provide homemaker-home health aide services with emphasis on services to elderly and low-income persons and children and adults in need of protective services with the objective of preventing or reducing inappropriate institutionalization. In addition, up to fifteen percent of the funds appropriated under this paragraph may be used to provide chore services. The funds shall not be used for any other purposes. As used in this paragraph:

(1) "Chore services" means services provided to individuals or families, who, due to absence, incapacity, or illness, are unable to perform certain home maintenance functions. The services include but are not limited to yard work such as mowing lawns, raking leaves, and shoveling walks; window and door maintenance such as hanging screen windows and doors, replacing window panes, and washing windows; and minor repairs to walls, floors, stairs, railings, and handles.

(2) "Elderly person" means a person who is sixty years of age or older.

(3) "Homemaker-home health aide services" means services intended to enhance the capacity of household members to attain or maintain the independence of the household members and provided by trained and supervised workers to individuals or families, who, due to the absence, incapacity, or limitations of the usual homemaker, are experiencing stress or crisis. The services include but are not limited to essential shopping, housekeeping, meal preparation, child care, respite care, money management and consumer education, family management, personal services, transportation and providing information, assistance, household management and learning experiences.

(4) "Low-income person" means a person whose income and resources are below the guidelines established by the department.

(5) "Protective services" means those homemaker-home health aide services intended to stabilize a child's or an adult's residential environment and relationships with relatives, caretakers, and other persons or household members in order to alleviate a situation involving abuse or neglect or to otherwise protect the child or adult from a threat of abuse or neglect.

The amount appropriated under this paragraph shall be allocated for use in the counties of the state. Fifteen percent of the amount shall be divided so that an equal amount is available for use in each county in the state. Of the remaining amount each county shall be allocated for the 1983-1984 fiscal year an amount equal to fifty percent of state expenditures for homemaker services in that county for the 1981-1982 fiscal year and for the 1984-1985 fiscal year an amount equal to twenty-five percent of the amount of state expenditures for homemaker services in that county for the 1981-1982 fiscal year. After the allocation of the fifty percent or the twenty-five percent to each county, the following percentages of the remaining amount shall be allocated to each county according to that county's proportion of residents with the following demographic characteristics compared to all state residents with the same demographic characteristics: sixty percent according to the number of elderly persons living in the county; twenty percent according to the number of low-income persons living in the county; and twenty percent according to the number of substantiated cases of child abuse in the county during the 1980-1981 fiscal year.

For the 1985-1986 fiscal year it is intended that no allocation be made based on those state expenditures for homemaker services but that the entire amount appropriated be allocated by dividing fifteen percent of the amount equally among the counties and by dividing the remaining amount according to the percentages and demographic characteristics stipulated above.

In order to receive allocations under this paragraph, the county board of supervisors, after consultation with the local boards of health, county board of social welfare, area agency on aging advisory council, local office of the department of social services, and other in-home health care provider agencies in the jurisdiction, shall prepare a proposal for the use of the allocated funds available for that jurisdiction that will provide the maximum benefits of expanded homemaker-home health aide services to elderly and low-income persons and children and adults in need of protective services in the jurisdiction. The proposal may provide that a maximum of fifteen percent of the allocated funds will be used to provide chore services. The proposal shall include a statement assuring that children and adults in need of protective services are given priority for homemaker-home health aide services and that the appropriate local agencies have participated in the formulation of the proposal. After approval of the proposal by the department, the department shall enter into a contract with the county board of supervisors or a governmental body designated by the county board of supervisors. The county board of supervisors or its designee shall subcontract with a nonprofit nurses' association, an independent nonprofit agency, the department of social services, or a suitable local governmental body, to use the allocated funds to provide homemaker-home health aide services and chore services providing that the subcontract requires any service provided away from the home to be documented in a report available for review by the department.

If by July 30 of each year of the biennium, the department is unable to conclude contracts for use of the allocated funds in a county, the department shall consider the unused funds appropriated under this paragraph an unallocated pool. The department shall also identify any allocated funds which the counties do not anticipate spending during each fiscal year of the biennium. If the anticipated excess funds to any county are substantial, the department and the county may agree to return those excess funds, if the funds are other than program revenues, to the department, and if returned, the department shall consider the returned funds a part of the unallocated pool. The department shall prior to December 31 of each fiscal year of the biennium, reallocate the funds in the unallocated pool among the counties in which the department has concluded contracts under this paragraph.

The department shall adopt rules defining eligibility for homemaker-home health aide services and chore services paid for from funds appropriated by this paragraph. The rules shall require each local agency receiving funds to establish and use a sliding fee scale for those persons able to pay for all or a portion of the cost of the services and shall require the payments to be applied to the cost of the services. The department shall also adopt rules for standards regarding training, supervision, recordkeeping, appeals, program evaluation, cost analysis, and financial audits, and rules specifying reporting requirements.

The department shall annually evaluate the success of the homemaker-home health aide program. The evaluation shall include a description of the program and its implementation, the extent of local participation, the extent to which the program reduced or prevented inappropriate institutionalization, the extent to which the program provided or increased the availability of homemaker-home health aide services to elderly and low-income persons and children and adults in need of protective services, any problems and recommendations concerning the program, and an analysis of the costs of services across the state. The department shall submit a report of the annual evaluation to the governor and the general assembly.

d. Well-elderly clinic grants.

For the development and maintenance of well-elderly clinics in the state ..... \$ 212,000

Sec. 5. There is appropriated from the general fund of the state to the Iowa department of veterans affairs for the fiscal year beginning July 1, 1983, and ending June 30, 1984, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1983-1984  
Fiscal Year

1. For salaries and support of not more than four full-time equivalent positions annually, maintenance, and miscellaneous purposes ..... \$ 118,336

2. For the war orphans educational aid fund ..... \$ 25,000

Sec. 6. There is appropriated from the general fund of the state to the Iowa department of substance abuse for the fiscal year beginning July 1, 1983, and ending June 30, 1984, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1983-1984  
Fiscal Year

1. For salaries and support of not more than nineteen and one-tenth full-time equivalent positions annually, maintenance, and miscellaneous purposes ..... \$ 172,975

2. For program grants ..... \$ 2,761,150

Sec. 7. The licensing boards for which general fund appropriations have been provided for in section 3, subsection 1, 2, 3, or 4 and section 4, subsection 5 of this Act may expend additional funds, if those additional expenditures are directly the cause of actual examination expenses exceeding funds budgeted for examinations. Before a licensing board included in section 3, subsection 1, 2, 3, or 4 and section 4, subsection 5 of this Act expends or encumbers an amount in excess of the funds budgeted for examinations, the state comptroller shall approve the expenditure or encumbrance. Before approval is given, the state comptroller shall determine that the examination expenses exceed the funds budgeted by the general assembly to the board and the board does not have other funds from which examination expenses can be paid. Upon approval of the state comptroller the licensing board may expend and encumber funds for excess examination expenses. The amounts necessary to fund the excess examination expenses shall be collected as fees from additional examination applicants and shall be treated as repayment receipts as defined in section 8.2, subsection 5.

Sec. 8. Section 135E.1, subsection 3, Code 1983, is amended to read as follows:

3. "Nursing home" means any institution or facility, or part thereof, licensed as an intermediate care facility or a skilled nursing facility, but not including an intermediate care facility for the mentally retarded, defined as such for licensing purposes under state law or pursuant to the rules and regulations for nursing homes established by the state department of public health, whether proprietary or nonprofit, including but not limited to, nursing homes owned or administered by the federal or state government or an agency or political subdivisions thereof.

Sec. 9. Section 147.102, Code 1983, is amended to read as follows:

147.102 PHYSICIANS AND SURGEONS, PSYCHOLOGISTS, CHIROPRACTORS, DENTISTS, AND OSTEOPATHS. Notwithstanding the provisions of this title, every application for a license to practice medicine and surgery, psychology, chiropractic, dentistry, osteopathy, or osteopathic medicine and surgery, shall be made directly to the secretary of the examining board of such profession, and every reciprocal agreement for the recognition of any such license issued in another state shall be negotiated by the examining board for such profession, and all examination, license, and renewal fees received from such persons licensed to practice any of such professions shall be paid to and collected by the secretary of the examining board of such profession, who shall transmit the fees to the treasurer of state who shall deposit the fees in the general fund of the state. The salary of the secretary shall be established by the governor with the approval of the executive council pursuant to section 19A.9, subsection 2, under the pay plan for exempt positions in the executive branch of government.

Sec. 10. Section 157.11, unnumbered paragraph 1, Code 1983, is amended to read as follows:

Commencing January 1, 1977, ~~it is unlawful for a beauty salon to~~ shall not operate unless the owner has obtained a license issued by the department. The owner shall apply to the department on forms prescribed by the board. The beauty salon must pass a sanitary inspection before licensing and at least annually thereafter. The department shall perform a sanitary inspection of each beauty salon annually and may perform a sanitary inspection of a beauty salon prior to the issuance of a license.

Sec. 11. Section 158.9, unnumbered paragraph 1, Code 1983, is amended to read as follows:

~~It is unlawful for a A barbershop to~~ shall not operate unless the owner has obtained a license issued by the department. The owner shall apply to the department on forms prescribed by the board. The barbershop must pass a sanitary inspection before obtaining a license and at least annually thereafter. The department shall perform a sanitary inspection of each barbershop annually and may perform a sanitary inspection of a barbershop prior to the issuance of a license.

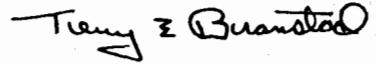
Sec. 12. All federal grants to and federal receipts of the agencies appropriated funds under this Act are appropriated for the purposes set forth in the federal grants or receipts. Full-time equivalent positions funded entirely with federal funds are exempt from the limits on the number of full-time equivalent positions provided in this Act but are approved only for the period of time for which the federal funds are available for the position. \*As a condition of the appropriation under section 4, subsection 6, the state department of health shall relinquish to the family planning council of Iowa through the department of health and human services federal dollars appropriated under Title X of the Public Health Service Act and allocated for Lyon, Sioux, Plymouth, Woodbury, Cherokee, Ida, Delaware, Dubuque, Jackson, Washington,

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\*Item veto; see message at end of this Act

Louisa, Henry, Lee, and Des Moines counties in order to permit established local family planning providers to continue services without state involvement.\*

Approved June 13, 1983, except for the item which I hereby disapprove and which is herein bracketed in ink and initialed by me. This is all delineated with my reasons for vetoing in the item veto message pertaining to this Act to the Secretary of State this same date, a copy of which is attached hereto.



TERRY E. BRANSTAD  
Governor

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\*Item veto; see message at end of this Act

June 13, 1983

The Honorable Mary Jane Odell  
Secretary of State  
State Capitol Building  
L O C A L

Dear Madam Secretary:

I hereby transmit House File 613, an act relating to the funding of state agencies for designated service programs including health programs, specialized child health service programs, substance abuse programs, civil rights, veterans' services, and programs for minority, elderly, and disadvantaged persons for the fiscal year beginning July 1, 1983, and ending June 30, 1984.

House File 613 is approved June 13, 1983, with the following exception which I hereby disapprove.

I am unable to approve that portion of Section 12 which reads as follows:

As a condition of the appropriation under section 4, subsection 6, the state department of health shall relinquish to the family planning council of Iowa through the department of health and human services federal dollars appropriated under Title X of the Public Health Service Act and allocated for Lyon, Sioux, Plymouth, Woodbury, Cherokee, Ida, Delaware, Dubuque, Jackson, Washington, Louisa, Henry, Lee, and Des Moines counties in order to permit established local family planning providers to continue services without state involvement.

Section 12 of House File 613 appropriates federal funds received by several state human services agencies. However, an item in that section would require the Department of Health (DOH) to relinquish administrative control over federal Title X funds used by local family planning agencies in 14 counties of the state. This provision is apparently designed to give the Family Planning Council of Iowa, rather than the DOH, the authority to administer the federal funds to be distributed to local family planning agencies centered in Sioux City, Dubuque and Burlington.

I cannot approve this item in House File 613 because it violates a service contract, and has potentially adverse public policy impacts.

Several years ago the federal government began routing all Title X (family planning) funds through the DOH to provide for statewide oversight and administrative control. However, over time a few local agencies took exception to that administrative oversight and petitioned to be removed from the state family planning program. DOH acceded to those wishes and, in 1980, allowed all local planning agencies to opt out of the state administered program. Indeed, seven local agencies pulled out and formed their own Family Planning Council of Iowa (FPCI) to receive and distribute the federal Title X funds. The remaining 11 local agencies decided to stay with the DOH program. In addition, one year ago DOH renewed its three-year federal

contract for this program and again allowed local agencies to leave the state program. However, no local agency opted out at that time.

During this, the first year of that three-year contract, three local agencies decided to seek to join FPCI. Because of the contract commitment, DOH refused. The local agencies petitioned the legislature and obtained passage of the legislative language at issue here.

I cannot approve that language since it does, indeed, renege on a contract commitment made just last year. Twice in the last three years, these local agencies have had an opportunity to opt out of the state program and decided against it. DOH can not adequately administer the Title X program without some continuity of local agency participation and, this legislative language sets a precedent which would allow individual agencies to opt out of the program at whim. Therefore, these agencies should wait until this contract expires in 1985 before attempting to leave the state program.

In addition, the public policy impacts of this proposed change have not been adequately explored. The FPCI tends to concentrate its efforts on urban areas. It serves a lower percentage of the poor (63%) than does the DOH program (80%). And, the DOH integrates a wider array of health services into the statewide program. However, the impact of this proposed pull-out on family planning services in rural areas, the poor, and other important health needs has not been fully assessed. Waiting until the 1985 contract expiration date will allow for that necessary assessment.

Also, the next two years will provide time to fully investigate the administrative complaints lodged against the DOH by these three local family planning agencies. DOH officials argue that federal requirements and public accountability demand the administrative requirements being placed on local agencies. A thorough review of those requirements may be in order. Indeed, I encourage the three agencies to discuss their concerns with DOH so that these problems can be resolved. Since these discussions have yet to take place, this pull-out action is not justified.

In sum, for both contractual and public policy reasons, I must disapprove this item in Section 12 of House File 613.

Section 4 (7) (c) of House File 613 contains a provision requiring counties to contract only with nonprofit organizations to provide homemaker-home health aide services and chore services. Presently, for-profit organizations are allowed to receive such contracts, but only one limited contract with a for-profit organization has been let. Providing health and chore services to the elderly so that they can stay in their homes is a high priority of mine. Therefore, I have carefully reviewed this proposed legislation so as to ensure the highest quality of care for the elderly at the lowest possible price for the taxpayer.

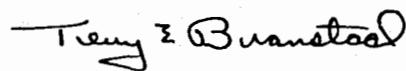
For-profit nursing organizations contend that if they are able to bid for counties' home health aide contracts, the resulting competition will lead to lower-priced home-based services for the elderly. In addition, it is argued that the quality of service will not decline and that the board of supervisors should be given the authority to make home health aide cost and service decisions for the county. I am in philosophical agreement with both the local control and competition arguments made by the for-profit groups. However, I am troubled by evidence of practical problems experienced in some states that have opened up the home-health aide contracts to for-profit organizations. This evidence includes:

- a Health Care Financing Administration study that shows that for-profit providers have a lower cost per service, but a higher cost per case, due to the for-profit providers' higher utilization rates.
- a Kansas experience with a 30-50 per cent second-year cost increase and a reduction in the quality of care due to the loss of continuity in the care given to the elderly person.
- a Missouri report that much greater state control and supervision is needed to ensure the proper quality and continuity of care.
- the impact the loss of the state contract would have on non-profit home health aide organizations which are able to double the impact of the state's home health aide dollar by raising 50 percent of their funding for these services from private sources.

At the present time, there is but one small contract held by a for-profit organization. The language in House File 613 would thus essentially maintain the status quo in the home health aide program. Moreover, it is possible that for-profit organizations will be able to receive sub-contracts to perform these services. In view of that fact and the possible cost and quality of care problems associated with an open bidding system, I have decided to allow this portion of House File 613 to become law. However, I encourage legislators to fully debate this issue next session and to attempt to resolve the quality of service problems which may result from open bidding.

For the above reasons, I hereby disapprove the above item in accordance with Amendment 4 of the Amendments of 1968 to the Constitution of the State of Iowa. All other items of House File 613 are hereby approved as of this date.

Very truly yours,



Terry E. Branstad  
Governor

**CHAPTER 207****JOB CREATION PROGRAMS ESTABLISHED AND FINANCED***S.F. 548*

**AN ACT** for the purpose of improving the Iowa economy and providing improved employment conditions by establishing work relief programs for unemployed Iowans, establishing energy management programs for certain local governments and in buildings owned or occupied by state agencies, encouraging capital investment to stimulate the establishment or expansion of small business and industry, establishing a small business division within the Iowa development commission, creating an Iowa product development corporation, appropriating funds for a residential mortgage interest reduction program, creating an Iowa high technology council, establishing a community development loan program, establishing a fund from which to make loans for the establishment of soil and water conservation practices, authorizing the Iowa department of transportation to issue and become obligated for road use tax revenue bonds, establishing a job training partnership program, providing for the establishment of a corporation by the Iowa development commission which will organize and manage an investment fund which will invest in Iowa enterprises and allowing a state income tax credit on the net investment in the fund, establishing a program to aid communities in developing festivals and other tourist attractions, and making various appropriations to carry out the programs.

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

**DIVISION I**

\*Section 1. **TITLE.** Division I of this Act shall be known as the "Iowans Out of Work Act of 1983".

**Sec. 2. IOWA JOBS NOW.** There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1983, and ending June 30, 1984, three million six hundred thousand (3,600,000) dollars, or so much thereof as is necessary, to establish and fund a statewide work relief program for unemployed Iowans, to be known as the Iowa jobs now program, in accordance with the following conditions:

1. Of the funds appropriated under this section from the general fund of the state, three million (3,000,000) dollars, or so much thereof as is necessary, is appropriated to the office for planning and programming to be used as follows:\*

a. A policy-making commission is established to direct and supervise the establishment and funding of local work relief projects. The commission shall consist of five public members, not more than two from the same political party, appointed by the governor subject to confirmation by the senate under section 2.32, and one senator, to serve as an ex officio nonvoting member, appointed by the president of the senate, and one representative, to serve as an ex officio nonvoting member, appointed by the speaker of the house of representatives. Notwithstanding section 69.19, the commission members' terms of office shall begin as soon as all members are appointed and shall expire on June 30, 1985. Members of the commission while

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\*Item veto; see message at end of Act

engaged in their official duties shall be reimbursed for their actual and necessary expenses. Public members shall be reimbursed from funds appropriated by this division. Members of the general assembly shall be reimbursed pursuant to section 2.12. The appointments under this section shall be made within thirty days after the effective date of this division. The commission shall meet as soon as possible after the effective date of this division to establish policies for the implementation of the Iowa jobs now program on July 1, 1983.

\*b. Funds under the program shall be made available to the state, a state agency, or a county or city which establishes and administers a work relief project, but shall not be made available to a hospital or a school district. The jobs commission shall prescribe standards for the priority selection of work relief projects to be funded under the program. The standards shall include, but are not limited to, priority selection based on the commitment of local matching funds at a ratio of one dollar of local funds to each dollar of state funds; the project's rate of economic return to the community; the number of individuals who will work on the project; the number of individuals who would benefit from the project; the benefit to the community as a whole and the need for the project. Sixty percent of the state funds shall be targeted to those counties of the state with unemployment rates at least two percent above the statewide unemployment rate, as determined by the jobs commission from statistics provided by the department of job service. The remaining funds shall be distributed to other counties of the state. The office for planning and programming may prohibit or limit the use of the funds for state, county or city administrative or supervisory expenses. The state, state agency, county or city shall pay for all necessary project supplies and materials. The office for planning and programming shall not administer or supervise local projects but shall provide technical support and financial accounting services only to the program. The office for planning and programming shall not use more than one and one-half percent of the funds appropriated under this subsection for administrative expenses.

c. The state, state agency, county or city which establishes a local work relief project shall administer the project and shall hire and supervise individuals to work on the project. The state shall provide general liability coverage for the individuals employed, under chapter 25A, as if the individuals were employees of the state. The state shall provide workers' compensation coverage for the individuals employed under sections 85.57 and 85.58 as if the individuals were state employees. Individuals employed on a project are exempt from the provisions of chapter 96, under section 96.19, subsection 6, paragraph a, subparagraph (6), subpart (e), and are hereby exempted from the provisions of chapters 19A, 97B, and 400.

d. The state, state agency, county or city shall employ only those unemployed individuals, who receive little or no unearned income and who have exhausted all available unemployment compensation benefits or are not eligible for unemployment compensation benefits, to work on a local work relief project. The jobs commission may prescribe a uniform procedure to disregard all or a portion of an unemployed individual's unearned income. The individuals shall be paid the federal statutory minimum hourly wage, and shall not be employed for more than thirty-two hours per week in order to allow the individuals to seek private employment. The individuals shall apply for any job training or counseling services available within their respective service delivery areas under the federal Job Training Partnership Act, Pub. L. No. 97-300.

This subsection shall not be construed to disqualify individuals employed by a local work relief project from receiving services for which the individuals are otherwise eligible under the federal Job Training Partnership Act, Pub. L. No. 97-300.

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\*Item veto; see message at end of this Act

e. The state, state agency, county or city shall not employ the individuals to replace regular state, county or city employees, but shall employ the individuals in labor-intensive jobs for no longer than six months. However, if federal law or regulation prohibits an individual's exemption from chapter 96, the individual shall be employed for no longer than three months. Hiring practices shall follow an affirmative action plan based upon guidelines provided by the Iowa state civil rights commission. The plan shall provide for the hiring of women in traditional and nontraditional employment.

f. Notwithstanding section 8.33, unencumbered or unobligated funds appropriated by this subsection for the fiscal year beginning July 1, 1983 and ending June 30, 1984 shall not revert to the general fund of the state until June 30, 1985.

2. Of the funds appropriated under this section from the general fund of the state, five hundred thousand (500,000) dollars, or so much thereof as is necessary, is appropriated to the office for planning and programming to contract with the federal action agency for the establishment and funding of a volunteers in service to Iowa program for unemployed Iowans in accordance with the following conditions:

a. The policy-making commission established in subsection 1 shall direct and supervise the establishment and funding of the volunteers in service to Iowa program. The office for planning and programming shall contract with the federal action agency to administer the volunteers in service to Iowa program on a cost-sharing basis with the federal action agency. The federal action agency shall not use more than one and one-half percent of the funds appropriated under this subsection for administrative expenses. If the office for planning and programming is unable to contract with the federal action agency, the office shall monitor the use of funds under the program, and shall not use more than one and one-half percent of the funds appropriated under this subsection for administrative expenses.

b. Funds under the program shall be used to pay a stipend of three hundred thirty-five dollars per one-month period to unemployed volunteers who receive little or no unearned income and who have exhausted all available unemployment compensation benefits or are not eligible for unemployment compensation benefits. In addition, the volunteers shall receive at the end of their period of work assignment, seventy-five dollars for each month of work completed. The commission may prescribe a uniform procedure to disregard all or a portion of an unemployed individual's unearned income. The volunteers may be assigned to work for any public or nonprofit entity for a minimum of six months and a maximum of one year. However, if a contract with the federal action agency is not entered into for administration of the program, a volunteer under the program shall be assigned to work for no longer than three months. The volunteers shall agree to make a full-time commitment to a work assignment which is beneficial to the community or assists unemployed or elderly, low-income Iowans or other needy Iowans to become more self-sufficient or to improve their quality of life. The volunteers shall be available for work at least forty hours per week without regard to regular working hours and at all times during their periods of work, except for authorized periods of leave. The work assignments may include, but are not limited to, assignments to projects providing chore services for the elderly, remedial reading or writing instruction, community or individual gardening instruction and organization, food cooperative instruction and organization, home energy conservation assistance, skill-sharing instruction and organization, distribution services for public or private commodities, and child day care. The work assignments shall not be made to replace regular employees or for participation in religious activities. The work assignments shall, if possible and where needed, be approached in a manner which would assist in the continuation of volunteers' assignments beyond their terms of assignment, by encouraging local involvement.

c. The public or nonprofit entity to which an individual is assigned shall supervise and direct the individual and shall pay for all necessary work materials, supplies, and transportation costs. Work assignment practices shall follow an affirmative action plan based upon guidelines provided by the Iowa state civil rights commission. The plan shall provide for the assignment of women to traditional and nontraditional employment. If the federal action agency administers the program, volunteers are provided general liability, health and accident, and workers' compensation coverage pursuant to federal regulations. If a contract with the federal action agency is not entered into for the administration of the program, the state shall provide general liability coverage for the volunteers, under chapter 25A, as if the volunteers were employees of the state, and the state shall provide workers' compensation coverage for the volunteers under sections 85.57 and 85.58 as if the volunteers were state employees. The volunteers are exempt from the provisions of chapter 96, under section 96.19, subsection 6, paragraph a, subparagraph (6), subpart (e), and are hereby exempted from the provisions of chapters 19A, 97B, and 400.

d. Notwithstanding section 8.33, unencumbered or unobligated funds appropriated by this subsection for the fiscal year beginning July 1, 1983 and ending June 30, 1984 shall not revert to the general fund of the state until June 30, 1985. Funds appropriated by this subsection may be transferred under section 8.39 to the local work relief projects funded under subsection 1 if the funds are not needed for the volunteers to service in Iowa program.

3. Of the funds appropriated under this section from the general fund of the state, one hundred thousand (100,000) dollars, or so much thereof as is necessary, is appropriated to the Iowa arts council, to be used as follows:

a. An individual artist may receive a cash grant not to exceed three thousand dollars for a project determined to be in the public good including but not limited to touring performances and exhibitions, concerts for hospitals or nursing home residents, school concerts, participation in art festivals, fairs, and conventions, paintings, drawings, or sculpture for state buildings, photographic documentation of life in Iowa, public murals, training seminars for students, poetry readings, publications, school residencies, or other projects which are open to the public. A grantee may request an additional stipend not to exceed ten percent of the grant to be used for materials and transportation costs. A grant may be made to an individual artist for a project involving a group of artists. Only the individual artist submitting the application must qualify under paragraph d.

b. An eligible organization under paragraph d may apply for a grant not to exceed three thousand dollars to match an equal amount to be used to hire, for up to one year, an artist-in-residence or arts administrator. Artists hired must meet the eligibility requirements of paragraph d.

c. Applications for a grant may be submitted to the Iowa arts council or to any job service office in the state. Applications shall be reviewed monthly by an advisory committee appointed under section 304A.6, subsection 4. The advisory committee shall submit recommendations to the council regarding possible recipients and the grant amount.

d. An individual must be an Iowa resident and must have been unemployed or had a combined adjusted gross income for federal income tax purposes for the individual and the individual's spouse of less than ten thousand dollars during the twelve months prior to making application. An organization must be incorporated under chapter 504A.

e. The Iowa arts council shall require all grantees to sign a contract and to report to the council within forty-five days following completion of the project. Works produced by a person receiving an individual grant are the property of the state in care of the Iowa arts council. Works produced by a person hired by an organization receiving a grant are the property of the organization.

4. The policy-making commission established in subsection 1 shall cooperate with the state job training coordinating council established pursuant to the federal Job Training Partnership Act, Pub. L. No. 97-300, in the implementation of the Iowa jobs now program. State agencies shall cooperate with the federal action agency in the implementation of the volunteers in service to Iowa program and with the office for planning and programming in the implementation of the Iowa jobs now program, and shall provide necessary job training and technical assistance, for short periods of time, in assisting in the implementation of the Iowa jobs now program. Chapter 17A does not apply to the office for planning and programming or to the cooperating state agencies in the implementation of the Iowa jobs now program.\*

DIVISION II

Sec. 3. There is appropriated from the general fund of the state to the energy policy council for the fiscal year beginning July 1, 1983 and ending June 30, 1984, the sum of five hundred thousand (500,000) dollars, and from federal oil overcharge funds apportioned to Iowa under Pub. L. No. 97-377, the sum of five hundred thousand (500,000) dollars, or so much thereof as is necessary to be used for grants to state agencies for energy management programs in buildings owned or occupied by state agencies.

Sec. 4. The energy policy council shall allocate the funds appropriated in section 3 of this division to state agencies according to the following guidelines:

1. Preference shall be given to projects for energy conservation improvements in buildings owned by the state or by another unit of government that are occupied by a state agency.
2. The funds may also be used for grants for training maintenance personnel in energy management, the installation of utility meters to monitor energy use in buildings occupied by state agencies, energy audits of buildings occupied by state agencies, and consultation with state agencies in the area of technical energy management.
3. At least sixty percent of the funds appropriated in section 3 of this division shall be used for energy management programs in state owned buildings and buildings owned by another unit of government that are occupied by a state agency and which are located in a county with an unemployment rate that is above the statewide unemployment rate, as determined by statistics provided by the department of job service.

Sec. 5. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1983 and ending June 30, 1984, fifty thousand (50,000) dollars and from federal oil overcharge funds apportioned to Iowa under Pub. L. No. 97-377, one million three hundred eighty-seven thousand two hundred (1,387,200) dollars, or so much thereof as is necessary, to the energy policy council to be used for grants to local governments for energy management programs, to be used as follows:

1. Funds appropriated in this section are allocated for grants to cities, counties, and area education agencies for the following programs according to the following percentages:
  - a. For grants to area education agencies to consult in the area of technical energy management with school districts ..... 15 percent
  - b. For grants to local governments to train maintenance personnel in energy management ..... 4 percent
  - c. For grants to local governments to pay for the installation of utility meters to monitor energy use in buildings occupied by government agencies ..... 6 percent

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\*Item veto; see message at end of this Act

- d. For grants to local governments for energy audits of buildings occupied by government agencies ..... 28 percent
- e. For grants to local governments, except hospitals and school districts, for energy conservation improvements in government-owned buildings ..... 47 percent

2. Cities, counties, and area education agencies are eligible for grants under subsection 1. The governing body of the unit of local government may apply for and is designated to receive the grant. The amount of the grant shall not exceed fifty percent of the cost of the project and the application must demonstrate that the local government will provide the required matching money.

3. In approving grants under this section, the energy policy council shall give priority to projects which are the most labor intensive and which produce the greatest energy conservation benefits. Each grant request shall contain information regarding the number of persons expected to be employed as a result of the grant, the number of permanent jobs which might result from the approval of the grant, and the projected energy savings.

Sec. 6. There is appropriated from the interest and earnings on investments from the federal oil overcharge funds described in sections 3 and 5 of this division which have been deposited in the general fund of the state not more than sixty-six thousand (66,000) dollars, or so much thereof as may be necessary, for attorney fees incurred by the state in obtaining the state's share of the federal oil overcharge funds under Pub. L. No. 97-377. Payment of these attorney fees is subject to the approval of the attorney general and the executive council.

**DIVISION III**

\*Sec. 7. NEW SECTION. 220.70 PURPOSE. It is the purpose of this division to provide capital investment in the state to encourage the establishment or expansion of small business and industry, to provide additional jobs within the state, and to assist communities to diversify and stabilize the economies

Sec. 8. NEW SECTION. 220.71 CERTIFIED DEVELOPMENT PROGRAM. The authority shall implement a program to assist small businesses in obtaining funds to establish and expand small businesses and create new jobs. The authority shall use the funds to cooperate with and implement the certified development program of the United States small business administration. The funds provided by the authority shall be in the form of loans. The loans shall be made available in cooperation with local and statewide certified development companies and shall be available to small businesses qualified under guidelines of the United States small business administration. Section 220.62, subsection 2, applies to the administration of this section.

For purposes of this division, "small business" means small business as defined in section 220.1, subsection 28 and "capital infusion loan" means a loan under this division by the authority to a small business.

Sec. 9. NEW SECTION. 220.72 CAPITAL INFUSION LOANS. Capital infusion loans authorized under this division shall be made from funds appropriated to the authority for that purpose. A capital infusion loan shall be made only in conjunction with a loan made through or in conjunction with a United States small business administration loan for a project. The capital infusion loan shall not constitute more than ten percent of the entire amounts loaned to the small business with respect to the project. The authority may fund other portions of the

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\*Item veto; see message at end of this Act

project with loans of the authority made pursuant to other sections of this chapter. Capital infusion loans shall be repaid under terms determined by the authority. However, the small business shall not be required to pay interest on that part of the loan received from funds appropriated to the authority for that purpose from the general fund of the state.

Sec. 10. Sections 7 through 9 are enacted as a new division of chapter 220.

Sec. 11. There is appropriated from the general fund of the state to the Iowa housing finance authority for the fiscal year beginning July 1, 1983 and ending June 30, 1984, the sum of five million (5,000,000) dollars, or so much thereof as is necessary, to implement this division.\*

#### DIVISION IV

Sec. 12. NEW SECTION. 28.35 PURPOSES. It is the purpose of the general assembly in enacting this division to accomplish the following goals:

1. To provide that the small business division shall be the focal point within the Iowa development commission of activities which address the needs of small businesses in this state.

2. To encourage the creation of nongovernmental, nonsubsidized and permanent jobs in this state, and to increase real income levels in this state by promoting the stability of existing small businesses and the creation of new small businesses.

3. To provide a forum for the coordination of efforts to address the needs and opportunities of small business in this state.

Sec. 13. NEW SECTION. 28.36 DEFINITIONS. As used in this division, unless the context otherwise requires:

1. "Small business division" means the small business development division established within the Iowa development commission.

2. "Administrator" means the administrator of the small business division.

3. "Small business" means a nonprofessional enterprise which is located in this state, and which is operated for profit and under a single management, and which has either fewer than twenty employees or an annual gross income of less than three million dollars.

4. "Advisory council" means the small business advisory council.

Sec. 14. NEW SECTION. 28.37 SMALL BUSINESS DIVISION.

1. The commission shall establish and maintain a small business division.

2. The director shall appoint an administrator who shall serve at the pleasure of the director. The administrator shall supervise the small business division, shall be responsible for the operation of the regulatory information service established pursuant to section 28.17, and shall attend meetings of the commission and the advisory council.

3. The commission shall assign to the small business division personnel employed under section 28.4 as may be required to enable the administrator and the small business division to perform the functions of the small business division.

4. The commission may adopt rules pursuant to chapter 17A for the administration of this division.

5. The commission shall provide that at least twice each year a meeting of the commission authorized by section 28.6 shall be devoted to consultation with the advisory council.

Sec. 15. NEW SECTION. 28.38 SMALL BUSINESS ADVISORY COUNCIL.

1. The governor shall appoint a small business advisory council to consist of eleven members. No more than a simple majority of the members of the advisory council shall be affiliated with the same political party as provided in section 69.16. The advisory council shall

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\*Item veto; see message at end of this Act

elect one of its members to serve as its chairperson. Members of the advisory council shall serve four-year terms at the pleasure of the governor subject to confirmation of the senate. The terms shall begin and end as provided in section 69.19. The governor shall fill a vacancy in the same manner as the original appointment for the unexpired portion of the member's term. For the initial appointments to the advisory council, the governor shall appoint five members whose terms shall commence upon appointment and shall expire April 30, 1985 and shall appoint six members whose terms shall commence upon appointment and shall expire April 30, 1987.

2. More than half of the membership of the advisory council shall be persons who own and operate a small business or persons employed in the management of a small business.

3. The advisory council shall meet at least quarterly each year at the seat of government in facilities provided by the commission. In addition, the advisory council shall meet with the commission as provided in section 28.37, subsection 5. The commission shall provide a secretary for meetings of the advisory council.

4. The members of the advisory council shall be paid a forty dollar per diem and shall be reimbursed for actual and necessary expenses incurred in performance of duties. All per diem and expense moneys shall be paid from funds appropriated for the use of the small business division.

5. The advisory council shall advise and consult with the commission and the small business division with respect to matters which are of concern to small businesses. The advisory council may submit recommendations to the commission relating to actual or proposed activities of the small business division, and may submit recommendations for legislative or administrative actions.

Sec. 16. NEW SECTION. 28.39 GENERAL DUTIES OF DIVISION. The small business division shall adopt appropriate service programs to:

1. Receive and review complaints from individual small businesses that relate to rules or decisions of state agencies, and refer questions and complaints to a governmental agency when appropriate.

2. Administer funding for the small business development centers, contracting with the center for industrial research and service for the administration of the program.

3. Channel requests for technical and managerial assistance from small businesses to the small business development centers and the extension system, and other available resources.

4. Provide information to small businesses seeking to establish or expand in Iowa through the regulatory information service created in section 28.17.

5. Study the feasibility of reducing the total number of state licenses, permits, and certificates required to conduct small businesses.

6. Disseminate public information with respect to the legislation, regulation, policies and practices of government which affect the creation and operation of small businesses in this state.

7. Research, propose and promote methods of utilizing small businesses to develop economically depressed areas or to provide jobs for unemployed persons.

8. Encourage and assist small businesses to obtain state contracts and subcontracts by cooperating with the directors of purchasing in the department of general services, the state board of regents, and the department of transportation in performing the following functions:

a. Compiling and maintaining a comprehensive source list of small businesses.

b. Assuring that responsible small businesses are solicited on each suitable purchase.

c. Assisting small businesses in complying with the procedures for bidding and negotiating for contracts.

d. Simplifying procurement specifications and terms in order to increase the opportunities for small business participation.

e. When economically feasible, dividing total purchases into tasks or quantities to permit maximum small business participation.

f. Preparing timely forecasts of repetitive contracting requirements by dollar volume and types of contracts to enhance the participation of responsible small businesses in the public purchasing process.

g. Developing a mechanism to measure and monitor the amount of participation by small businesses in state procurement.

Sec. 17. NEW SECTION. 28.40 ANNUAL REPORT. The small business division shall prepare and submit to the general assembly in January of each year a report of the activities of the small business division during the previous fiscal year. The report shall contain a statement of the expenditures of the small business division for the previous fiscal year and the recommendations of the advisory council, if any, for future action.

Sec. 18. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1983 and ending June 30, 1984, the sum of five hundred thousand (500,000) dollars, or so much thereof as is necessary, to the small business division of the Iowa development commission for the purpose of funding the division's administrative costs and to provide the state's obligation in administering the small business development centers. However, not more than one hundred fifty thousand (150,000) dollars of the amount appropriated in this section shall be used for the purpose of funding the division's administrative costs.

#### DIVISION V

Sec. 19. NEW SECTION. TITLE. Division V of this Act may be cited as the "Iowa Product Development Corporation Act".

Sec. 20. NEW SECTION. DEFINITIONS. As used in this division unless the context otherwise requires:

1. "Corporation" means the Iowa product development corporation.
2. "Financial aid" means the infusion of risk capital to persons for use in the development and exploitation of specific inventions and products.
3. "Invention" means a new process or new technique without regard to whether a patent has or could be granted.
4. "Product" means a product, device, technique, or process which is exploitable commercially. The term does not mean a product in a pure research stage of development but applies to a product, device, technique, or process which has advanced beyond the theoretic stage and is readily capable of being reduced to practice.
5. "Venture" means a contractual arrangement between a person and the corporation from which the corporation obtains rights, from or in an invention, product, or the proceeds from the product or invention in exchange for granting financial aid to the person.
6. "Board" means the board of directors of the Iowa product development corporation.
7. "President" means the president of the Iowa product development corporation.

Sec. 21. NEW SECTION. PRODUCT DEVELOPMENT CORPORATION.

1. There is created a corporate body called the "Iowa product development corporation". The corporation is a quasi-public instrumentality and the exercise of the powers granted to the corporation in this division is an essential governmental function.

2. The corporation shall be governed by a board of seven directors who shall serve a term of four years. Each term shall begin and end as provided in section 69.19. No more than a simple majority of the members of the board shall belong to the same political party as provided in section 69.16. Each director shall serve at the pleasure of the governor and shall be appointed

by the governor, subject to confirmation by the senate. A director is eligible for reappointment. A vacancy on the board of directors shall be filled in the same manner as an original appointment. For the initial appointments to the board of directors, the governor shall appoint three members whose terms shall commence upon appointment and shall expire April 30, 1985, and four members whose terms shall commence upon appointment and shall expire April 30, 1987.

3. The board of directors shall annually elect one member as chairperson and one member as secretary. The board may elect other officers of the corporation as necessary. Members shall not receive compensation but shall be reimbursed for necessary expenses incurred in the performance of duties from funds appropriated to the Iowa development commission.

4. Each director of the corporation shall take an oath of office and the record of each oath shall be filed in the office of the secretary of state.

5. The corporation shall receive information and cooperate with other agencies of the state and the political subdivisions of the state.

6. The corporation shall be a part of the Iowa development commission for administrative purposes only.

Sec. 22. NEW SECTION. PERPETUAL SUCCESSION. The corporation has perpetual succession. The succession shall continue until the existence of the corporation is terminated by law. The termination of the corporation shall not affect an outstanding contractual obligation of the corporation to assist a person. In the event of the termination of the corporation, the contractual obligation to assist the person succeeds to the state and the rights and properties of the corporation shall pass to the state. However, debts or other financial obligations of the corporation do not succeed to the state upon termination of the corporation.

Sec. 23. NEW SECTION. BOARD OF DIRECTORS. The powers of the corporation are vested in and shall be exercised by the board of directors. Four members of the board constitute a quorum and an affirmative vote of the majority of the members present at a meeting is necessary before an action may be taken by the board. An action taken by the board shall be authorized by resolution at a regular or special meeting and takes effect immediately unless the resolution specifies otherwise. Notice of a meeting shall be given orally or in writing not less than forty-eight hours prior to the meeting.

Sec. 24. NEW SECTION. PRESIDENT. The board of directors shall appoint a president of the corporation who shall serve at the pleasure of the board and shall receive the compensation determined by the board. The president shall not be a member of the board. The president shall be the chief administrative and operational officer of the corporation and shall direct and supervise the administrative affairs and the general management of the corporation. The president may employ other employees as designated by the board. The president shall provide copies of all minutes, documents, and other records of the corporation and shall provide a certificate which attests to truthfulness of the copies, if requested. Persons dealing with the corporation may rely upon the certificates. The president shall keep a record of all proceedings, documents, and papers filed with the corporation.

Sec. 25. NEW SECTION. CORPORATE PURPOSE — POWERS. The purpose of the corporation is to stimulate and encourage the development of new products within Iowa by the infusion of financial aid for invention and innovation in situations in which financial aid would not otherwise be reasonably available from commercial sources. For this purpose the corporation has the following powers:

1. To have perpetual succession as a corporate body and to adopt bylaws, policies, and procedures for the regulation of its affairs and conduct of its business.

2. To enter into venture agreements with persons doing business in Iowa upon conditions

and terms which are consistent with the purposes of this division for the advancement of financial aid to the persons. The financial aid advanced shall be for the development of specific products, procedures, and techniques which are to be developed and produced in this state. The corporation shall condition the agreements upon contractual assurances that the benefits of increasing or maintaining employment and tax revenues shall remain in Iowa.

3. To receive and accept aid or contributions from a source of money, property, labor, or other things of value to be used to carry out the purposes of this division including gifts or grants from a department or agency of the United States or any state.

4. With approval of the director of the department of general services to acquire, lease, purchase, manage, hold, and dispose of real and personal property and to lease, convey, or enter into contracts with respect to such property provided that all acquisitions of real property shall be as required by law.

5. To issue notes and bonds as provided under this division.

6. To hold patents, copyrights, trademarks, or other evidences of protection or exclusivity issued under the laws of this state or the United States to any products.

7. To employ assistants, agents, and other employees who shall be state employees and to engage consultants, attorneys, and appraisers as necessary or desirable to carry out the purposes of the corporation.

8. To make and enter into contracts and agreements necessary or incidental to its performance of the duties and the powers granted to the corporation.

9. To sue and be sued, plead, and adopt a seal.

10. With the approval of the treasurer of state, to invest funds which are not needed for immediate use or disbursement, including funds held in reserve, in obligations issued or guaranteed by the state or the United States.

11. To procure insurance against a loss in connection with its property and other assets.

12. To the extent permitted under a corporation contract with other persons, to consent to a termination, modification, forgiveness, or other change in the terms of a contractual right, payment, royalty, contract, or agreement.

13. To take necessary action to render bonds issued under this division more marketable.

#### Sec. 26. NEW SECTION. APPLICATIONS FOR FINANCIAL AID.

1. Applications for financial aid shall be forwarded, together with an application fee prescribed by the corporation, to the president of the corporation. The president, after preparing the necessary records for the corporation, shall forward each application to the staff of the corporation, for an investigation and report concerning the advisability of approving the financial aid for the company and concerning any other factors found relevant by the corporation. The investigation and report shall include but are not limited to the following:

a. The history of the applicant, its wage standards, job opportunities, and stability of employment.

b. The extent of the applicant's dependence on agriculture.

c. The applicant's past, present, and future financial condition and structure.

d. The applicant's pro-forma income statements.

e. The present and future market prospects for the product.

f. The feasibility of the proposed project or invention to be given financial aid and the integrity of management.

g. The state of the project's development.

2. After receipt and consideration of the report and any other action the corporation finds necessary, the corporation shall approve or deny the application. The president shall promptly notify an applicant by certified mail of the disposition of its application. The corporation shall give priority to those applicants whose business is agriculture related or whose

business is located in an area which the corporation determines has been severely adversely affected by depressed agricultural prices and whose proposed product or invention is to be used to convert all or a portion of the business to nonagriculture-related industrial or commercial activity or to create a new nonagriculture-related industrial or commercial business.

Sec. 27. NEW SECTION. IOWA PRODUCT DEVELOPMENT CORPORATION FUND. There is created an "Iowa product development corporation fund". All funds of the corporation including the proceeds from the issuance of notes or sale of bonds under this division, any funds appropriated from the general fund to the corporation, and other income derived from the exercise of authority granted to the corporation under this division shall be paid to the treasurer of state as an agent of the corporation and the treasurer shall deposit the amounts in the Iowa product development corporation fund. The money in the Iowa product development corporation fund shall be paid out by warrants signed by the treasurer of state on requisition of the president of the corporation. The money in the Iowa product development corporation fund shall be used for repayment of notes and bonds issued under this division, the extension of financial aid granted by the corporation under this division, and the amount remaining may be used for the payment of the administrative and overhead costs of the corporation to the extent required.

Sec. 28. NEW SECTION. PRODUCT DEVELOPMENT CORPORATION NOTES. The corporation may issue Iowa product development corporation fund notes, the principal and interest of which shall be payable solely from the Iowa product development corporation fund established by this division. The fund notes of each issue shall be dated, shall mature at times not exceeding ten years from their dates of issue, and may be made redeemable before maturity, at the option of the corporation, at prices and under terms and conditions as determined by the corporation. The corporation shall determine the form and manner of execution of the fund notes, including any interest coupons to be attached, and shall fix the denominations and the places of payment of principal and interest, which may be any financial institution within or without the state or any agent, including the lender. If an officer whose signature or a facsimile of whose signature appears on fund notes or coupons ceases to be that officer before the delivery of the notes or coupons, the signature or facsimile is valid and sufficient for all purposes the same as if the officer had remained in office until delivery. The fund notes may be issued in coupon or in registered form, or both, as the corporation determines, and provision may be made for the registration of coupon fund notes as to principal alone and also as to both principal and interest, and for the conversion into coupon fund notes of any fund notes registered as to both principal and interest, and for the interchange of registered and coupon fund notes. Fund notes shall bear interest at rates as determined by the corporation and may be sold in a manner, either at public or private sale, and for a price as the corporation determines to be best to effectuate the purposes of the housing assistance fund. The proceeds of fund notes shall be used solely for the purposes for which issued and shall be disbursed in a manner and under restrictions as provided in this division and in the resolution of the corporation providing for their issuance. The corporation may provide for the replacement of fund notes which become mutilated or are destroyed or lost.

Sec. 29. NEW SECTION. BONDS AND NOTES.

1. The corporation may issue its negotiable bonds and notes in principal amounts as, in the opinion of the corporation, are necessary to provide sufficient funds for achievement of its corporate purposes, the payment of interest on its bonds and notes, the establishment of reserves to secure its bonds and notes, and all other expenditures of the corporation incident to and necessary or convenient to carry out its purposes and powers. However, the corporation shall not have a total principal amount of bonds and notes outstanding at any time in excess of one

million dollars, or the value of the aggregate assets of the corporation, as certified by an independent certified public accountant. The bonds and notes shall be deemed to be investment securities and negotiable instruments within the meaning of and for all purposes of the uniform commercial code.

2. Bonds and notes issued by the corporation are payable solely and only out of the moneys, assets, or revenues of the corporation, and as provided in the agreement with bondholders or noteholders pledging any particular moneys, assets or revenues. Bonds or notes are not an obligation of this state or any political subdivision of this state other than the corporation within the meaning of any constitutional or statutory debt limitations, but are special obligations of the corporation payable solely and only from the sources provided in this chapter, and the corporation shall not pledge the credit or taxing power of this state or any political subdivision of this state other than the corporation, or make its debts payable out of any moneys except those of the corporation.

3. Bonds and notes must be authorized by a resolution of the corporation. However, a resolution authorizing the issuance of bonds or notes may delegate to an officer of the corporation the power to negotiate and fix the details of an issue of bonds or notes by an appropriate certificate of the authorized officer.

4. Bonds shall:

a. State the date and series of the issue, be consecutively numbered, and state on their face that they are payable both as to principal and interest solely out of the assets of the corporation and do not constitute an indebtedness of this state or any political subdivision of this state other than the corporation within the meaning of any constitutional or statutory debt limit.

b. Be either registered, registered as to principal only, or in coupon form, issued in denominations as the corporation prescribes, fully negotiable instruments under the laws of this state, signed on behalf of the corporation with the manual or facsimile signature of the chairperson or president, attested by the manual or facsimile signature of the secretary, have impressed or imprinted thereon the seal of the corporation or a facsimile of it, and the coupons attached shall be signed with the facsimile signature of the chairperson or president, be payable as to interest at rates and at times as the corporation determines, be payable as to principal at times over a period not to exceed fifty years from the date of issuance, at places, and with reserved rights of prior redemption, as the corporation prescribes, be sold at prices, at public or private sale, and in a manner as the corporation prescribes, and the corporation may pay the expenses, premiums, and commissions which it deems necessary or advantageous in connection with the issuance and sale, and be issued under and subject to the terms, conditions, and covenants providing for the payment of the principal, redemption premiums, if any, interest, and other terms, conditions, covenants, and protective provisions safeguarding payment, not inconsistent with this division, as are found to be necessary by the corporation for the most advantageous sale, which may include, but are not limited to, covenants with the holders of the bonds as to:

(1) Pledging or creating a lien, to the extent provided by the resolution, on moneys or property of the corporation or moneys held in trust or otherwise by others to secure the payment of the bonds.

(2) Providing for the custody, collection, securing, investment, and payment of any moneys of or due to the corporation.

(3) Limitations on the purpose to which the proceeds of sale of an issue of bonds then or thereafter to be issued may be applied.

(4) Limitations on the issuance of additional bonds and on the refunding of outstanding or other bonds.

(5) The procedure by which the terms of a contract with the holders of bonds may be amended or abrogated, the amount of bonds the holders of which must consent to an amendment or abrogation, and the manner in which consent may be given.

(6) Vesting in a trustee properties, rights, powers, and duties in trust as the corporation determines, which may include the rights, powers, and duties of the trustee appointed for the holders of any issue of bonds pursuant to this division, in which event the provisions of that section authorizing appointment of a trustee by the holders of bonds do not apply, or limiting or abrogating the right of the holders of bonds to appoint a trustee under that section, or limiting the rights, duties, and powers of the trustee.

(7) Defining the acts or omissions which constitute a default in the obligations and duties of the corporation and providing for the rights and remedies of the holders of bonds in the event of a default. However, rights and remedies shall be consistent with the laws of this state and this division.

(8) Any other matters which affect the security and protection of the bonds and the rights of the holders.

5. The corporation may issue its bonds for the purpose of refunding any bonds or notes of the corporation then outstanding, including the payment of any redemption premiums on the bonds or notes and any interest accrued or to accrue to the date of redemption of the outstanding bonds or notes. Until the proceeds of bonds issued for the purpose of refunding outstanding bonds or notes are applied to the purchase or retirement of outstanding bonds or notes or the redemption of outstanding bonds or notes, the proceeds may be placed in escrow and be invested and reinvested in accordance with this division. The interest, income, and profits earned or realized on an investment may also be applied to the payment of the outstanding bonds or notes to be refunded by purchase, retirement, or redemption. After the terms of the escrow have been fully satisfied and carried out, any balance of proceeds and interest earned or realized on the investments may be returned to the corporation for use by it in any lawful manner. Refunding bonds shall be issued and secured and subject to this division in the same manner and to the same extent as other bonds issued pursuant to this division.

6. The corporation may issue negotiable bond anticipation notes and may renew them from time to time but the maximum maturity of the notes, including renewals, shall not exceed ten years from the date of issue of the original notes. Notes are payable from any available moneys of the corporation not otherwise pledged, or from the proceeds of the sale of bonds of the corporation in anticipation of which the notes were issued. Notes may be issued for any corporate purpose of the corporation. Notes shall be issued in the same manner as bonds, and notes and the resolution authorizing them may contain any provisions, conditions, or limitations, not inconsistent with this subsection, which the bonds or a bond resolution of the corporation may contain. Notes may be sold at public or private sale. In case of default on its notes or violation of any obligations of the corporation to the noteholders, the noteholders have all the remedies provided in this division for bondholders. Notes are as fully negotiable as bonds of the corporation.

7. A copy of each pledge agreement by or to the corporation, including without limitation each bond resolution, indenture of trust, or similar agreement, or any revisions or supplements to it shall be filed with the secretary of state and no further filing or other action under sections 554.9101 to 554.9507, article 9 of the uniform commercial code, or any other law of the state is required to perfect the security interest in the collateral or any additions to it or substitutions for it, and the lien and trust created are binding from and after the time made against all parties having claims of any kind in tort, contract, or otherwise against the pledgor.

8. Neither the officers of the corporation nor any person executing its bonds, notes, or other obligations is liable personally on the bonds, notes, or other obligations or subject to any personal liability or accountability by reason of the issuance of the corporation's bonds or notes.

Sec. 30. NEW SECTION. REPORTING AND FUND SOLVENCY. The chairperson of the corporation on or before July 30 of each fiscal year shall make and deliver a report to the governor and the legislative fiscal committee. The report shall include all transactions conducted by the corporation in the preceding fiscal year. The report shall also include a balance sheet outlining the financial solvency of the Iowa product development corporation fund, a certified copy of any audits of the corporation conducted in the preceding fiscal year, and other information requested by the governor or the legislative fiscal committee.

Sec. 31. NEW SECTION. AUDITS. The auditor of state shall audit the books and accounts of the corporation at least semi-annually. One audit shall be conducted for the preceding fiscal year on or after July 1 of each fiscal year. The results of the yearly audit shall be certified and turned over to the governor no later than July 30 of each fiscal year.

Sec. 32. NEW SECTION. REMEDIES OF BONDHOLDERS AND NOTEHOLDERS.

1. If the corporation defaults in the payment of principal or interest on an issue of bonds or notes after they become due, whether at maturity or upon call for redemption, and the default continues for a period of thirty days, or if the corporation fails or refuses to comply with this division, or defaults in an agreement made with the holders of an issue of bonds or notes, the holders of twenty-five percent in aggregate principal amount of bonds or notes of the issue then outstanding, by instrument filed in the office of the clerk of the county in which the principal office of the corporation is located, and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of the bonds or notes for the purposes of this section.

2. The corporation or a trustee appointed under the indenture under which the bonds are issued may, and upon written request of the holders of twenty-five percent in aggregate principal amount of the issue of bonds or notes then outstanding shall:

a. Enforce all rights of the bondholders or noteholders, including the right to require the corporation to carry out its agreements with the holders and to perform its duties under this division.

b. Bring suit upon the bonds or notes.

c. By action require the corporation to account as if it were the trustee of an express trust for the holders.

d. By action enjoin any acts or things which are unlawful or in violation of the rights of the holders.

e. Declare all the bonds or notes due and payable and if all defaults are made good then with the consent of the holders of twenty-five percent of the aggregate principal amount of the issue of bonds or notes then outstanding, annul the declaration and its consequences.

The bondholders or noteholders, to the extent provided in the resolution by which the bonds or notes were issued or in their agreement with the corporation, may enforce any of the remedies in paragraphs a to e or the remedies provided in those agreements for and on their own behalf.

3. The trustee has all powers necessary or appropriate for the exercise of functions specifically set forth or incident to the general representation of bondholders or noteholders in the enforcement and protection of their rights.

4. Before declaring the principal of bonds or notes due and payable, the trustee shall first give thirty days' notice in writing to the governor, the corporation, and the attorney general of the state.

5. The district court has jurisdiction of an action by the trustee on behalf of bondholders or noteholders. The venue of the action is in the county in which the principal office of the corporation is located.

Sec. 33. There is appropriated from the general fund of the state to the Iowa product development corporation for the fiscal year beginning July 1, 1983 and ending June 30, 1984, the sum of seven hundred fifty thousand (750,000) dollars to fund this division.

#### DIVISION VI

\*Sec. 34. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1983, and ending June 30, 1984, to the Iowa housing finance authority the amount of three million (3,000,000) dollars to be used to fund the program to reduce interest costs to be paid on loans established in section 220.81 of Senate File 223 as enacted by the 1983 Session of the Iowa general assembly.\*

#### DIVISION VII

Sec. 35. NEW SECTION. 28.35 ESTABLISHMENT OF IOWA HIGH TECHNOLOGY COUNCIL. The Iowa high technology council, hereafter referred to as the "council" is created. The council shall be administratively integrated into the Iowa development commission for staff support and assistance.

The council shall be composed of thirteen members appointed by the governor, subject to confirmation by the senate. This membership shall include:

1. Two members from the working force of the state, at least one of whom shall be a member of a labor union.
2. Two members from the state's community college system.
3. Two members from the board of regents' institutions.
4. Two members from the agricultural community of the state, at least one of whom shall represent a family farm operation.
5. Two members from management of industrial firms located in the state, at least one of whom is from a firm engaged in high technology.

Each term shall begin and end as provided in section 69.19. No more than a simple majority of the members of the board shall belong to the same political party as provided in section 69.16. Vacancies on the council shall be filled for the unexpired terms in the same manner as original appointments. The council members shall not receive per diem but shall be reimbursed for necessary expenses incurred in the performance of duties from funds appropriated to the Iowa development commission. For the initial appointments to the council, the governor shall appoint six members whose terms shall commence upon appointment and shall expire April 30, 1985, and seven members whose terms shall commence upon appointment and shall expire April 30, 1987. Thereafter, all appointments shall be for a term of four years unless the appointment is to fill a vacancy.

The council shall meet at least once each quarter and shall hold special meetings on call of the chairperson. Seven members shall constitute a quorum. The council shall adopt rules pursuant to chapter 17A to govern its procedures. The governor shall designate one member as chairperson.

Sec. 36. NEW SECTION. 28.36 POWERS AND DUTIES. The purpose of the council shall be to encourage the development of high technology industries and research in Iowa which will establish net new employment opportunities for Iowa workers or assist in improving the efficiency, productivity, and viability of family farm operations and which will improve the quality of life in an environmentally-sound manner. For high technologies consistent with this purpose, the council shall:

1. Promote, encourage, and support education and research development programs in the fields of high technology.

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\*Item veto, see message at end of this Act

2. Seek to improve the quality and quantity of the research capabilities of the institutions of higher education, provide incentives to attract and retain superior faculty members at the institutions of higher education, and enhance the economic health of the state through encouraging investment by both governmental and private sources in educational programs which promote high technology and research and development.

3. Establish priorities to encourage development in agriculture and industrial technology most closely related to the state's current economy and review the priorities to facilitate possible future changes in the economy.

4. Consider and award grants on a project basis to an educational institution or commercial entity in which an educational institution has an ownership interest, for any of the following:

a. Further research on an idea, process, or product to determine potential for commercially feasible application.

b. Product development and testing.

c. Market analysis.

d. Public investment in commercial development in conjunction with private investment.

The council shall report annually to the governor and the general assembly on the grants awarded, including an analysis of how the grants serve to meet the general purpose of this section. The council shall provide post-grant audits of all grants awarded.

5. Promote the planning, coordination, and evaluation of Iowa's efforts to develop high technology capabilities and employment.

6. Provide leadership in the establishment of research and development centers for high technology.

7. Encourage the private development of properties for the development of high technology companies.

8. Coordinate and stimulate promotional efforts to attract and expand high technology enterprises with the Iowa development commission.

9. Ensure the proper development of an effective mechanism to transfer information on technology and research to Iowa's existing industry.

10. Promote legislation that will stimulate the development and growth of high technology in Iowa.

11. Aid in identifying the research needs of industry, universities, and government.

12. Encourage the funding of technology and research from business and government sources.

13. Work to increase the public awareness of technology and the attractiveness of Iowa as a location for industry.

14. Work to form a broad-based, long-term commitment to build up Iowa's research base through promotion, human resource development, and capital investment.

15. Receive and disburse funds available from public or private sources to be used to further the overall development of high technology in Iowa.

Sec. 37. NEW SECTION. 28.37 GRANTS, GIFTS, AND BEQUESTS. The council may receive and expend grants, gifts, and bequests, including but not limited to appropriations, federal funding, and other funding available for the purposes pursuant to section 28.36.

Sec. 38. NEW SECTION. 28.38 CONTRIBUTIONS FROM PRIVATE INDUSTRY.

1. The council may accept contributions of advanced technology equipment, grants, gifts, and bequests from advanced technology companies. A company may designate the institution of higher education the contribution is awarded to or may provide a nondesignated contribution.

2. Equipment, grants, gifts, or bequests which are not designated pursuant to subsection 1 shall be utilized for agricultural research or advanced technology industry-generated research conducted in equipped laboratories at the institutions of higher education and for maintaining state of the art laboratory equipment at the institutions.

Sec. 39. NEW SECTION. 28.39 OPERATIONS OF COUNCIL. A public investment in commercial development by the council may be made only in Iowa and in conjunction with private investment and shall be reflected in a public ownership interest in the commercial entity which is established. The public ownership interest shall be negotiated with the other investing parties, including but not limited to, educational institutions, inventors, and private investors. A provision relating to the terms of ownership and the circumstances of disposal of the public ownership interest shall be made at the time of investment.

Upon the disposition of a public investment, one half of the proceeds beyond the original investment shall be available for research support at the educational institutions making application for support under this chapter. The remainder of the proceeds attributable to an educational institution ownership interest shall be available for support and investment pursuant to this chapter.

All support and investment authorized by this chapter shall be made consistent with the rules and policies concerning property rights, patents, copyrights, and intellectual property of the educational institutions involved in each project.

Sec. 40. NEW SECTION. 28.40 COUNCIL AND COMMISSION FUNDING. There is appropriated from the general fund of the state to the Iowa high technology council for the fiscal year beginning July 1, 1983 and ending June 30, 1984 the sum of two million (2,000,000) dollars to fund the projects. In addition, there is appropriated from the general fund of the state an amount for operations of the council but not to exceed one hundred thousand (100,000) dollars for the fiscal year beginning July 1, 1983 and ending June 30, 1984. From the funds appropriated for operations, fifty thousand (50,000) dollars shall be used for developing or to contract for developing a mechanism for transferring jobs, related to research findings, and innovations from the research institutions to industry.

The appropriations from the state general fund in this section shall be in addition to and separate from the appropriations from the state general fund which may be made to an institution of higher education in the state.

Notwithstanding section 8.33, unencumbered or unobligated funds appropriated by this section for the fiscal year beginning July 1, 1983 and ending June 30, 1984 shall not revert to the general fund of the state.

\*Sec. 41. If the governor finds that the estimated budget resources during the fiscal year beginning July 1, 1983 and ending June 30, 1984 are insufficient to pay all appropriations in full and the governor's findings are concurred in by the executive council, the governor shall not make any reductions in allotment as allowed under section 8.31 until the unexpended funds appropriated by this division are included in the estimated budget resources. Upon inclusion of the unexpended funds appropriated in this division in the estimated budget resources, any funds appropriated by this division and not encumbered shall remain in the general fund of the state.

If upon inclusion of the funds appropriated by this division in the estimated budget resources for the fiscal year beginning July 1, 1983 and ending June 30, 1984 as authorized by this section, the governor finds that the estimated budget resources during the fiscal year are insufficient to pay all appropriations in full and the executive council concurs in the governor's findings, the governor may make the reductions of allotments allowed under section 8.31.\*

#### DIVISION VIII

Sec. 42. NEW SECTION. SHORT TITLE. Division VIII of this Act may be cited as the "Iowa community development loan program".

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\*Item veto; see message at end of this Act

Sec. 43. NEW SECTION. INTENT. The purpose of this division is to assist Iowa communities in the construction and improvement of public works and facilities which support and enhance local economic development by the creation of the Iowa community development loan program.

Sec. 44. NEW SECTION. ESTABLISHMENT OF PROGRAM.

1. The Iowa community development loan program is established to aid communities in improving and developing adequate public works and facilities needed to support local economic development projects by providing a revolving loan fund.

2. The program is administered by the office for planning and programming.

3. The program provides loans to cities for projects which address the following objectives:

a. The construction and improvement of public works and facilities needed for economic development.

b. The creation or retention of jobs especially in cities or cities located in counties with an unemployment rate higher than the statewide average.

c. The promotion of the expansion of existing business and industry.

d. The leveraging of local resources.

e. The creation of job opportunities for women and minorities.

4. The program shall provide that the moneys appropriated to the revolving loan fund shall be available as follows:

a. Twenty-five percent of the moneys shall be designated for cities with a population of less than five thousand.

b. Fifty percent of the moneys shall be designated for cities with a population of five thousand or more.

c. Twenty-five percent of the moneys shall be designated for any city.

d. Loans repaid which were from moneys designated for cities as provided in paragraph a or b shall be redesignated for those cities.

5. Job service of Iowa is required to supply information regarding unemployment rates to any city or county requesting it.

Sec. 45. NEW SECTION. QUALIFICATIONS FOR LOAN PROGRAM.

1. Any Iowa city is eligible to apply for and receive loans through the program. However, preference shall be given to cities or cities located in counties with unemployment rates higher than the statewide average.

2. Loans provided through the program shall be used to pay the cost of public works and facilities. "Public works and facilities" means "essential corporate purpose" and "general corporate purpose" as defined in section 384.24, subsections 3 and 4 and also means the acquisition of real property which is to be developed into an industrial park. "Cost" means all the costs of the project, including the cost of acquisition, construction, reconstruction and improvement, and all the items listed in section 384.24, subsection 5.

3. Funds provided through the loan program shall be matched with local cash resources equal to not less than fifty percent of the amount loaned. All matching local cash resources shall be specifically committed to the accomplishment of the project for which the loan is made.

Sec. 46. NEW SECTION. APPROVAL OF LOANS.

1. Loans provided through the program are interest free.

2. The maximum amount of a loan made through the program is two hundred fifty thousand dollars.

3. Initial loans provided through the program shall be awarded, subject to the amounts

designated as provided in section 44, subsection 4 of this division, on a competitive basis to those community projects which meet the minimum qualifications of this division and which best meet the objectives of section 44, subsection 3 of this division. Consideration shall be given to the payback methods proposed by each city, with preference shown to projects which offer shorter loan maturities and greater security of repayment to the state.

4. Prior to the receipt of the loan funds, each loan recipient shall pay to the state a loan origination fee in an amount equal to six-tenths of one percent of the loan amount. The fees shall be paid from private or local funds and shall be placed into the general fund of the state but shall only be used to defray the state's expense in operating the loan program.

5. Loan proceeds shall not be disbursed to a city until a loan agreement has been executed between the state office for planning and programming and that city.

**Sec. 47. NEW SECTION. LOAN REPAYMENTS.**

1. A city shall repay funds borrowed in accordance with a loan agreement to be executed prior to the disbursement of a loan by the state.

2. In accordance with this division, additional loans shall be periodically awarded by the office for planning and programming. The additional loans shall be provided from funds not previously awarded and from repayments received from prior recipients of loans.

3. Loan repayments shall be returned to the program and shall not revert to the state's general fund.

**Sec. 48. NEW SECTION. RULES.** The office for planning and programming shall adopt rules pursuant to chapter 17A to implement this division.

**Sec. 49. NEW SECTION. ANNUAL REPORT.** The office for planning and programming shall submit to the governor, once each year, a report setting forth details of the operation of the program and shall make that report available to members of the general assembly upon their request.

**Sec. 50.** There is appropriated from the general fund of the state on July 1, 1983 to the office for planning and programming five million (5,000,000) dollars to establish the revolving loan fund provided in this division. This appropriation is in addition to any other moneys appropriated to the office for planning and programming. Notwithstanding section 8.33, no part of this fund shall revert at or after the close of a fiscal period, but shall remain in the fund and appropriated for the purposes of this division.

**Sec. 51. NEW SECTION. LOANS NOT DEPENDENT ON BONDS.** Notwithstanding any law to the contrary cities shall not be required to issue bonds to secure loans received by the city through the Iowa community development loan program.

**Sec. 52.** Section 384.4, subsection 2, Code 1983, is amended to read as follows:

2. Interest as it becomes due and the amount necessary to pay, or to create a sinking fund to pay, the principal at maturity of all general obligation bonds issued by the city or to pay, or to create a sinking fund to pay, amounts as due on loans received through the Iowa community development loan program.

#### DIVISION IX

**Sec. 53.** Chapter 467A, Code 1983, is amended by adding the following new section:

**NEW SECTION. CONSERVATION PRACTICES REVOLVING LOAN FUND.**

1. The state soil conservation committee may establish a conservation practice revolving loan fund composed of any money appropriated by the general assembly for that purpose, and of any other moneys available to and obtained or accepted by the committee from the federal government or private sources for placement in that fund. Except as otherwise provided by subsection 3, the assets of the conservation practices revolving loan fund shall be used only to make loans directly to owners of land in this state with a net worth not to exceed three

hundred thousand dollars for the purpose of establishing on that land any new permanent soil and water conservation practice which the commissioners of the soil conservation district in which the land is located have found is necessary or advisable to meet the soil loss limits established for that land. Revolving loan funds and public cost-sharing funds shall not be used in combination for funding a particular soil and water conservation practice. The net worth of the applicant shall be provided by a financial institution of the state of Iowa. Each loan made under this section shall be for a period not to exceed ten years, shall bear no interest, and shall be repayable to the conservation practice revolving loan fund in equal yearly installments due March 1 of each year the loan is in effect. The interest rate upon loans for which payment is delinquent shall accelerate immediately to the current legal usury limit. Applicants shall be eligible for no more than ten thousand dollars in loans outstanding at any time under this program. "Permanent soil and water conservation practices" has the same meaning as defined in section 467A.42 and those established under this program are subject to the requirements of section 467A.7, subsection 16. Loans made under this program shall come due for payment upon sale of the land on which those practices are established.

2. The general assembly finds and declares the following:

a. The erosion of topsoil on agricultural land by wind and water is a serious problem within the state and one which threatens to destroy the natural resource most responsible for Iowa's prosperity.

b. It is necessary to the preservation of the economy and well-being of the state to encourage soil conservation practices by providing loans for permanent soil and water conservation practices on agricultural land within the state.

c. The use of state funds for the conservation practices revolving loan fund established under subsection 1 is in the public interest, and the purposes of this division are public purposes and uses for which public moneys may be borrowed, expended, advanced, loaned, or granted.

3. The state soil conservation committee may:

a. Contract, sue and be sued, and promulgate administrative rules necessary to carry out the provisions of this section, but the committee shall not in any manner directly or indirectly pledge the credit of the state of Iowa.

b. Authorize payment from the conservation practices revolving loan fund, from fees and from any income received by investments of money in the fund for costs, commissions, attorney fees and other reasonable expenses related to and necessary for making and protecting direct loans under this section, and for the recovery of moneys loaned or the management of property acquired in connection with such loans.

4. This section does not negate the provisions of section 467A.48 that an owner or occupant of land in this state shall not be required to establish any new soil and water conservation practice unless public cost-sharing funds have been approved and are available for the land affected. However, the owner of land with respect to which an administrative order to establish soil and water conservation practices has been issued under section 467A.47 but not complied with for lack of public cost-sharing funds, may waive the right to await availability of such funds and instead apply for a loan under this section to establish any permanent soil and water conservation practices necessary to comply with the order. If a landowner does so, that loan application shall be given reasonable preference by the state soil conservation committee if there are applications for more loans under this section than can be made from the money available in the conservation practices loan reserve fund. If it is found necessary to deny an application for a soil and water conservation practices loan to a landowner who has waived the right to availability of public cost-sharing funds before complying with an administrative

order issued under section 467A.47, the landowner's waiver is void.

Sec. 54. There is appropriated from the general fund of the state to the state soil conservation commission\* for each fiscal year of the fiscal biennium beginning July 1, 1983 and ending June 30, 1985, one million (1,000,000) dollars to be used for the establishment of the revolving loan fund as provided in this division.

#### DIVISION X

\*\*Sec. 55. NEW SECTION. 307.41 SHORT TITLE. Sections 307.41 through 307.62 are created as a separate division of chapter 307, known as the "Iowa Economic Development Highway Bond Act".

Sec. 56. NEW SECTION. 307.42 DECLARATION OF NECESSITY AND PURPOSE. The purpose of this division is to benefit the citizens of Iowa by assuring that adequate funds are available to meet road transportation needs of the state, to construct, reconstruct, and improve the highways and bridges of this state, including acquiring rights-of-way for them, and to assure that there are adequate highways for the health, safety, economic development, prosperity, and well-being of the citizens of Iowa. It is the further purpose of this division to authorize the department to issue bonds to finance the improvement of existing highways and bridges and to reconstruct, construct, and improve these highways as necessary for the health, safety, economic development, prosperity, and well-being of the citizens of Iowa. All of the purposes stated in this section are public purposes for which public moneys may be borrowed, expended, advanced, loaned, and appropriated.

Sec. 57. NEW SECTION. 307.43 LEGISLATIVE FINDINGS. The general assembly finds and declares:

1. The construction, reconstruction, and improvement of an adequate highway system within this state is vital for the well-being, health, safety, economic development, and prosperity of the state, its citizens, and its economy.

2. It is essential to the continued well-being, health, safety, economic development, and prosperity of the state, its citizens, and its economy that the state proceed promptly to improve existing roadways, acquire real property necessary to constitute right-of-way for future highway construction, construct, reconstruct, and improve highways and bridges, and have adequate financial resources to meet these needs.

3. Current revenues available are insufficient to construct, reconstruct, and improve the highways and bridges necessary for the continued well-being, health, safety, economic development, and prosperity of the state, its citizens, and its economy.

4. The issuance by the department of road use tax revenue bonds, the appropriation of the net proceeds of the bonds to the primary road fund, and the appropriation of funds of the road use tax fund to the payment of principal of and interest on the road use tax revenue bonds are in all respects for the benefit of the people of the state of Iowa, for the improvement of their health and welfare, and for the promotion of economic development and the economy, all of which are public purposes.

Sec. 58. NEW SECTION. 307.44 DEFINITIONS. When used in this division, unless the context otherwise requires:

1. "Construction projects" or "road construction projects" means the surfacing and resurfacing of primary roads and the grading, draining, paving, bridging, and the incidental work in connection therewith, the reconstruction and improvement of primary roads and bridges, and the acquisition of real property for future highway needs.

2. "Bonds" means negotiable road use tax revenue bonds of the department issued pursuant to this division, and all bonds, notes, and other obligations issued in anticipation of these bonds or as refunding bonds pursuant to this division.

\*According to enrolled Act

\*\*Item veto; see message at end of this Act

3. "Primary roads" means as defined in section 306.3, subsection 2.
4. "Primary road fund" means the fund created by section 313.3.
5. "Highway bond fund" means the fund created in section 307.51.
6. "Road use tax fund" means the fund created by section 312.1.
7. "Treasurer" means the treasurer of the state of Iowa.

Sec. 59. NEW SECTION. 307.45 BONDS AUTHORIZED. The department may issue and sell bonds in an amount not to exceed ten million dollars, and may become obligated to pay the bonds, as provided in this division. Bonds are limited obligations of the department payable solely from the highway bond fund. The total amount of bonds outstanding at any time shall not exceed ten million dollars. If the supreme court of this state determines that this division and any bonds issued and sold pursuant to this division are not in violation of the constitution of this state, the limit on the total amount of bonds that may be outstanding at any one time shall be increased by one hundred million dollars. Beginning with the fiscal year after such determination by the supreme court and for each fiscal year thereafter if the actual amount of road use tax revenues credited to the primary road fund in a fiscal year is less than the amount of such revenues which the department had estimated would be credited to the primary road fund in that fiscal year, the department may issue and sell bonds for that fiscal year in an amount equal to the difference, but not in excess of ten million dollars. If the department has a project which will cost more than ten million dollars and the issuance and sale of bonds are needed the department may issue and sell an amount of bonds sufficient to pay the cost for this project if the general assembly passes a concurrent resolution authorizing the department to issue and sell bonds in a specific amount and for that specific project. The proceeds of the sale of bonds shall be paid into the primary road fund to be expended for road construction projects and for expenses incurred in issuing the bonds, as approved, directed, or incurred by the department. The proceeds of the bonds shall not be used by the department to pay other administrative expenses.

Sec. 60. NEW SECTION. 307.46 TERMS OF BONDS. Bonds shall bear interest at the rate or rates and be in the denominations determined by the commission. The commission shall determine the maturity or maturities of the bonds and the dates of interest payment on the bonds. Each bond is due and payable on the date stipulated on the face of the bond, which date shall not be more than ten years after the date of issuance. The principal and interest are payable at the office of the treasurer or at any other place or places designated by the commission. Each bond shall be executed on behalf of the department with the manual signature of the chairperson or vice chairperson of the commission and attested with a manual or facsimile signature of the director and shall have impressed or printed on it the seal of the department. Coupons attached to the bonds, if any, shall be executed by the facsimile signature of the director. Each facsimile signature has the same force and effect as if the officer had manually signed or attested to each of the bonds and coupons.

The bonds are limited obligations of the department payable solely from those road use tax funds credited to the highway bond fund and are not general obligations of the state and are not debts or obligations of the state within the meaning of any statutory or constitutional debt limitation.

Sec. 61. NEW SECTION. 307.47 SALE OF BONDS. The commission shall sell the bonds to obtain funds to carry out the purpose of this division and authorize the payments as provided in this division. The proceeds from the sale shall be deposited with the treasurer. The bonds may be sold by the commission at public sale. If the commission so determines, the bonds may be sold by the commission at private sale without published notice and without the regular requirements of a public sale and the sale of the bonds shall be in the manner and upon the terms prescribed by the resolution of the commission authorizing the private sale. If the bonds are sold at public sale, they shall be sold upon terms of not less than par plus accrued interest.

The director with the advice and assistance of counsel shall cause to be prepared the form of advertisements, resolutions, agreements, and other necessary forms for use in the offering for sale and issuance of the bonds and to prepare and cause to be printed the proper form of bond and to deliver the bonds to the proper officials for signature.

If the bonds are offered for public sale the commission shall, by advertisement published for two or more successive weeks in at least one newspaper of general circulation in the state, give notice of the time and place of sale of the bonds, the amounts to be offered for sale, and other information which is deemed pertinent. The last day of publication shall not be less than seven days prior to the date of sale of the bonds. Sealed bids may be received at any time prior to the calling for open bids. At the time and place designated for the sale of bonds, the commission shall first call for open bids. After all of the open bids have been received the substance of the best open bid shall be noted in the minutes. The commission shall then open the sealed bids that have been received and shall note in the minutes the substance of the best sealed bid.

In the discretion of the commission, any or all bids may be rejected, and the sale may be advertised anew in the same manner, or the bonds or any portion of the bonds may be sold at private sale to one or more of the bidders, or other persons.

Sec. 62. NEW SECTION. 307.48 BOND PROCEEDINGS. The bonds shall be authorized by resolution of the commission and bond proceedings shall provide for the purpose of the bonds, principal amount and principal maturity or maturities, not exceeding ten years from the date of issuance, the interest rate or rates or the maximum interest rate, the date of the bonds and the dates of payment of interest on the bonds, their denomination, the terms and conditions upon which parity bonds may be issued, and the establishment within or without the state of a place or places of payment of principal of and interest on the bonds. The purpose of the bonds may be stated in the bond proceedings in terms describing the general purpose or purposes to be served. The commission may cause to be issued a prospectus or official statement in connection with the offering of the bonds. Bonds may be issued in coupon or in registered form, or both. Provision may be made for the registration of bonds with coupons attached as to principal alone, or as to both principal and interest, their exchange for bonds so registered, and for the conversion or reconversion into bonds with coupons attached of any bonds registered as to both principal and interest, and for reasonable charges for registration, exchange, conversion, and reconversion. Bonds shall be sold in the manner and at the time determined by the commission. Chapter 75 and sections 23.12 through 23.16 do not apply to these bonds. The bonds are negotiable instruments. The bond proceedings may contain additional provisions as to:

1. The redemption of bonds prior to maturity at the option of the commission at the price and on the terms and conditions provided in the bond proceedings.
2. Other terms of the bonds and concerning execution and delivery of the bonds.
3. The delegation of responsibility for any act relating to the issuance, execution, sale, redemption, or other matter pertaining to the bonds to any other officer, agency of the state, or other person or body.
4. Additional agreements with the bond holders relating to the bonds.
5. Payment from the proceeds of the sale of the bonds of all legal and financial expenses incurred by the department or the commission in the issuance, sale, delivery, and payment of the bonds.
6. Other matters, alike or different, which may in any way affect the security of the bonds and the protection of the bondholders.

Sec. 63. NEW SECTION. 307.49 ADDITIONAL POWERS OF COMMISSION. In connection with the issuance of the bonds or in order to secure the payment of the bonds and

interest on the bonds, the commission may by resolution:

1. Provide that the bonds be secured by first lien on all or any part of the moneys paid into the road use tax fund from the sources specifically prescribed in article VII, section 8 of the Iowa constitution and that the moneys when paid into the road use tax fund will be credited to the highway bond fund with the moneys credited to the highway bond fund each fiscal year being deemed from the road use tax fund allocation to the primary road fund for that fiscal year.

2. Pledge and assign to or entrust for the benefit of the bondholders any part of the road use tax fund revenues collected as prescribed in article VII, section 8 of the Iowa constitution, as will be necessary to pay the principal of and interest on the bonds as they mature or become due by providing that the revenues collected shall be credited to the highway bond fund with the moneys credited to the highway bond fund each fiscal year being deemed from the road use tax fund allocation to the primary road fund for that fiscal year.

3. Establish, authorize, set aside, regulate, and dispose of reserves and sinking funds.

4. Provide that sufficient amounts of the proceeds of the sale of the bonds may be used to fully or partially fund any and all reserves or sinking funds set out by the bond resolution.

5. Prescribe the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of the bonds whose holders must consent thereto, and the manner in which the consent may be given.

6. Purchase bonds, out of funds available for that purpose, which shall be canceled, at a price not exceeding either of the following:

a. If the bonds are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment date.

b. If the bonds are not then redeemable, the redemption price applicable on the first date after the purchase upon which the bonds become subject to redemption plus accrued interest to that date.

Sec. 64. NEW SECTION. 307.50 FUNDS APPROPRIATED. The proceeds from the issuance of the bonds shall be paid into a separate account which shall be established within the primary road fund and are appropriated to and shall be expended by the department for road construction projects.

In expending the proceeds from the issuance of the bonds, the department shall implement a women's business enterprise program to involve independent businesses owned and controlled by women in road construction projects funded under this division. The program shall establish an overall goal for the participation of women's business enterprises of five percent of the proceeds from the issuance of the bonds, and shall establish specific project goals, including dollar goals, for the participation of women's business enterprises capable of meeting general contracting requirements and particular project solicitations. General contractors shall make a good faith effort to meet the specific goals established for a project funded under this division. The department shall maintain a current directory of women's business enterprises which have been certified as owned and controlled by women and which are capable of meeting general contracting requirements and particular project solicitations. A women's business enterprise shall be certified as owned and controlled by women if the business is independent, at least fifty-one percent owned by women, and managed and operated by women, with women making both the day-to-day decisions as well as the major decisions for the business. The women's ownership shall be real, substantial, and continuing.

In advertising for bids and letting contracts for road construction projects funded under this division, the department shall establish an overall goal for the participation of women construction workers and shall establish specific project participation goals, including percentages of women workers on the project, after considering the number of women workers available and trainable, by the department, for the project. Contractors shall make a good faith effort to meet the specific goals established for a project funded under this division.

Sec. 65. NEW SECTION. 307.51 PAYMENT OF BONDS. A highway bond fund is created in the state treasury. At the direction of the commission as provided in the bond proceedings or pursuant to section 307.49, subsection 1 or 2, and as certified by the director, the treasurer of state shall credit to the highway bond fund from the road use tax fund a sum at least sufficient to pay interest on the bonds in each fiscal year and principal on the bonds that mature during each fiscal year with the moneys credited each fiscal year to the highway bond fund coming from the road use tax fund allocation to the primary road fund for that fiscal year. In each fiscal year after the effective date of this division and after bonds are issued, and until all the bonds issued have been retired, in order to provide for the payment of principal of the bonds issued and sold and the interest on them as the same become due and mature, there is pledged and annually appropriated out of the road use tax fund to be credited to the highway bond fund an amount sufficient to pay principal and interest on the bonds issued for each of the years the bonds are outstanding with the moneys credited each fiscal year to the highway bond fund coming from the road use tax fund allocation to the primary road fund for that fiscal year. The director shall annually certify to the treasurer the amount of funds required to pay interest on the bonds in the ensuing fiscal year and the principal on the bonds that mature during the ensuing fiscal year.

Sec. 66. NEW SECTION. 307.52 PLEDGE AS SECURITY FOR BONDS. A pledge made pursuant to this division is valid and binding from the time the pledge is made.

The moneys pledged and received by the treasurer to be placed in the road use tax fund and subsequently credited to the highway bond fund are immediately subject to the lien of the pledge without any future physical delivery or further act and the lien of a pledge is valid and binding against all parties having claims of any kind in tort, contract, or otherwise against the commission or the department irrespective of whether the parties have notice of the lien of the pledge. The resolution or trust indenture or other instrument by which a pledge is created, when placed in the records of the department, is notice to all concerned of the creation of the pledge, and the instruments need not be recorded in any other place.

Sec. 67. NEW SECTION. 307.53 NONLIABILITY OF THE STATE AND ITS OFFICIALS. Bonds issued are special limited obligations of the department and are not a debt or liability of the state or any other political subdivision within the meaning of any constitutional or statutory debt limitation and are not a pledge of the state's credit or taxing power within the meaning of any constitutional or statutory limitation or provision and except as provided in this division, an appropriation shall not be made, directly or indirectly, by the state or any political subdivision of the state for the payment of bonds. The bonds are special obligations of the department payable solely from the highway bond fund. Funds from the general fund of the state shall not be used to pay interest or principal on the bonds if revenues deposited in the road use tax fund are insufficient.

The members of the commission, the department, or other person executing the bonds is not personally liable for the payment of the bonds. The bonds are valid and binding obligations of the department notwithstanding the fact that before the delivery of the bonds any of the officers whose signatures appear on the bonds cease to be officers of the state. From and after the sale and delivery of the bonds, they shall be incontestable by the department or the commission.

Sec. 68. NEW SECTION. 307.54 BOND ANTICIPATION NOTES. The power to issue bonds includes the power to issue obligations in the form of bond anticipation notes or other forms of short-term indebtedness and to renew these notes by the issuance of new notes. The holders of notes or interest coupons of notes have a right to be paid solely from those road use tax funds credited to the highway bond fund which were pledged to the payment of the bonds

anticipated, or from the proceeds of those bonds or renewal notes, or both, as the commission provides in the bond proceedings authorizing the notes. The notes may be additionally secured by covenants of the commission to the effect that the commission will do those acts authorized by this division and necessary for the issuance of the bonds or renewal notes in appropriate amount, and either exchange the bonds or renewal notes for the notes, or apply the proceeds of the notes, to the extent necessary, to make full payment of the principal of and interest on the notes at the time contemplated, as provided in the bond proceedings. For this purpose, the commission may issue bonds or renewal notes in a principal amount and upon terms as authorized by this division and as necessary to provide funds to pay when required the principal of and interest on the outstanding notes, notwithstanding any limitations prescribed by this division, other than the limitation contained in section 307.45. All provisions for and references to bonds in this division are applicable to notes authorized under this section to the extent not inconsistent with this section.

Sec. 69. NEW SECTION. 307.55 REFUNDING OF OBLIGATIONS. The commission may authorize and issue bonds for the refunding, including funding and retirement, and advance refunding with or without payment or redemption prior to maturity, of bonds previously issued by the department. These bonds may be issued in amounts sufficient for payment of the principal amount of the prior bonds, any redemption premiums on the prior bonds, principal maturities of bonds maturing prior to the redemption of the remaining bonds on a parity with them, interest accrued or to accrue to the maturity date or dates of redemption of the bonds, and project costs including expenses incurred or to be incurred in connection with this issuance, refunding, funding, and retirement. Subject to the bond proceedings, the portion of proceeds of the sale of bonds issued under this section to be applied to principal of and interest on the prior bonds shall be credited to the appropriate account for the prior bonds. Bonds authorized under this section shall be deemed to be issued for those purposes for which the prior bonds were issued and are subject to the provisions of this division pertaining to other bonds. Bonds refunded shall not be considered to be outstanding for purposes of section 307.45.

Refunding bonds may be issued without regard to whether or not the bonds to be refunded are payable on the same date or different dates or due serially or otherwise.

Sec. 70. NEW SECTION. 307.56 BONDS AND INTEREST ON THE BONDS NOT SUBJECT TO TAXATION. Bonds, their transfer, and the income from the bonds are not subject to taxation by this state.

Sec. 71. NEW SECTION. 307.57 BONDS AS LEGAL INVESTMENTS. Bonds are securities in which all public officers and bodies of the state and all municipalities and political subdivisions of this state, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks, and savings associations, including savings and loan associations, building loan associations, investment companies, and other persons carrying on a banking business, all administrators, guardians, executors, trustees, and other fiduciaries and all other persons who are now or may be authorized to invest in bonds or other obligations of this state may properly and legally invest funds including capital in their control or belonging to them. The bonds are also securities which may be deposited with and may be received by all public officers and bodies of the state and all municipalities and legal subdivisions of this state for any purpose for which the deposit of bonds or other obligations of the state is now or may be authorized.

Sec. 72. NEW SECTION. 307.58 RIGHTS OF BONDHOLDERS. The bond proceedings may provide that a holder of bonds or a trustee under the bond proceedings, except to the extent that the holder's rights are restricted by the bond proceedings, may by legal proceedings, protect and enforce any rights under the laws of this state or granted by the bond proceedings. These rights include the right to compel the performance of all duties of the department required by this division or the bond proceedings; to enjoin unlawful activities; and in the event of default with respect to the payment of any principal of or interest on bonds or in the performance of a covenant or agreement on the part of the department in bond proceedings, to apply to a court to appoint a receiver to receive and administer the funds which are pledged to the payment of bonds or which are the subject of the covenant or agreement, with full power to pay and to provide for payment of any principal of or interest on bonds and with powers accorded receivers in general equity cases, excluding power to pledge additional funds or other income or moneys of the department, the state, or governmental agencies of the state to the payment of the bonds.

Sec. 73. NEW SECTION. 307.59 NOTICE. Within ten days after the commission adopts a resolution declaring its intention to issue bonds, it shall publish a notice of its intention to issue bonds in a newspaper published in and with general circulation in the state. The notice shall include a statement of the maximum amount of bonds proposed to be issued and, in general terms, what funds will be pledged to pay principal of and interest on the bonds. An action which questions the legality or validity of bonds or the power of the department to issue bonds or the effectiveness or validity of proceedings adopted for the authorization or issuance of bonds shall not be brought after sixty days from the date of publication of the notice.

Sec. 74. NEW SECTION. 307.60 COURTS TO HAVE JURISDICTION. Courts of record in this state have jurisdiction to issue all original and remedial writs necessary for the determination of the validity or constitutionality of this division.

Sec. 75. NEW SECTION. 307.61 SEVERANCE CLAUSE. If any clause, sentence, paragraph, or part of this division is for any reason judged by a court of competent jurisdiction to be invalid, the judgment shall not affect, impair, or invalidate the remainder of this division, but is confined in its operation to the clause, sentence, paragraph, or part directly involved in the controversy in which the judgment has been rendered.

Sec. 76. NEW SECTION. 307.62 LIBERAL INTERPRETATION. This division, being necessary for the welfare of this state and its inhabitants, shall be liberally construed to effect its purposes.\*

#### DIVISION XI

Sec. 77. NEW SECTION. PURPOSE. There is created a job training partnership program in the state for the purpose of supplementing and implementing the legislative requirements provided under the federal Job Training Partnership Act of 1982, Pub. L. 97-300. The general assembly shall provide the funds necessary to obtain federal funds to provide employment and training assistance to dislocated workers and shall authorize the appropriation of state funds to provide training to the economically disadvantaged. The program shall also establish policies and restrictions for job training and related services provided to certain unemployed individuals under the federal Act. The purpose of this division is also to establish eligibility guidelines for individuals receiving assistance under the state program and federal Act and to establish guidelines for administering the federal Act and state program through the use of service delivery areas designated by the office of the governor in accordance with the federal Act. The office of the governor and the state job training coordinating council shall consult with the legislative council or the appropriate appropriations subcommittees regarding the award to local service delivery areas of funds allocated to the state under Title III of the federal Act and funds mandated to be expended under this division.

\*Item veto; see message at end of this Act

Sec. 78. NEW SECTION. DEFINITIONS. As used in sections 77 through 81 unless the context otherwise requires:

1. "Federal Act" means the Job Training Partnership Act of 1982, Pub. L. 97-300.
2. "State program" means the job training partnership program.
3. "Dislocated worker" includes but is not limited to an individual who:
  - a. Has been terminated or laid off, or who has received notice of termination or layoff, and is eligible for or has exhausted unemployment compensation benefits.
  - b. Is unlikely to return to the industry or occupation in which the individual was employed. Industry or occupation includes farming or the ownership and operation of a small business.
  - c. Has been terminated or received notice of termination as a result of the permanent closure or relocation of a plant, facility, or plant operation in which the individual was employed.
  - d. Is chronically unemployed, as determined by the Iowa department of job service and:
    - (1) Has limited opportunities for employment in the geographic area in which the individual resides; or
    - (2) Is an older individual who may face substantial barriers to employment because of age.
4. "Economically disadvantaged" includes the following:
  - a. A person who receives or is a member of a family which receives cash welfare payments under a federal, state, or local welfare program.
  - b. A person who is receiving food stamps under the federal Food Stamp Act of 1977.
  - c. A person who has or is a member of a family which has for six months prior to application for the program, exclusive of unemployment compensation, child support payments, and welfare payments, a total family income in relation to family size less than the higher of the following:
    - (1) The federal poverty level established by the federal office of management and budget; or
    - (2) Seventy percent of the income level adjusted for regional, metropolitan, urban, and rural differences and family size as determined annually by the secretary of the federal department of labor and known as the "lower living standard income level" under the federal Act.
5. "Displaced homemaker" means a person as defined in chapter 241.
6. "Service delivery area" means the geographic area designated by the office of the governor in accordance with section 101 of the federal Act to implement the federal Act within the state.
7. "Unemployed individual" means an individual who is without a job, who wants work, and who is available for work.

Sec. 79. NEW SECTION. ESTABLISHMENT AND ADMINISTRATION. The office of the governor in consultation with the general assembly shall establish a state program to complement, supplement, and implement the federal Act to provide training and related services for unemployed persons who are economically disadvantaged or who are dislocated workers. In administering this program the office of the governor shall do the following:

1. Execute the state responsibilities under Title I of part B of the federal Act.
2. Award grants to applicants who shall provide employment and training services to program participants directly and through contractual arrangements.
3. Distribute funds allocated to the state under Title II of the federal Act in accordance with section 202 of the federal Act.
4. Consult with the legislative council or the appropriate appropriations subcommittees and the state job training coordinating council.
5. Award state funds authorized to be expended under this division and funds allocated to the state under Title III of the federal Act in accordance with section 81 of this Act.

6. Provide eligibility criteria, performance standards, reporting standards, and management standards for the state program which conform to the requirements of the federal Act.

7. Provide technical assistance to service delivery areas for program development and proposal preparation.

8. Take steps to ensure that the programs which are established and the services which are provided under this division and the federal Act are coordinated to the extent feasible with existing state agencies, programs, and services.

9. Order audits which either shall be conducted by the auditor of state or the auditor's designee or shall be independently contracted as required by the federal Act and determined by the governor.

10. By January 15 of each year, the governor shall submit an annual report on the effectiveness of the state job training partnership program. The report shall include an estimate of funds to be allocated at the state level for administrative purposes.

11. Provide the secretary of the senate, chief clerk of the house, and members of the legislative council with copies of quarterly performance reports submitted by the office of the governor in accordance with the federal Act and copies of annual financial reports submitted to the office of the governor by the local private industry councils. The office of the governor and the private industry councils shall provide copies of reports and other information upon the request of a member of the general assembly.

**Sec. 80. NEW SECTION. SERVICES PROVIDED.**

1. Services to the economically disadvantaged under the state program may include activities permitted under section 204 of the federal Act and any supportive services which are not inconsistent with the federal Act.

2. Services to dislocated workers under the state program may include those activities permitted under section 303 of the federal Act.

3. Funds allocated to the state and appropriated by the state under the federal Act shall not be used in a workfare program except as provided in subsection 4, paragraphs a, b, and d.

4. Priority under this section is accorded any training services which include:

a. On-the-job training.

b. Classroom training.

c. A combination of work experience and remedial education.

d. Job search assistance, including jobs clubs.

e. Tuition assistance for appropriate state approved classroom and vocational-technical programs.

5. Services provided under this section shall be provided in a nondiscriminatory manner and shall promote training in traditional and nontraditional employment opportunities for all persons.

6. After consultation with the appropriate state agencies, the office of the governor shall provide, using state funds if necessary where federal funds are limited by the federal Act, training allowances, expenses, stipends, and supportive services which enable eligible persons to participate in state training services.

7. Permissible supportive services provided for Title III program participants include, but are not limited to, the provision of financial counseling, transportation assistance, or child care to eligible persons.

**Sec. 81. NEW SECTION. TITLE III GRANT AWARDS.**

1. Except for funds reserved for administration and for state administered statewide programs under Title III, the office of the governor shall distribute by grant awards to local service delivery areas, the remainder of federal funds allocated to the state under Title III of the federal Act and the state funds which are appropriated for Title III programs.

2. An applicant for grants shall submit a grant application to the office of the governor for each grant sought. The application shall indicate the concurrence of the private industry council and the appropriate elected officials within the service delivery areas. Separate applications shall be submitted for training the economically disadvantaged and retraining for dislocated workers.

3. The office of the governor shall consider all of the following factors in determining grant awards:

- a. The need for the proposed training and retraining.
- b. Evidence of local effort to support the proposed activities through public or private funds or in-kind contributions.
- c. The demonstrated effectiveness of the grant applicant in providing training or retraining.
- d. Documentation that the proposed program will prepare participants for specific employment opportunities or occupations projected to be in demand in the local economy.
- e. Documentation that the proposed program is nondiscriminatory and will prepare persons for traditional and nontraditional occupations.

4. Service delivery areas proposing to conduct retraining shall coordinate with the local office of the Iowa department of job service to identify individuals who will be eligible for the program.

Sec. 82. There is appropriated from the general fund of the state to the office of the governor or an agency designated by the governor for the fiscal year beginning July 1, 1983 and ending June 30, 1984 the sum of one million three hundred thousand (1,300,000) dollars or so much thereof as is necessary, to carry out sections 77 through 81 of this Act. Additional funds may be appropriated to provide training for the economically disadvantaged.

#### DIVISION XII

Sec. 83. NEW SECTION. 28.40 INTENT. The purposes of this division are to encourage capital investment in the state of Iowa, to encourage the establishment or expansion of business and industry, to provide additional jobs within the state, and to encourage research and development activities within this state.

Sec. 84. NEW SECTION. 28.41 TITLE. This division shall be known and may be cited as the "Iowa Venture Capital Fund Act."

Sec. 85. NEW SECTION. 28.42 AUTHORIZED CORPORATION. There may be incorporated under chapter 496A a corporation which shall be known as the Iowa venture capital fund. The corporation shall be established by the Iowa development commission, and the initial board of directors shall be appointed by the governor. The initial board of directors shall consist of five members, not more than three of whom shall be from the same political party. The purpose of the corporation shall be to organize and manage an investment fund which shall be capitalized through the sale of common stock to the public. The Iowa development commission may expend an amount not to exceed one hundred thousand dollars of the funds necessary to establish the corporation which funds shall be repaid to the Iowa development commission upon completion of its public offering of stock. The corporation shall be subject to and have the powers and privileges conferred by this division, and those provisions of chapter 496A which are not inconsistent with and to the extent not restricted or limited by this division. In providing for the sale of its common stock to the public, the corporation shall offer to every licensed brokerage firm located in the state the opportunity to market the sale of the common stock and shall provide for the taking of bids for purposes of determining which brokerage firm or firms will market the sale of the common stock.

Sec. 86. NEW SECTION. 28.43 INVESTMENT POLICY. It is the policy of the Iowa venture capital fund to invest primarily in companies with a principal place of business in the state, which meet the appropriate small business administration definition of small business and which are principally engaged in the development or exploitation of inventions, technological improvements, new processes, or products not previously generally available in this state, or which provides support to such companies, or other investments which provide an economic benefit to the state. Fund investments shall be in accordance with the general objective of encouraging the development of additional business operations and employment in this state through venture capital financing to selected business ventures. The principal financial objective of the fund is to generate long-term capital appreciation by participating in the growth in equity value of Iowa-based companies in which the fund invests.

Sec. 87. NEW SECTION. 28.44 REPORTS TO DEVELOPMENT COMMISSION. The Iowa venture capital fund is subject to the examination of the Iowa development commission and shall make reports of its condition not less than annually and shall also furnish other information as may from time to time be required by the Iowa development commission.

Sec. 88. NEW SECTION. 28.45 STOCK SALES LIMIT. The aggregate value of all stock sold in the Iowa venture capital fund for which a credit is allowed under section 422.10 or 422.33 shall not exceed five million dollars.

Sec. 89. NEW SECTION. 422.10 IOWA VENTURE CAPITAL FUND INVESTMENT CREDIT. The taxes imposed under this division, less credits permitted under section 422.12, shall be reduced by a state tax credit equal to five percent of the taxpayer's investment in the initial offering of securities by the Iowa venture capital fund established by the Iowa development commission and governed by a chapter 496A corporation and the Iowa venture capital fund Act. Any credit in excess of the tax liability for the taxable year may be credited to the tax liability for the following three taxable years or until depleted in less than three years.

In the case of an estate or trust, the credit shall be allocated between each beneficiary and the estate or trust based on the ratio that the income distributed to a beneficiary bears to the total distributable net income of the estate or trust for the taxable year.

Sec. 90. Section 422.33, Code 1983, is amended by adding the following new subsection:

NEW SUBSECTION. 5. The taxes imposed under this division shall be reduced by a state tax credit equal to five percent of the taxpayer's investment in the initial offering of securities by the Iowa venture capital fund established by the Iowa development commission and governed by a chapter 496A corporation and the Iowa venture capital fund Act. Any credit in excess of the tax liability for the taxable year may be credited to the tax liability for the following three taxable years or until depleted in less than three years.

Sec. 91. Sections 83 through 88 of this Act are created as a new division of chapter 28.

#### DIVISION XIII

Sec. 92. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1983 and ending June 30, 1984, nine hundred thousand (900,000) dollars, or so much thereof as is necessary, to the office for planning and programming to be used for community grants as follows:

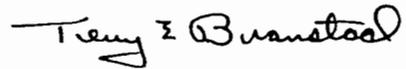
1. The jobs commission established in division 1 of this Act shall establish a program of grants to cities and community groups for the development of community programs that would provide local jobs for Iowa residents and at the same time promote a city's historical, ethnic, and cultural heritages through the development of festivals, music, drama, or cultural programs, or tourist attractions. At least twenty-five percent of the funds appropriated in this division shall be used for the purpose of developing community programs eligible for grants under this division which were not in existence prior to the effective date of this division.

2. A city or community group may submit applications to the jobs commission or to any job service office in the state. Applications shall be reviewed by the Iowa arts council, the state historical board, and the tourist division of the Iowa development commission, acting as an advisory committee to the jobs commission. The advisory committee shall submit recommendations to the jobs commission regarding possible recipients and grant amounts. The amount of a grant shall not exceed fifty percent of the cost of the community program and the application must demonstrate that the city or community group will provide the required matching money. In lieu of providing the entire match in money, a city or community group may substitute in-kind services for up to fifty percent of the matching requirement.

3. If a portion of the funds appropriated by this subsection is not committed to a city or community group by March 1, 1984, the uncommitted funds may be transferred under section 8.39 to local work relief projects funded under division I of this Act.

Sec. 93. This Act, being deemed of immediate importance, takes effect from and after its publication in the Telegraph Herald, a newspaper published in Dubuque, Iowa, and in The Cedar Valley Times, a newspaper published in Vinton, Iowa.

Approved June 12, 1983, except the five items which I hereby disapprove and which are designated as Section 1 and that portion of Section 2 which is herein bracketed in ink and initialed by me; Division III; Division VI; Section 41; and Division X. These are all delineated with my reasons for vetoing in the item veto message pertaining to this Act to the Secretary of State this same date, a copy of which is attached hereto.



TERRY E. BRANSTAD  
Governor

I hereby certify that the foregoing Act, Senate File 548, and Governor Terry E. Branstad's item veto message were published in entirety in the Telegraph Herald, Dubuque, Iowa on June 24, 1983, and in The Cedar Valley Times, Vinton, Iowa on June 24, 1983.

MARY JANE ODELL, *Secretary of State*

The Honorable Mary Jane Odell  
Secretary of State  
State Capitol Building  
L O C A L

Dear Madam Secretary:

I hereby transmit Senate File 548, an act for the purpose of improving the Iowa economy and providing improved employment conditions by establishing work relief programs for unemployed Iowans, establishing energy management programs for certain local governments and in buildings owned or occupied by state agencies, encouraging capital investment to stimulate the establishment or expansion of small business and industry, establishing a small business division within the Iowa Development Commission, creating an Iowa product development corporation, appropriating funds for a residential mortgage interest reduction program, creating an Iowa high technology council, establishing a community development loan program, establishing a fund from which to make loans for the establishment of soil and water conservation practices, authorizing the Iowa Department of Transportation to issue and become obligated for road use tax revenue bonds, establishing a job training partnership program, providing for the establishment of a corporation by the Iowa Development Commission which will organize and manage an investment fund which will invest in Iowa enterprises and allowing a state income tax credit on the net investment in the fund, establishing a program to aid communities in developing festivals and other tourist attractions, and making various appropriations to carry out the programs.

Senate File 548 is approved June 12, 1983, with the following exceptions which I hereby disapprove.

I am unable to approve the item designated in the Act as Section 1 and that portion of Section 2 which reads as follows:

Section 1. TITLE. Division I of this Act shall be known as the "Iowans Out of Work Act of 1983".

Sec. 2. IOWA JOBS NOW. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1983, and ending June 30, 1984, three million six hundred thousand (3,600,000) dollars, or so much thereof as is necessary, to establish and fund a statewide work relief program for unemployed Iowans, to be known as the Iowa jobs now program, in accordance with the following conditions:

1. Of the funds appropriated under this section from the general fund of the state, three million (3,000,000) dollars, or so much thereof as is necessary, is appropriated to the office for planning and programming to be used as follows:

b. Funds under the program shall be made available to the state, a state agency, or a county or city which establishes and administers a work relief project, but shall not be made available to a hospital or a school district. The jobs commission shall prescribe standards for the priority selection of work relief projects to be funded under the program. The standards shall include, but are not limited to, priority selection based on the

commitment of local matching funds at a ratio of one dollar of local funds to each dollar of state funds; the project's rate of economic return to the community; the number of individuals who will work on the project; the number of individuals who would benefit from the project; the benefit to the community as a whole and the need for the project. Sixty percent of the state funds shall be targeted to those counties of the state with unemployment rates at least two percent above the statewide unemployment rate, as determined by the jobs commission from statistics provided by the department of job service. The remaining funds shall be distributed to other counties of the state. The office for planning and programming may prohibit or limit the use of the funds for state, county or city administrative or supervisory expenses. The state, state agency, county or city shall pay for all necessary project supplies and materials. The office for planning and programming shall not administer or supervise local projects but shall provide technical support and financial accounting services only to the program. The office for planning and programming shall not use more than one and one-half percent of the funds appropriated under this subsection for administrative expenses.

c. The state, state agency, county or city which establishes a local work relief project shall administer the project and shall hire and supervise individuals to work on the project. The state shall provide general liability coverage for the individuals employed, under chapter 25A as if the individuals were employees of the state. The state shall provide workers' compensation coverage for the individuals employed under sections 85.57 and 85.58 as if the individuals were state employees. Individuals employed on a project are exempt from the provisions of chapter 96, under section 96.19, subsection 6, paragraph a, subparagraph (6), subpart (e), and are hereby exempted from the provisions of chapter 19A, 97B, and 400.

d. The state, state agency, county or city shall employ only those unemployed individuals, who receive little or no unearned income and who have exhausted all available unemployment compensation benefits or are not eligible for unemployment compensation benefits, to work on a local work relief project. The jobs commission may prescribe a uniform procedure to disregard all or a portion of an unemployed individual's unearned income. The individuals shall be paid the federal statutory minimum hourly wage, and shall not be employed for more than thirty-two hours per week in order to allow the individuals to seek private employment. The individuals shall apply for any job training or counseling services available within their respective service delivery areas under the federal Job Training Partnership Act, Pub. L. No. 97-300.

This subsection shall not be construed to disqualify individuals employed by a local work relief project from receiving services for which the individuals are otherwise eligible under the federal Job Training Partnership Act, Pub. L. No. 97-300.

e. The state, state agency, county or city shall not employ the individuals to replace regular state, county or city employees, but shall employ the individuals in labor-intensive jobs for no longer than six months. However, if federal law or regulation prohibits an individual's exemption from chapter 96, the individual shall be employed for no longer than three months. Hiring practices shall follow an affirmative action plan based upon guidelines provided by the Iowa state civil rights commission. The plan shall

provide for the hiring of women in traditional and nontraditional employment.

f. Notwithstanding section 8.33, unencumbered or unobligated funds appropriated by this subsection for the fiscal year beginning July 1, 1983 and ending June 30, 1984 shall not revert to the general fund of the state until June 30, 1985.

2. Of the funds appropriated under this section from the general fund of the state, five hundred thousand (500,000) dollars, or so much thereof as is necessary, is appropriated to the office for planning and programming to contract with the federal action agency for the establishment and funding of a volunteers in service to Iowa program for unemployed Iowans in accordance with the following conditions:

a. The policy-making commission established in subsection 1 shall direct and supervise the establishment and funding of the volunteers in service to Iowa program. The office for planning and programming shall contract with the federal action agency to administer the volunteers in service to Iowa program on a cost-sharing basis with the federal action agency. The federal action agency shall not use more than one and one-half percent of the funds appropriated under this subsection for administrative expenses. If the office for planning and programming is unable to contract with the federal action agency, the office shall monitor the use of funds under the program, and shall not use more than one and one-half percent of the funds appropriated under this subsection for administrative expenses.

b. Funds under the program shall be used to pay a stipend of three hundred thirty-five dollars per one-month period to unemployed volunteers who receive little or no unearned income and who have exhausted all available unemployment compensation benefits or are not eligible for unemployment compensation benefits. In addition, the volunteers shall receive at the end of their period of work assignment, seventy-five dollars for each month of work completed. The commission may prescribe a uniform procedure to disregard all or a portion of an unemployed individual's unearned income. The volunteers may be assigned to work for any public or nonprofit entity for a minimum of six months and a maximum of one year. However, if a contract with the federal action agency is not entered into for administration of the program, a volunteer under the program shall be assigned to work for no longer than three months. The volunteers shall agree to make a full-time commitment to a work assignment which is beneficial to the community or assists unemployed or elderly, low-income Iowans or other needy Iowans to become more self-sufficient or to improve their quality of life. The volunteers shall be available for work at least forty hours per week without regard to regular working hours and at all times during their periods of work, except for authorized periods of leave. The work assignments may include, but are not limited to, assignments to projects providing chore services for the elderly, remedial reading or writing instruction, community or individual gardening instruction and organization, food cooperative instruction and organization, home energy conservation assistance, skill-sharing instruction and organization, distribution services for public or private commodities, and child day care. The work assignments shall not be made to replace regular employees or for participation in religious activities. The work assignments shall, if possible and where needed, be approached in a manner which would assist in the continuation of volunteers'

assignments beyond their terms of assignment, by encouraging local involvement.

c. The public or nonprofit entity to which an individual is assigned shall supervise and direct the individual and shall pay for all necessary work materials, supplies, and transportation costs. Work assignment practices shall follow an affirmative action plan based upon guidelines provided by the Iowa state civil rights commission. The plan shall provide for the assignment of women to traditional and nontraditional employment. If the federal action agency administers the program, volunteers are provided general liability, health and accident, and workers' compensation coverage pursuant to federal regulations. If a contract with the federal action agency is not entered into for the administration of the program, the state shall provide general liability coverage for the volunteers, under chapter 25A, as if the volunteers were employees of the state, and the state shall provide workers' compensation coverage for the volunteers under sections 85.57 and 85.58 as if the volunteers were state employees. The volunteers are exempt from the provisions of chapter 96, under section 96.19, subsection 6, paragraph a, subparagraph (6), subpart (e), and are hereby exempted from the provisions of chapters 19A, 97B and 400.

d. Notwithstanding section 8.33, unencumbered or unobligated funds appropriated by this subsection for the fiscal year beginning July 1, 1983 and ending June 30, 1984 shall not revert to the general fund of the state until June 30, 1985. Funds appropriated by this subsection may be transferred under section 8.39 to the local work relief projects funded under subsection 1 if the funds are not needed for the volunteers to service in Iowa program.

3. Of the funds appropriated under this section from the general fund of the state, one hundred thousand (100,000) dollars, or so much thereof as is necessary, is appropriated to the Iowa arts council, to be used as follows:

a. An individual artist may receive a cash grant not to exceed three thousand dollars for a project determined to be in the public good including but not limited to touring performances and exhibitions, concerts for hospitals or nursing home residents, school concerts, participation in art festivals, fairs, and conventions, paintings, drawings, or sculpture for state buildings, photographic documentation of life in Iowa, public murals, training seminars for students, poetry readings, publications, school residencies, or other projects which are open to the public. A grantee may request an additional stipend not to exceed ten percent of the grant to be used for materials and transportation costs. A grant may be made to an individual artist for a project involving a group of artists. Only the individual artist submitting the application must qualify under paragraph d.

b. An eligible organization under paragraph d may apply for a grant not to exceed three thousand dollars to match an equal amount to be used to hire, for up to one year, an artist-in-residence or arts administrator. Artists hired must meet the eligibility requirements of paragraph d.

c. Applications for a grant may be submitted to the Iowa arts council or to any job service office in the state. Applications shall be reviewed monthly by an advisory committee appointed under section 304A.6, subsection 4. The advisory committee shall submit recommendations to the council regarding possible recipients and the grant amount.

d. An individual must be an Iowa resident and must have been unemployed or had a combined adjusted gross income for federal income tax purposes for the individual and the individual's spouse of less than ten thousand dollars during the twelve months prior to making application. An organization must be incorporated under chapter 504A.

e. The Iowa arts council shall require all grantees to sign a contract and to report to the council within forty-five days following completion of the project. Works produced by a person receiving an individual grant are the property of the state in care of the Iowa arts council. Works produced by a person hired by an organization receiving a grant are the property of the organization.

4. The policy-making commission established in subsection 1 shall cooperate with the state job training coordinating council established pursuant to the federal Job Training Partnership Act, Pub. L. No. 97-300, in the implementation of the Iowa jobs now program. State agencies shall cooperate with the federal action agency in the implementation of the volunteers in service to Iowa program and with the office for planning and programming in the implementation of the Iowa jobs now program, and shall provide necessary job training and technical assistance, for short periods of time, in assisting in the implementation of the Iowa jobs now program. Chapter 17A does not apply to the office for planning and programming or to the cooperating state agencies in the implementation of the Iowa jobs now program.

I am unable to approve the item designated in the Act as Division III which reads as follows:

Sec. 7. **NEW SECTION. 220.70 PURPOSE.** It is the purpose of this division to provide capital investment in the state to encourage the establishment or expansion of small business and industry, to provide additional jobs within the state, and to assist communities to diversify and stabilize the economies.

Sec. 8. **NEW SECTION. 220.71 CERTIFIED DEVELOPMENT PROGRAM.** The authority shall implement a program to assist small businesses in obtaining funds to establish and expand small businesses and create new jobs. The authority shall use the funds to cooperate with and implement the certified development program of the United States small business administration. The funds provided by the authority shall be in the form of loans. The loans shall be made available in cooperation with local and statewide certified development companies and shall be available to small businesses qualified under guidelines of the United States small business administration. Section 220.62, subsection 2, applies to the administration of this section.

For purposes of this division, "small business" means small business as defined in section 220.1, subsection 28 and "capital infusion loan" means a loan under this division by the authority to a small business.

Sec. 9. **NEW SECTION. 220.72 CAPITAL INFUSION LOANS.** Capital infusion loans authorized under this division shall be made from funds appropriated to the authority for that purpose. A capital infusion loan shall be made only in conjunction with a loan made through or in conjunction with a United States small business administration loan for a project. The capital infusion loan shall not constitute more than ten percent of the

entire amounts loaned to the small business with respect to the project. The authority may fund other portions of the project with loans of the authority made pursuant to other sections of this chapter. Capital infusion loans shall be repaid under terms determined by the authority. However, the small business shall not be required to pay interest on that part of the loan received from funds appropriated to the authority for that purpose from the general fund of the state.

Sec. 10. Sections 7 through 9 are enacted as a new division of chapter 220.

Sec. 11. There is appropriated from the general fund of the state to the Iowa housing finance authority for the fiscal year beginning July 1, 1983 and ending June 30, 1984, the sum of five million (5,000,000) dollars, or so much thereof as is necessary, to implement this division.

I am unable to approve the item designated in the Act as Division VI which reads as follows:

Sec. 34. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1983, and ending June 30, 1984, to the Iowa housing finance authority the amount of three million (3,000,000) dollars to be used to fund the program to reduce interest costs to be paid on loans established in section 220.81 of Senate File 223 as enacted by the 1983 Session of the Iowa general assembly.

I am unable to approve the item designated in the Act as Section 41 which reads as follows:

Sec. 41. If the governor finds that the estimated budget resources during the fiscal year beginning July 1, 1983 and ending June 30, 1984 are insufficient to pay all appropriations in full and the governor's findings are concurred in by the executive council, the governor shall not make any reductions in allotment as allowed under section 8.31 until the expended funds appropriated by this division are included in the estimated budget resources. Upon inclusion of the unexpended funds appropriated in this division in the estimated budget resources, any funds appropriated by this division and not encumbered shall remain in the general fund of the state.

If upon inclusion of the funds appropriated by this division in the estimated budget resources for the fiscal year beginning July 1, 1983 and ending June 30, 1984 as authorized by this section, the governor finds that the estimated budget resources during the fiscal year are insufficient to pay all appropriations in full and the executive council concurs in the governor's findings, the governor may make the reductions of allotments allowed under section 8.31.

I am unable to approve the item designated in the Act as Division X which reads as follows:

Sec. 55. NEW SECTION. 307.41 SHORT TITLE. Sections 307.41 through 307.62 are created as a separate division of chapter 307, known as the "Iowa Economic Development Highway Bond Act".

Sec. 56. NEW SECTION. 307.42 DECLARATION OF NECESSITY AND PURPOSE. The purpose of this division is to benefit the citizens of Iowa by assuring that adequate

funds are available to meet road transportation needs of the state, to construct, reconstruct, and improve the highways and bridges of this state, including acquiring rights-of-way for them, and to assure that there are adequate highways for the health, safety, economic development, prosperity, and well-being of the citizens of Iowa. It is the further purpose of this division to authorize the department to issue bonds to finance the improvement of existing highways and bridges and to reconstruct, construct, and improve these highways as necessary for the health, safety, economic development, prosperity, and well-being of the citizens of Iowa. All of the purposes stated in this section are public purposes for which public moneys may be borrowed, expended, advanced, loaned, and appropriated.

Sec. 57. NEW SECTION. 307.43 LEGISLATIVE FINDINGS. The general assembly finds and declares:

1. The construction, reconstruction, and improvement of an adequate highway system within this state is vital for the well-being, health, safety, economic development, and prosperity of the state, its citizens, and its economy.

2. It is essential to the continued well-being, health, safety, economic development, and prosperity of the state, its citizens, and its economy that the state proceed promptly to improve existing roadways, acquire real property necessary to constitute right-of-way for future highway construction, construct, reconstruct, and improve highways and bridges, and have adequate financial resources to meet these needs.

3. Current revenues available are insufficient to construct, reconstruct, and improve the highways and bridges necessary for the continued well-being, health, safety, economic development, and prosperity of the state, its citizens, and its economy.

4. The issuance of the department of road use tax revenue bonds, the appropriation of the net proceeds of the bonds to the primary road fund, and the appropriation of funds of the road use tax fund to the payment of principal of and interest on the road use tax revenue bonds are in all respects for the benefit of the people of the state of Iowa, for the improvement of their health and welfare, and for the promotion of economic development and the economy, all of which are public purposes.

Sec. 58. NEW SECTION. 307.44 DEFINITIONS. When used in this division, unless the context otherwise requires:

1. "Construction projects" or "road construction projects" means the surfacing and resurfacing of primary roads and the grading, draining, paving, bridging, and the incidental work in connection therewith, the reconstruction and improvement of primary roads and bridges, and the acquisition of real property for future highway needs.

2. "Bonds" means negotiable road use tax revenue bonds of the department issued pursuant to this division, and all bonds, notes, and other obligations issued in anticipation of these bonds or as refunding bonds pursuant to this division.

3. "Primary roads" means as defined in section 306.3, subsection 2.
4. "Primary road fund" means the fund created by section 313.3.
5. "Highway bond fund" means the fund created in section 307.51.
6. "Road use tax fund" means the fund created by section 312.1.
7. "Treasurer" means the treasurer of the state of Iowa.

Sec. 59. NEW SECTION. 307.45 BONDS AUTHORIZED. The department may issue and sell bonds in an amount not to exceed ten million dollars, and may become obligated to pay the bonds, as provided in this division. Bonds are limited obligations of the department payable solely from the highway bond fund. The total amount of bonds outstanding at any time shall not exceed ten million dollars. If the supreme court of this state determines that this division and any bonds issued and sold pursuant to this division are not in violation of the constitution of this state the limit on the total amount of bonds that may be outstanding at any one time shall be increased by one hundred million dollars. Beginning with the fiscal year after such determination by the supreme court and for each fiscal year thereafter if the actual amount of road use tax revenues credited to the primary road fund in a fiscal year is less than the amount of such revenues which the department had estimated would be credited to the primary road fund in that fiscal year, the department may issue and sell bonds for that fiscal year in an amount equal to the difference, but not in excess of ten million dollars. If the department has a project which will cost more than ten million dollars and the issuance and sale of bonds are needed the department may issue and sell an amount of bonds sufficient to pay the cost for this project if the general assembly passes a concurrent resolution authorizing the department to issue and sell bonds in a specific amount and for that specific project. The proceeds of the sale of bonds shall be paid into the primary road fund to be expended for road construction projects and for expenses incurred in issuing the bonds, as approved, directed, or incurred by the department. The proceeds of the bonds shall not be used by the department to pay other administrative expenses.

Sec. 60. NEW SECTION. 307.46 TERMS OF BONDS. Bonds shall bear interest at the rate or rates and be in the denominations determined by the commission. The commission shall determine the maturity or maturities of the bonds and the dates of interest payment on the bonds. Each bond is due and payable on the date stipulated on the face of the bond, which date shall not be more than ten years after the date of issuance. The principal and interest are payable at the office of the treasurer or at any other place or places designated by the commission. Each bond shall be executed on behalf of the department with the manual signature of the chairperson or vice chairperson of the commission and attested with a manual or facsimile signature of the director and shall have impressed or printed on it the seal of the department. Coupons attached to the bonds, if any, shall be executed by the facsimile signature of the director. Each facsimile signature has the same force and effect as if the officer had manually signed or attested to each of the bonds and coupons.

The bonds are limited obligations of the department payable solely from those road

use tax funds credited to the highway bond fund and are not general obligations of the state and are not debts or obligations of the state within the meaning of any statutory or constitutional debt limitation.

Sec. 61. NEW SECTION. 307.47 SALE OF BONDS. The commission shall sell the bonds to obtain funds to carry out the purpose of this division and authorize the payments as provided in this division. The proceeds from the sale shall be deposited with the treasurer. The bonds may be sold by the commission at public sale. If the commission so determines, the bonds may be sold by the commission at private sale without published notice and without the regular requirements of a public sale and the sale of the bonds shall be in the manner and upon the terms prescribed by the resolution of the commission authorizing the private sale. If the bonds are sold at public sale, they shall be sold upon terms of not less than par plus accrued interest.

The director with the advice and assistance of counsel shall cause to be prepared the form of advertisements, resolutions, agreements, and other necessary forms for use in the offering for sale and issuance of the bonds and to prepare and cause to be printed the proper form of bond and to deliver the bonds to the proper officials for signature.

If the bonds are offered for public sale the commission shall, by advertisement published for two or more successive weeks in at least one newspaper of general circulation in the state, give notice of the time and place of sale of the bonds, the amounts to be offered for sale, and other information which is deemed pertinent. The last day of publication shall not be less than seven days prior to the date of sale of the bonds. Sealed bids may be received at any time prior to the calling for open bids. At the time and place designated for the sale of bonds, the commission shall first call for open bids. After all of the open bids have been received the substance of the best open bid shall be noted in the minutes. The commission shall then open the sealed bids that have been received and shall note in the minutes the substance of the best sealed bid.

In the discretion of the commission, any or all bids may be rejected, and the sale may be advertised anew in the same manner, or the bonds or any portion of the bonds may be sold at private sale to one or more of the bidders, or other persons.

Sec. 62. NEW SECTION. 307.48 BOND PROCEEDINGS. The bonds shall be authorized by resolution of the commission and bond proceedings shall provide for the purpose of the bonds, principal amount and principal maturity or maturities, not exceeding ten years from the date of issuance, the interest rate or rates or the maximum interest rate, the date of the bonds and the dates of payment of interest on the bonds, their denomination, the terms and conditions upon which parity bonds may be issued, and the establishment within or without the state of a place or places of payment of principal of and interest on the bonds. The purpose of the bonds may be stated in the bond proceedings in terms describing the general purpose or purposes to be served. The commission may cause to be issued a prospectus or official statement in connection with the offering of the bonds. Bonds may be issued in coupon or in registered form, or both. Provision may be made for the registration of bonds with coupons attached as to principal alone, or as to both principal and interest, their exchange for bonds so registered, and for the conversion or reconversion into bonds with coupons attached of any bonds registered as to

both principal and interest, and for reasonable charge for registration, exchange, conversion, and reconversion. Bonds shall be sold in the manner and at the time determined by the commission. Chapter 75 and sections 23.12 through 23.16 do not apply to these bonds. The bonds are negotiable instruments. The bond proceedings may contain additional provisions as to:

1. The redemption of bonds prior to maturity at the option of the commission at the price and on the terms and conditions provided in the bond proceedings.
2. Other terms of the bonds and concerning execution and delivery of the bonds.
3. The delegation of responsibility for any act relating to the issuance, execution, sale, redemption, or other matter pertaining to the bonds to any other officer, agency of the state, or other person or body.
4. Additional agreements with the bondholders relating to the bonds.
5. Payment from the proceeds of the sale of the bonds of all legal and financial expenses incurred by the department or the commission in the issuance, sale, delivery and payment of the bonds.
6. Other matters, alike or different, which may in any way affect the security of the bonds and the protection of the bondholders.

Sec. 63. NEW SECTION. 307.49 ADDITIONAL POWERS OF COMMISSION. In connection with the issuance of the bonds or in order to secure the payment of the bonds and interest on the bonds, the commission may by resolution:

1. Provide that the bonds be secured by first lien on all or any part of the moneys paid into the road use tax fund from the sources specifically prescribed in article VII, section 8 of the Iowa constitution and that the moneys when paid into the road use tax fund will be credited to the highway bond fund with the moneys credited to the highway bond fund each fiscal year being deemed from the road use tax fund allocation to the primary road fund for that fiscal year.
2. Pledge and assign to or entrust for the benefit of the bondholders any part of the road use tax fund revenues collected as prescribed in article VII, section 8 of the Iowa constitution, as will be necessary to pay the principal of and interest on the bonds as they mature or become due by providing that the revenues collected shall be credited to the highway bond fund with the moneys credited to the highway bond fund each fiscal year being deemed from the road use tax fund allocation to the primary road fund for that fiscal year.
3. Establish, authorize, set aside, regulate, and dispose of reserves and sinking funds.
4. Provide that sufficient amounts of the proceeds of the sale of the bonds may be used to fully or partially fund any and all reserves or sinking funds set out by the bond resolution.

5. Prescribe the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of the bonds whose holders must consent thereto, and the manner in which the consent may be given.

6. Purchase bonds, out of funds available for that purpose, which shall be canceled, at a price not exceeding either of the following:

a. If the bonds are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment date.

b. If the bonds are not then redeemable, the redemption price applicable on the first date after the purchase upon which the bonds become subject to redemption plus accrued interest to that date.

**Sec. 64. NEW SECTION. 307.50 FUNDS APPROPRIATED.** The proceeds from the issuance of the bonds shall be paid into a separate account which shall be established within the primary road fund and are appropriated to and shall be expended by the department for road construction projects.

In expending the proceeds from the issuance of the bonds, the department shall implement a women's business enterprise program to involve independent businesses owned and controlled by women in road construction projects funded under this division. The program shall establish an overall goal for the participation of women's business enterprises of five percent of the proceeds from the issuance of the bonds, and shall establish specific project goals, including dollar goals, for the participation of women's business enterprises capable of meeting general contracting requirements and particular project solicitations. General contractors shall make a good faith effort to meet the specific goals established for a project funded under this division. The department shall maintain a current directory of women's business enterprises which have been certified as owned and controlled by women and which are capable of meeting general contracting requirements and particular project solicitations. A women's business enterprise shall be certified as owned and controlled by women if the business is independent, at least fifty-one percent owned by women, and managed and operated by women, with women making both the day-to-day decisions as well as the major decisions for the business. The women's ownership shall be real, substantial, and continuing.

In advertising for bids and letting contracts for road construction projects funded under this division, the department shall establish an overall goal for the participation of women construction workers and shall establish specific project participation goals, including percentages of women workers on the project, after considering the number of women workers available and trainable, by the department, for the project. Contractors shall make a good faith effort to meet the specific goals established for a project funded under this division.

**Sec. 65. NEW SECTION. 307.51 PAYMENT OF BONDS.** A highway bond fund is created in the state treasury. At the direction of the commission as provided in the bond proceedings or pursuant to section 307.49, subsection 1 or 2, and as certified by the director, the treasurer of state shall credit to the highway bond fund from the road use tax

fund a sum at least sufficient to pay interest on the bonds in each fiscal year and principal on the bonds that mature during each fiscal year with the moneys credited each fiscal year to the highway bond fund coming from the road use tax fund allocation to the primary road fund for that fiscal year. In each fiscal year after the effective date of this division and after bonds are issued, and until all the bonds issued have been retired, in order to provide for the payment of principal of the bonds issued and sold and the interest on them as the same become due and mature, there is pledged and annually appropriated out of the road use tax fund to be credited to the highway bond fund an amount sufficient to pay principal and interest on the bonds issued for each of the years the bonds are outstanding with the moneys credited each fiscal year to the highway bond fund coming from the road use tax fund allocation to the primary road fund for that fiscal year. The director shall annually certify to the treasurer the amount of funds required to pay interest on the bonds in the ensuing fiscal year and the principal on the bonds that mature during the ensuing fiscal year.

**Sec. 66. NEW SECTION. 307.52 PLEDGE AS SECURITY FOR BONDS.** A pledge made pursuant to this division is valid and binding from the time the pledge is made.

The money pledged and received by the treasurer to be placed in the road use tax fund and subsequently credited to the highway bond fund are immediately subject to the lien of the pledge without any future physical delivery or further act and the lien of a pledge is valid and binding against all parties having claims of any kind in tort, contract, or otherwise against the commission or the department irrespective of whether the parties have notice of the lien of the pledge. The resolution or trust indenture or other instrument by which a pledge is created, when placed in the records of the department, is notice to all concerned of the creation of the pledge, and the instruments need not be recorded in any other place.

**Sec. 67. NEW SECTION. 307.53 NONLIABILITY OF THE STATE AND ITS OFFICIALS.** Bonds issued are special limited obligations of the department and are not a debt or liability of the state or any other political subdivision within the meaning of any constitutional or statutory debt limitation and are not a pledge of the state's credit or taxing power within the meaning of any constitutional or statutory limitation or provision and except as provided in this division, an appropriation shall not be made, directly or indirectly, by the state or any political subdivision of the state for the payment of bonds. The bonds are special obligations of the department payable solely from the highway bond fund. Funds from the general fund of the state shall not be used to pay interest or principal on the bonds if revenues deposited in the road use tax fund are insufficient.

The members of the commission, the department, or other person executing the bonds is not personally liable for the payment of the bonds. The bonds are valid and binding obligations of the department notwithstanding the fact that before the delivery of the bonds any of the officers whose signatures appear on the bonds cease to be officers of the state. From and after the sale and delivery of the bonds, they shall be incontestable by the department or the commission.

Sec. 68. NEW SECTION. 307.54 BOND ANTICIPATION NOTES. The power to issue bonds includes the power to issue obligations in the form of bond anticipation notes or other forms of short-term indebtedness and to renew these notes by the issuance of new notes. The holders of notes or interest coupons of notes have a right to be paid solely from those road use tax funds credited to the highway bond fund which were pledged to the payment of the bonds anticipated, or from the proceeds of those bonds or renewal notes, or both, as the commission provides in the bond proceedings authorizing the notes. The notes may be additionally secured by covenants of the commission to the effect that the commission will do those acts authorized by this division and necessary for the issuance of the bonds or renewal notes in appropriate amount, and either exchange the bonds or renewal notes for the notes, or apply the proceeds of the notes, to the extent necessary, to make full payment of the principal of and interest on the notes at the time contemplated, as provided in the bond proceedings. For this purpose, the commission may issue bonds or renewal notes in a principal amount and upon terms as authorized by this division and as necessary to provide funds to pay when required the principal of and interest on the outstanding notes, notwithstanding any limitations prescribed by this division, other than the limitation contained in section 307.45. All provisions for and references to bonds in this division are applicable to notes authorized under this section to the extent not inconsistent with this section.

Sec. 69. NEW SECTION. 307.55 REFUNDING OF OBLIGATIONS. The commission may authorize and issue bonds for the refunding, including funding and retirement, and advance refunding with or without payment or redemption prior to maturity, of bonds previously issued by the department. These bonds may be issued in amounts sufficient for payment of the principal amount of the prior bonds, any redemption premiums on the prior bonds, principal maturities of bonds maturing prior to the redemption of the remaining bonds on a parity with them, interest accrued or to accrue to the maturity date or dates of redemption of the bonds, and project costs including expenses incurred or to be incurred in connection with this issuance, refunding, funding, and retirement. Subject to the bond proceedings, the portion of proceeds of the sale of bonds issued under this section to be applied to principal of and interest on the prior bonds shall be credited to the appropriate account for the prior bonds. Bonds authorized under this section shall be deemed to be issued for those purposes for which the prior bonds were issued and are subject to the provisions of this division pertaining to other bonds. Bonds refunded shall not be considered to be outstanding for purposes of section 307.45.

Refunding bonds may be issued without regard to whether or not the bonds to be refunded are payable on the same date or different dates or due serially or otherwise.

Sec. 70. NEW SECTION. 307.56 BONDS AND INTEREST ON THE BONDS NOT SUBJECT TO TAXATION. Bonds, their transfer, and the income from the bonds are not subject to taxation by this state.

Sec. 71. NEW SECTION. 307.57 BONDS AS LEGAL INVESTMENTS. Bonds are securities in which all public officers and bodies of the state and all municipalities and political subdivisions of this state, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks, and savings associations, including savings and loan associations, building loan associations, investment companies, and other persons carrying on a banking business, all administrators, guardians, executors, trustees, and other fiduciaries and all other persons who are now or may be authorized to invest in bonds or other obligations of this state may properly and legally invest funds including capital in their control or belonging to them. The bonds are also securities which may be deposited with and may be received by all public officers and bodies of the state and all municipalities and legal subdivisions of this state for any purpose for which the deposit of bonds or other obligations of the state is now or may be authorized.

Sec. 72. NEW SECTION. 307.58 RIGHTS OF BONDHOLDERS. The bond proceedings may provide that a holder of bonds or a trustee under the bond proceedings, except to the extent that the holder's rights are restricted by the bond proceedings, may by legal proceedings, protect and enforce any rights under the laws of this state or granted by the bond proceedings. These rights include the right to compel the performance of all duties of the department required by this division or the bond proceedings; to enjoin unlawful activities; and in the event of default with respect to the payment of any principal of or interest on bonds or in the performance of a covenant or agreement on the part of the department in bond proceedings, to apply to a court to appoint a receiver to receive and administer the funds which are pledged to the payment of bonds or which are the subject of the covenant or agreement, with full power to pay and to provide for payment of any principal of or interest on bonds and with powers accorded receivers in general equity cases, excluding power to pledge additional funds or other income or moneys of the department, the state, or governmental agencies of the state to the payment of the bonds.

Sec. 73. NEW SECTION. 307.59 NOTICE. Within ten days after the commission adopts a resolution declaring its intention to issue bonds, it shall publish a notice of its intention to issue bonds in a newspaper published in and with general circulation in the state. The notice shall include a statement of the maximum amount of bonds proposed to be issued and, in general terms, what funds will be pledged to pay principal of and interest on the bonds. An action which questions the legality or validity of bonds or the power of the department to issue bonds or the effectiveness or validity of proceedings adopted for the authorization or issuance of bonds shall not be brought after sixty days from the date of publication of the notice.

Sec. 74. NEW SECTION. 307.60 COURTS TO HAVE JURISDICTION. Courts of record in this state have jurisdiction to issue all original and remedial writs necessary for the determination of the validity or constitutionality of this division.

Sec. 75. NEW SECTION. 307.61 SEVERANCE CLAUSE. If any clause, sentence, paragraph, or part of this division is for any reason judged by a court of competent

jurisdiction to be invalid, the judgment shall not affect, impair, or invalidate the remainder of this division, but is confined in its operation to the clause, sentence, paragraph, or part directly involved in the controversy in which the judgment has been rendered.

Sec. 76. NEW SECTION. 307.62 LIBERAL INTERPRETATION. This division, being necessary for the welfare of this state and its inhabitants, shall be liberally construed to effect its purposes.

Senate File 548 is the omnibus jobs bill. I applaud legislators for sharing my goals of job creation and economic development for the state of Iowa. Indeed, much significant non-budgetary legislation was enacted this year to accomplish those goals — revising security laws, increasing small business loans and removing financial restrictions on the housing industry, to name just a few. In addition, the legislature expressed its commitment to economic growth through the budget process, as well. And, this \$24.9 million bill represents the bulk of that effort.

While I share the legislature's desire to spur economic growth in Iowa, I also believe that state government's economic development efforts should follow certain guidelines. First, state action should encourage the private sector to create meaningful and lasting jobs for Iowans. Iowans want meaningful jobs they can count on so that they can support themselves and their families with some measure of personal satisfaction and financial security. Moreover, stimulating private sector development is the only way to truly strengthen Iowa's economy. Second, action to encourage economic development must take into consideration the state's available budget resources. The state budget is already stretched tight and this bill results in approximately \$12.8 million of expenditures in excess of recommended levels. While the legislature did raise some additional revenues, the state simply cannot afford all of this extra spending. Thus, each item in this omnibus bill has been reviewed with an eye toward obtaining the greatest economic development benefit for each state dollar spent.

Division I of Senate File 548 would establish a \$3.6 million public works program in Iowa. This division requires that \$3 million of the appropriated funds be made available to state or local government agencies to employ individuals for up to six months for unspecified work relief projects. The individual is to be paid the federal minimum wage and is allowed to work no more than 32 hours per week. This division also appropriates \$500,000 for a paid volunteer program to be administered by the federal action agency. These paid volunteers would work for up to one year for any public or nonprofit entity. Finally, Division I includes a \$100,000 appropriation to pay cash grants of up to \$3,000 to artists for public projects.

I understand and respect the legislative purpose behind these programs — to provide temporary public work for those who have exhausted their unemployment benefits. Indeed, many of these Iowans need our assistance. However, this proposal does not address the long term needs of these Iowans, is inappropriately directed and duplicates some existing programs. Therefore, I must disapprove this plan for additional state spending.

The public works portion of Division I would create only temporary, unspecified work for Iowans who need meaningful and lasting jobs. At the end of a six-month public works stint, an unemployed Iowan would likely be in no better economic shape than he or she was before the job began. Indeed, this program may effectively delay unemployed Iowans from taking the necessary steps to re-enter the private sector workforce.

These necessary re-employment steps include searching for work and obtaining the training skills needed for new employment. Lack of proper job training is one of the greatest impediments to re-employment in the private sector since the industries that are hiring new employees demand skilled workers. I commend legislators for taking action in this bill to provide for these training needs of unemployed Iowans. The \$1.3 million appropriation made in Division XI of Senate File 548 will create a dislocated workers program to provide training and job counseling assistance for those Iowans who have lost their jobs because of plant closings. This program, in combination with the \$40 million in the federal Job Training Partnership Act, will help give unemployed Iowans the skills they need to obtain a new job.

This public works program is designed not to train, but only to provide a temporary work experience and some financial assistance to the unemployed. And those needs have also been addressed elsewhere by the legislature.

Those Iowans who cannot find work and have demonstrated financial need are eligible for other public assistance. The legislature appropriately retained the unemployed parent program which provides for basic needs, including medical care and shelter, for the families of the needy who are unemployed. Indeed, the legislature expanded this program to include eligibility for both spouses and provided a community work program for those able to work. A recent survey of states shows that Iowa is one of the nation's leaders in the unemployed parent workfare program, with over 2,000 workers now employed. In short, the unemployed parent workfare program provides basic assistance to the unemployed needy and gives them an opportunity to have a positive work experience. To some extent, the public works program proposed in this bill would only duplicate that existing state program.

In addition, this proposed state public works program duplicates efforts already being made by the federal government. The federal jobs bill provides over \$42 million in emergency assistance for projects ranging from tree planting to school building weatherization. Temporary employment will be provided for over 3,000 Iowans. In light of this massive federal effort, the need for a similar state program is questionable.

In sum, needy, out-of-work Iowans require job training and counseling, basic assistance and some work experience. These essential needs have been addressed by other prudent legislative actions taken this year and by the federal government. Therefore, this \$3 million public works effort would at least partially duplicate state and federal work programs and does not address the important job training and counseling needs of unemployed Iowans. With the present budget constraints, the state can ill-afford to spend funds in such a misdirected and duplicative fashion.

Division I also includes a provision to pay volunteers. Increasing volunteerism is one of my top priorities. However, I cannot approve this proposal because it could, in fact, hurt the volunteerism effort in Iowa.

Presently, there are at least 30,000 volunteers in Iowa who do everything from caring for the elderly to saving Iowa's rich soil. In addition, the state has over 500 groups that perform volunteer services. And, these services are truly volunteer — they are done without charge.

This program would single out 100 volunteers for a special monthly stipend. I fear that such special treatment could be deemed unfair and thus discourage present and future volunteers.

Moreover, this program is to be administered by a federal agency for which funding has been consistently reduced. In fact, the future of the federal VISTA organization, which is to administer this state program, is in doubt. Therefore, it is likely that the federal agency would be unable to pay its share of the administrative costs of the program. And, the funds the bill provides to the Office for Planning and Programming would be woefully inadequate to allow for the proper administration of the program.

The third portion of Division I provides \$100,000 to the Arts Council for grants to artists. Each artist could obtain a \$3,000 grant for a public art project. I am a strong supporter of the arts and I am pleased that the legislature supported my request for a 28 percent increase in state funding for the Arts Council. However, that appropriation, combined with the \$900,000 grant program for festivals and cultural affairs included in Division XIII of this bill, will significantly increase the state's commitment to the arts and artists. In view of that substantial increase in funding for the arts, additional appropriations would stretch the state's fiscal resources beyond their limits.

Division III of Senate File 548 appropriates \$5 million to the Iowa Housing Finance Authority (IHFA) for "capital infusion loans." The program would apparently work like this: a qualified business would apply to the Small Business Administration (SBA) to obtain a loan to finance a proposed expansion under the SBA's 503 loan program; SBA would use its authority to guarantee 40 percent of the loan; IHFA would issue a bond to back 50 percent of the loan, as authorized under recently enacted Senate File 223; and the state would then provide a no-interest "capital infusion" loan for the ten percent of the loan remaining.

The intent of this provision is apparently to make lower interest loans available to qualified businesses. That is a worthwhile goal. However, this proposal would provide little incentive for additional business expansion while costing the strapped state budget \$5 million in extra spending.

This \$5 million proposal would make very few loans available to businesses that would not already be able to obtain them. The combined SBA/IHFA 90 percent loan guarantee would be quite secure and attractive for prospective lenders. In addition, the guarantee would provide a competitive loan for prospective borrowers. Indeed, it has been estimated that such a loan would carry an interest rate of approximately 10.5 percent — a good commercial rate in today's financial market. Most businesses interested in expansion would find such an interest rate very attractive. Thus, it is likely that these SBA loans would get made without a 10 percent contribution from the state.

Moreover, it is estimated that the state's 10 percent capital infusion would lower the interest rate on these loans by only approximately one percent. A state expenditure of \$5 million is a high price to pay in order to reduce by only one percent the interest rate on loans that would probably be made anyway.

It is also important to note that much has been done in another bill passed during the session to aid small businesses seeking debt-financed expansion loans. Senate File 223 doubled the volume of tax-exempt bonds that can be issued to finance small business loans. IHFA will now have \$100 million in bonding authority to provide low interest loans to qualified small businesses that are seeking to expand. Loans worth over \$10 million have already been made with interest rates as low as seven percent. Thus, IHFA has up to \$90 million of remaining lending capacity for low interest, small business loans. I must therefore question the wisdom of a \$5 million state appropriation to make similar loans at a potentially higher rate of interest.

Finally, I have concerns about the philosophy behind this and the \$3 million mortgage buy-down proposal included in Senate File 548. Both of these programs would, for the first time, make state funds available to IHFA to buy-down interest rates. Never before has this agency received a direct state appropriation for lending programs. Indeed, save for the first-year start-up, even the operating expenses of the authority have been traditionally paid for by IHFA revenues without any state funds. This arms-length arrangement between state government and IHFA has served Iowans well. The tax-exempt bond market has been used to raise the necessary funds and the state budget has been protected. Moreover, this arrangement has helped make certain that IHFA's lending decisions are based on finances and not politics. I am concerned that these proposed appropriations would put even greater pressures on future state budgets as well as placing IHFA directly into the political arena.

Division VI of Senate File 548 appropriates \$3 million to IHFA for a residential mortgage interest reduction program. This program was authorized in a separate bill and would require IHFA to reduce interest rates on mortgage loans for up to five years. The amount of the reduction would be between three and five percent the first year, and a lesser amount in succeeding years. Thus, the apparent intent of the program is to induce more Iowans into entering the housing market by offering reduced mortgage interest rates for a short term.

I am generally supportive of efforts to boost the housing market. The housing construction industry has been in a slump the past few years and a recovery in that industry would provide a boost to the entire Iowa economy. However, I cannot approve this proposed mortgage buy-down program because it represents a false promise to many potential home buyers and more cost-effective ways to stimulate the housing industry are available.

This program could help only one of 1,000 Iowa families. Therefore, the program could unfairly raise the expectations of many potential Iowa homebuyers, with little chance of ever realizing those expectations. Moreover, by decreasing the interest rate by a substantial amount the first year and then gradually eliminating that subsidy by the end of five years, this program could tempt some Iowans into entering the home market even though they may not be able to make their home payments once the interest reduction runs out. It would indeed be a cruel hoax for the state to encourage Iowans to buy homes knowing that they may not be able to afford them later.

In addition, it must be noted that the legislature passed other legislation this year which could significantly stimulate the housing market. Senate File 223 eliminates many of the financial restrictions which prevented Iowa home builders from obtaining the financing they needed to offer affordable housing to Iowans. I am hopeful that federal economic policy and Senate File 223 will allow more Iowans to fashion the financial packages they need to purchase a home.

Also, it is my understanding that it is IHFA's intention to re-enter the housing bond market later this year and it is expected that home mortgages at interest rates at approximately two to three percent below the market rate will result. Use of the tax exempt bond market is the traditional and cost-effective way for the state to provide reduced rate home mortgages. In addition, home mortgages obtained through this market provide stable, secure and reasonably priced financing for Iowans looking for a home. Therefore, the state should continue to use the tax exempt bond market, and not the state's general fund, to finance homes for Iowans.

Division VII of Senate File 548 establishes a High Technology Council and appropriates \$2.1 million to the council to fund its operations and to begin a research grant program. I commend legislators for wisely recognizing the job-creation potential of high technology industry in Iowa. However, Section 41 of the bill would require the reversion of all unencumbered funds appropriated to the council if the state faces budget problems. I cannot approve that section because it represents a half-hearted commitment to high technology jobs and would cripple the operations of the council.

Much has been said and written about the importance of high technology to our economic future. Indeed, Iowa already has an estimated 35,000 so-called high tech jobs. And, with this state's mix of excellence in education, productive workers and high quality of life, the potential exists to create many more high tech jobs. Such a diversification of the economy is in Iowa's best long term economic interests — it would make Iowa better prepared to weather economic storms in the agricultural and manufacturing sectors.

In order to increase the state's commitment to high tech jobs, a task force appointed by former Governor Ray recommended that a high tech council be established, a grant program be developed to provide financing for research that has potential for commercial application, and a technology transfer effort be undertaken. Fortunately, Division VII of this bill provides for each of those recommendations.

However, the legislature apparently hedged its bet on high tech. This program would be entirely eliminated should the state face a budget problem. Reversion of all the unencumbered funds, which include funds to operate the council, would force Iowa to shut its high tech development doors. If Iowa is serious about high tech jobs, we must maintain a stable, long term commitment to the program. While I, too, regard an across-the-board cut as one of the last resorts in budget-making, I believe that the budget action proposed here would be penny wise and pound foolish. It is, however, likely that the \$2 million in research grants will not be expended quickly. Therefore, if state budget troubles mount that portion of the appropriation could be re-examined without crippling the operation of the council.

Division X of Senate File 548 grants the Department of Transportation (DOT) the authority to issue primary road fund revenue bonds. The bill allows DOT to sell \$10 million in bonds per year or the difference between actual primary road funds and those that were estimated to be received, whichever is lower. However, additional bonding can be issued upon approval by the legislature of the individual projects for which the bonds are to be used. Initially, \$10 million in total bonding authority is authorized. Also, if the bonds are determined to be constitutional, the bonding limit is increased to \$110 million.

Apparently, by passing this division, the legislature intended to allow DOT to increase its available road construction finances and to gain a test of the constitutionality of road bonding. However, this division will effectively do neither and, therefore, I must disapprove it.

I support reasonable efforts to provide proper funding for roads in Iowa. I understand the importance of transportation to economic development. However, DOT officials have studied this proposal and have determined that, considering the interest rate on bonds and the level of bonding authorized, this proposal would provide little, if any benefit to the department's road construction plans. The slight increase in available road funding would be offset by the extra interest costs chargeable to the primary road fund. And, considering the additional support needed to manage the bonds, the DOT could come out a net loser with this bonding proposal. Thus, this bonding plan appears to make little road funding sense.

In addition, this division is not likely to obtain even the good court test on the constitutionality of road bonding sought by its proponents. Requiring legislative approval of individual projects could jeopardize the arms length legal relationship required between the bonding authority and those in charge of appropriating from the state's general fund. As a result, a serious question could be raised as to whether the full faith and credit of the state has been pledged to secure the bonds. More important, requiring legislative approval of individual road projects would directly introduce politics into road financing decisions. We have traditionally, and I believe wisely, left such decisions to the DOT which is better able to review each project in light of the transportation needs of the entire state.

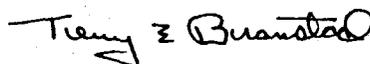
Finally, I believe the state is generally better served with a pay-as-you-go transportation funding system. Today, one of our major transportation problems is road maintenance. I fear that a road bonding program would lead to a boom or bust transportation funding system where roads would be built with no funds available in the future to maintain them. Instead, future road use tax revenues would have to be used to pay the interest on the bonds. Such a system of feast or famine transportation funding would not be good for the state's economy and would only exacerbate our road repair problems.

Moreover, it is important to note that substantially more dollars are available for roads in Iowa than just one year ago. The increase in the use tax will funnel over \$17.5 million into the road use tax fund. Over \$50 million in additional federal dollars are available for road repair and construction this fiscal year. And, the scheduled phase-out in the gasohol road tax subsidy should substantially reduce the dollar drain on the road fund. Indeed, legislators seeking additional road funding would have been wise to consider the adjustment in the gasohol tax that I recommended which would have pumped over \$5 million per year more into the road fund. In the future, it would be wise to seek implementation of the Blue Ribbon Task Force on Transportation report which includes methods to save road funds by streamlining the administration of our road system.

In sum, Division X would not substantially increase available road funds, nor is it likely to obtain a good constitutional test of road bonding. Rather, the state would be better served by efficiently managing the additional funds that have been received under the present pay-as-you-go system.

For the above reasons, I hereby disapprove these items in accordance with Amendment 4 of the Amendments of 1968 to the Constitution of the State of Iowa. All other items of Senate File 548 are hereby approved as of this date.

Very truly yours,

A handwritten signature in black ink that reads "Terry E. Branstad". The signature is written in a cursive style with a large initial "T" and a stylized "B".

Terry E. Branstad  
Governor

**CHAPTER 208****LOWELL E. WALTER BEQUEST AND DEVISE OF THE  
CLEAR ROCK ESTATE TO THE STATE***H.J.R. 1*

**A JOINT RESOLUTION** relating to the bequest and devise of Lowell E. Walter of the Cedar Rock property to the State of Iowa effective upon publication.

WHEREAS, the last will and testament of Lowell E. Walter directs the trustees of the Lowell E. Walter Trust to transfer to the state of Iowa the real and personal property known as the Cedar Rock property and described in the last will and testament; and

WHEREAS, that last will and testament requires that the state of Iowa must elect to accept the property during the next regular session of the General Assembly held following the close of the estate and the discharge of the executors; and

WHEREAS, the last will and testament of Lowell E. Walter provides a maintenance trust for the perpetual maintenance of the Cedar Rock property; and

WHEREAS, the Cedar Rock property was designed by Frank Lloyd Wright and the furnishings were designed or specified by him; NOW THEREFORE,

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

Section 1. The state of Iowa accepts the real and personal property known as the Cedar Rock property as described in the last will and testament of Lowell E. Walter subject to the conditions and requests provided in the last will and testament.

Sec. 2. This Act, being deemed of immediate importance, takes effect from and after its publication in The Winthrop News, a newspaper published in Winthrop, Iowa, and in the Independence Bulletin-Journal, a newspaper published in Independence, Iowa.

Approved February 15, 1983

I hereby certify that the foregoing Act, House Joint Resolution 1 was published in The Winthrop News, Winthrop, Iowa on February 24, 1983 and in the Independence Bulletin-Journal, Independence, Iowa on February 24, 1983.

MARY JANE ODELL, *Secretary of State*

**CHAPTER 209****LEGISLATIVE NULLIFICATION OF AN ADMINISTRATIVE RULE***Second Time Passed**S.J.R. 6*

**A JOINT RESOLUTION** proposing an amendment to the Constitution of the State of Iowa to allow the legislature to void a rule of a state agency by concurrent resolution.

*Be It Resolved by the General Assembly of the State of Iowa:*

Section 1. The following amendment to the Constitution of the State of Iowa is proposed:

Article III, Legislative Department, Constitution of the State of Iowa, is amended by adding the following new section:

**NEW SECTION.** The general assembly may nullify an adopted administrative rule of a state agency by the passage of a resolution by a majority of all of the members of each house of the general assembly.

Sec. 2. The foregoing proposed amendment, having been adopted and agreed to by the Sixty-ninth General Assembly, 1982 Session, thereafter duly published, and now adopted and agreed to by the Seventieth General Assembly in this joint resolution, shall be submitted to the people of the state of Iowa at the general election in November of the year nineteen hundred eighty-four in the manner required by the Constitution of the State of Iowa and the laws of the state of Iowa.

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**CHAPTER 210****DISTRIBUTION OF MONEY FOR SUPPORT AND  
MAINTENANCE OF COMMON SCHOOLS***Second Time Passed**S.J.R. 10*

**A JOINT RESOLUTION** proposing an amendment to the Constitution of the State of Iowa relating to the distribution of money subject to the support and maintenance of common schools.

*Be It Resolved by the General Assembly of the State of Iowa:*

Section 1. The following amendment to the Constitution of the State of Iowa is proposed:

Section 7, subdivision 2 entitled "School Funds and School Lands", of Article IX of the Constitution of the State of Iowa is repealed.

Sec. 2. The foregoing proposed amendment, having been adopted and agreed to by the Sixty-ninth General Assembly, thereafter duly published, and now adopted and agreed to by the Seventieth General Assembly, in this Joint Resolution, shall be submitted to the people of the state of Iowa at the general election in November of the year nineteen hundred eighty-four (1984) in the manner required by the Constitution of the State of Iowa and the laws of the state of Iowa.

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## CHAPTER 211

### TAX STUDY COMMITTEE ESTABLISHED

*S.F. 461*

**AN ACT** to establish a tax study committee to conduct a study of the tax structure in this state and making an appropriation.

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

Section 1. **PURPOSE.** The general assembly finds that the state is currently facing a fiscal and economic crisis and there is a need to study the tax system of the state to:

1. Examine who pays state and local taxes in Iowa.
2. Examine the impact of state and local taxes on the state's economy, employment, the state treasury, and the citizens of the state.
3. Examine changes which could be instituted to raise revenues more equitably and to improve the performance of the state's economy.
4. Determine the enforceability of the state's tax laws.
5. Examine how the state's entire tax structure compares with the tax structures of other states.
6. Examine tax preference items.

The list of revenue raising methods and taxes to be studied shall include, but not be limited to, the sales and use tax, the personal and corporate income tax, the property tax, inheritance and estate taxes, and road use taxes.

Sec. 2. **STUDY COMMITTEE CREATED.** There is established a tax study committee which shall consist of nine members. The members shall be appointed as follows:

1. The majority and minority leaders of the house of representatives shall each appoint one member.
2. The majority and minority leaders of the senate shall each appoint one member.
3. The governor shall appoint four members, two of whom shall be registered democrats and two of whom shall be registered republicans, subject to confirmation by the senate.
4. One additional member who shall be appointed and approved unanimously by the governor and the majority and minority leaders of the senate and the house of representatives and this member shall chair the committee.

All members of the tax study committee shall be appointed not later than thirty days from the effective date of this Act. The tax study committee shall hold its organizational meeting not more than thirty days following the appointment of its membership.

Sec. 3. **EXPENSES AND PER DIEM.** Public members of the tax study committee shall receive a per diem of forty dollars and be reimbursed for their travel and other necessary expenses actually incurred in the performance of their official duties. Legislative members shall receive, when the general assembly is not in session, a per diem of forty dollars and their travel and other expenses incurred in the performance of their official duties from funds appropriated by section 2.12. Public employees who are members of the tax study committee shall be reimbursed for travel and other expenses actually incurred in the performance of their official duties.

Sec. 4. **DUTIES.** The tax study committee shall conduct a comprehensive study of the state's tax system in accordance with the stated purposes of this Act. The study committee shall employ a tax study director to supervise the study. The tax study director shall hire research personnel to conduct studies which the committee may direct and the tax study director shall advise the committee. In hiring research personnel, where qualifications are comparable, preference shall be given to Iowa residents. The study committee may also employ other persons and may request assistance of any state or local government agency to obtain any data or other information which the study committee deems necessary to carry out its duties, except that the study committee or its staff shall not have access to any tax returns or return information where access is specifically limited or prohibited by statute. The state and local government agencies shall provide any assistance requested by the tax study committee.

Sec. 5. **STAFF SUPPORT.** The study committee may request that the legislative council provide staff for the tax study committee from the staff of the legislative service bureau and the legislative fiscal bureau.

Sec. 6. **FINAL REPORT.** The tax study committee shall transmit copies of its final report to the governor and the members of the general assembly on December 1, 1984. The final report shall include findings of fact and its recommendations and relevant data gathered by and for the committee.

Sec. 7. There is appropriated from the general fund of the state to the legislative council for the use of the tax study committee for the fiscal period beginning on the effective date of this Act and ending December 31, 1984 the sum of two hundred fifty thousand (250,000) dollars, or so much thereof as is necessary, to carry out the purposes of this Act.

Approved June 1, 1983

**CHAPTER 212**  
**TIME TO FILE PROPERTY TAX EXEMPTION**  
*H.F. 650*

**AN ACT** to allow certain nonprofit corporations owning property in this state an extension of time to file for exemption from property taxes for a designated tax year.

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

Section 1. A domestic corporation not for pecuniary profit organized under the provisions of chapter 504 which provides low-rent housing for the elderly and the physically handicapped and which owns property in a county whose population exceeds fifteen thousand but does not exceed twenty thousand persons by the last federal census shall, notwithstanding any other provision of law, have until thirty days following the effective date of this Act to file with the appropriate assessor a claim for property tax exemption under section 427.1, subsection 34 for the 1981 assessment year.

Sec. 2. Upon the receipt of the claim for a property tax exemption filed for the 1981 assessment year under section 1 of this Act, the assessor shall grant the exemption for the designated year if the property would have been exempt under section 427.1, subsection 34 for the assessment year notwithstanding the failure to have filed the claim for exemption within the time period required by law.

Sec. 3. If property taxes have been paid for the tax year beginning in the assessment year for which an exemption is granted under section 2 of this Act, the claim for an exemption for the assessment year shall constitute a claim for refund of the property taxes paid for the tax year and the county treasurer shall refund to the taxpayer the amount of property taxes paid for the tax year and assess against all taxing districts within the county their proportionate amount of the refund.

Approved June 7, 1983

**CHAPTER 213**  
**POTTAWATTAMIE COUNTY LEGALIZING ACT**  
*H.F. 244*

**AN ACT** to legalize proceedings taken by the board of supervisors of Pottawattamie county relating to the sale of certain properties.

**WHEREAS**, the board of supervisors of Pottawattamie county acquired certain properties by virtue of a tax deed; and

**WHEREAS**, the board of supervisors of Pottawattamie county subsequently offered these properties for sale as provided in section 569.8 on December 6, 1975; and

**WHEREAS**, the board of supervisors complied with all of the provisions of the law, except that the board failed to publish two notices of the date, time, and place of the sale at public auction not more than fifteen days prior to the date of the sale held on December 6, 1975; and

**WHEREAS**, some doubt has arisen as to the validity of the sales of the properties and the doubts may raise an issue concerning the merchantability of the title to properties sold at public auction on December 6, 1975 and the acts should be legalized and the matter once and for all be put to rest; **NOW THEREFORE**,

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

Section 1. That all proceedings taken by the board of supervisors of Pottawattamie county pertaining to the sale of property acquired by virtue of a tax deed and sold at public auction on December 6, 1975 where the board failed to publish two notices of the time, date, and place of the sale not more than fifteen days prior to the dates of the sales are legalized and confirmed and constitute a legal and binding sale of those properties sold on December 6, 1975 by the board of supervisors of Pottawattamie county.

Approved March 28, 1983

**CHAPTER 214**  
**INDIAN HILLS COMMUNITY COLLEGE LEGALIZING ACT**  
*S.F. 428*

**AN ACT** to legalize the proceedings of the board of directors of the Indian Hills Community College (Merged Area XV) in the counties of Appanoose, Davis, Decatur, Henry, Iowa, Jefferson, Keokuk, Lee, Lucas, Mahaska, Marion, Monroe, Poweshiek, Van Buren, Wapello, Washington and Wayne and the Wapello county commissioner of elections in connection with an election authorizing the levy of a tax and declaring the validity of said election and the validity of taxes levied pursuant thereto.

WHEREAS, the Board of Directors of the Indian Hills Community College (Merged Area XV) ordered the submission at a special election held coincident with the regular school election in and for said Merged Area on September 12, 1978, of a public measure authorizing the Board of Directors of Indian Hills Community College to certify for the tax year commencing July 1, 1979, a tax not exceeding 20.25 cents per one thousand dollars of assessed value in any one year for a period not to exceed ten years, for the purchase of grounds, construction of buildings, payment of debts contracted for the construction of buildings, purchase of buildings and equipment for buildings, and acquisition of a library, and for the purpose of maintaining, remodeling, improving or expanding the area vocational school or area community college of the Merged Area; and

WHEREAS, it appears from the records of the Indian Hills Community College and the Wapello County Commissioner of Elections that the proposition was approved by more than fifty percent of the votes cast for and against the measure, and in reliance on said election the Board of Directors proposes to levy and collect said tax in each year as authorized; and

WHEREAS, doubts have arisen concerning the validity and legal sufficiency of said election and it is deemed advisable to put such doubts and all others that might arise concerning same forever at rest, NOW THEREFORE,

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

Section 1. That all the proceedings heretofore taken by the Board of Directors of the Indian Hills Community College (Merged Area XV), and the County Commissioner of Elections of Wapello County, Iowa, preliminary to and in connection with said election held in said Merged Area District on September 12, 1978, said election and the adoption by the voters of the proposition set forth above are hereby legalized, validated and confirmed and by authority of said election and this Act said Board of Directors are authorized to levy said tax of not to exceed twenty and one-fourth (20 1/4) cents per thousand dollars of assessed value on all taxable property within said Merged Area for the purposes authorized of said election, said authorization to be effective for a period of ten years commencing with the levy for the taxes payable in the fiscal year ending June 30, 1980.

Sec. 2. This Act, being deemed of immediate importance, shall take effect and be in force from and after its publication in the Ottumwa Courier, a newspaper published in Ottumwa,

Iowa, and in The Bloomfield Democrat, a newspaper published in Bloomfield, Iowa, without expense to the state.

Approved April 15, 1983

I hereby certify that the foregoing Act, Senate File 428 was published in The Bloomfield Democrat, Bloomfield, Iowa on April 21, 1983 and in the Ottumwa Courier, Ottumwa, Iowa on April 23, 1983.

MARY JANE ODELL, *Secretary of State*

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## CHAPTER 215

### LA PORTE CITY LEGALIZING ACT

*H.F. 437*

**AN ACT** to legalize proceedings of the city council of the city of La Porte City relating to the letting of certain contracts.

WHEREAS, the city council of the city of La Porte City undertook to renovate its city hall after removal of its library from the premises into a new building; and

WHEREAS, the city council proceeded to contact local contractors to obtain oral bids on the cost of the renovation and the bids received indicated that the cost of the project would be less than twenty thousand dollars; and

WHEREAS, on the basis of the estimates received, the city council proceeded with the project; and

WHEREAS, after proceeding with the renovation project, it was determined that the entire heating system had to be replaced and considerable additional plumbing work was needed which costs had not been included in the original estimates; and

WHEREAS, the costs of the renovation of the city offices will be in excess of twenty-five thousand dollars and violate section 384.96 of the Code requiring the use of sealed bids for projects costing in excess of twenty-five thousand dollars; and

WHEREAS, some doubt has arisen as to the validity of the contracts executed between the city council of the city of La Porte City and certain contractors for the renovation of the city offices and those acts and contracts should be legalized and the matter once and for all be put to rest; **NOW THEREFORE,**

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

Section 1. That all proceedings taken by the city council of the city of La Porte City pertaining to the letting of contracts for the renovation of city offices where the city failed to comply with section 384.96 of the Code are validated, legalized, and confirmed and are valid, legal, and binding contracts for the renovation of city offices.

Approved April 29, 1983

**CHAPTER 216**  
**RAILROAD PROPERTY TAX SETTLEMENT**  
*S.F. 440*

**AN ACT** relating to the compromising and settling of certain property tax claims in Iowa against the Chicago, Milwaukee, St. Paul and Pacific Railroad Company and the Chicago, Rock Island and Pacific Railroad Company as approved by the United States district court for the northern district of Illinois, eastern division.

**WHEREAS**, the Chicago, Milwaukee, St. Paul and Pacific railroad company and the Chicago, Rock Island and Pacific railroad company have been under the jurisdiction of the United States district court for the northern district of Illinois, eastern division, in bankruptcy proceedings and have not, pursuant to order of that court, paid the majority of personal and real property taxes and special assessments since they came under the protection of the federal court; and

**WHEREAS**, the trustees of the Chicago, Milwaukee, St. Paul and Pacific railroad company and the Chicago, Rock Island and Pacific railroad company have now offered to pay these property taxes and special assessments, past due, in the amount of ninety percent of all taxes and special assessments agreed to be due and owing if any claimed interest and penalties thereon are waived; and

**WHEREAS**, since doubts have arisen as to the legal authority of the Iowa counties to compromise these taxes and special assessments, this compromise and settlement should now be legalized and this matter put to rest; **NOW THEREFORE**,

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

Section 1. Any affected Iowa county may enter into an agreement under chapter 28E with the transportation regulation authority to compromise and settle past due Iowa real and personal property taxes due through the first half payment for the fiscal year 1982-1983 from the Chicago, Milwaukee, St. Paul and Pacific railroad company and the Chicago, Rock Island and Pacific railroad company and their trustees in bankruptcy for ninety percent of the agreed amounts due and to waive any claimed interest and penalties. Any affected county may enter into and join in an agreement to compromise and settle past due special assessments owed by these railroad companies for ninety percent of the agreed amounts due and to waive any interest and penalties. In addition, each county may agree to the amount of taxes and special assessments due and provide for the procedures to consummate these settlements on their behalf and on behalf of all local taxing districts in the county. All actions and agreements of Iowa counties in respect to these matters are legalized.

Sec. 2. Any Iowa counties which claim an interest in these personal and real estate taxes may join together and appoint a common agent or nominee to act upon their behalf in accomplishing the purposes of this Act. The actions of this agent or nominee shall be final and binding upon those counties and the local taxing districts within those counties that so join together. A cause of action shall not accrue to any person by reason of the compromise and settlement agreements authorized in this Act. State and county officials, employees, attorneys, agents, and nominees are immune from liability by reason of their participation in these compromise and settlement agreements.

Sec. 3. This Act does not affect any of the legal rights, entitlements, or interests of the state of Iowa, the transportation regulation authority of the state department of transportation on behalf of the Iowa railway finance authority, any county, and any affected local taxing district within any county to the proceeds of these settlements and any interest earned on the money received pending the resolution in the courts of what governmental entity shall receive these moneys. Any moneys received for special assessments within the counties shall be paid to the county entitled to the same for a pro rata distribution to the taxing district or authority entitled to the same by that county.

Sec. 4. This Act applies only to the tax offer of the Chicago, Rock Island and Pacific Railroad Company approved by the United States district court on November 17, 1982 and to the deferred tax program of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company approved by the United States district court on February 7, 1983.

Sec. 5. This Act, being deemed of immediate importance, takes effect from and after its publication in the Muscatine Journal, a newspaper published in Muscatine, Iowa, and in The New Iowa Bystander, a newspaper published in West Des Moines, Iowa.

Approved March 29, 1983

I hereby certify that the foregoing Act, Senate File 440 was published in The New Iowa Bystander, West Des Moines, Iowa on March 31, 1983 and in the Muscatine Journal, Muscatine, Iowa on April 6, 1983.

MARY JANE ODELL, *Secretary of State*

**RULES OF CIVIL PROCEDURE**

**CHAPTER 217**  
**RULES OF CIVIL PROCEDURE**

IN THE MATTER OF THE  
RULES OF CIVIL PROCEDURE



REPORT OF THE  
SUPREME COURT

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TO THE 1983 REGULAR SESSION OF THE SEVENTIETH GENERAL ASSEMBLY OF  
THE STATE OF IOWA:

Pursuant to Iowa Code sections 684.18(1) and 684.19, the Supreme Court of Iowa has prescribed and hereby reports to the General Assembly changes in existing Rules of Civil Procedure as follows:

**Rule 82(f).**

That rule 82(f) be amended as follows:

"(f) Notice of Orders or Judgments. Immediately upon the entry of an order or judgment the clerk shall serve a notice of the entry by mail in the manner provided for in this rule upon each party except a party against whom a default has been entered and shall make a note in the docket of the mailing. In the event a case involves an appeal or review relating to an administrative agency, officer, commissioner, board, administrator, or judge, the clerk shall mail without cost to the applicable administrative agency, officer, commissioner, board, administrator, or judge a copy of any remand order, final judgment or decision in the case and a copy of any procedendo from the supreme court.

Such mailing is sufficient notice for all purposes for which notice of the entry of an order is required by these rules; but any party may in addition serve a notice of such entry in the manner provided in this rule for the service of papers. Lack of notice of the entry by the clerk does not affect the time to appeal or relieve or authorize the district court to relieve a party for failure to appeal within the time allowed."

**Rule 117.**

That rule 117 be amended as follows:

"117. Motion Days — Disposition of Motions.

(a) The chief judge of each judicial district shall provide by order for at least one motion day to be held each month in each county, when all motions made prior to trial on issues of fact on file ten days or more shall be deemed submitted unless by other rule, statute or order of court entered for good cause shown another time for submission is fixed. Such motions not orally or telephonically argued for any reason shall be deemed submitted without argument unless they are then, or have previously been, set down for argument at some time somewhere in the judicial district not more than ten days thereafter, when they must be submitted without further postponement. Each motion filed shall set out the specific points upon which it is based. A concise memorandum brief may be appended if it is desired to cite supporting rules, statutes or other authorities.

(b) The court may hear and rule on any motion prior to motion day so as not to delay completing the issues or trial of the case.

(c) The trial court shall rule on all motions within thirty days after their submission, unless it extends the time for reasons stated on record.

(d) A "motion" within this rule is any paper denominated as such, or any other matter requiring attention or order of court before the trial of the issues on their merits, including a special appearance and objections to interrogatories.

(e) The clerk of each court shall maintain a motion calendar on which every "motion" within the purview of (d), above, shall be entered. It shall be arranged to show (1) docket, page and cause number of action in which filed, (2) abbreviated title of the case with surname of the first-named party on each side, (3) counsel of record for parties, (4) denomination of the "motion", (5) date filed, (6) party by whom filed, (7) date entered on calendar, and (8) date of disposition by ruling, order or otherwise. Separate motion calendars for law, equity or other divisions may be maintained.

(f) The court may arrange for the submission of motions under these rules by telephone conference call unless oral testimony may be offered."

#### Rule 126(b).

That rule 126(b) be amended as follows:

"(b) Scope—Use at Trial. Interrogatories may relate to any matters which can be inquired into under R.C.P. 122, including a statement of the specific dollar amount of money damages claimed, and the answers may be used to the extent permitted by the rules of evidence.

An interrogatory otherwise proper is not necessarily objectionable merely because an answer to the interrogatory involves an opinion or contention that relates to fact or the application of law to fact, but the court may order that such an interrogatory need not be answered until after designated discovery has been completed or until a pretrial conference or other later time."

#### Rule 136(b).

That rule 136(b) be amended as follows:

"(b) Pretrial Conference. After issues are joined the court may in its discretion, and shall on written request of any attorney in the case, direct all attorneys in the action to appear before it for, or arrange for their participation by telephone conference call in, a conference to consider, so far as applicable to the particular case:

(1) The necessity or desirability of amending pleadings by formal amendment or pretrial order;

(2) Agreeing to admissions of facts, documents or records not really controverted, to avoid unnecessary proof;

(3) Limiting the number of expert witnesses;

(4) Settling any facts of which the court is to be asked to take judicial notice;

(5) Stating and simplifying the factual and legal issues to be litigated;

(6) Specifying all damage claims in detail as of the date of the conference;

(7) All proposed exhibits and mortality tables and proof thereof;

(8) Consolidation, separation for trial, and determination of points of law;

(9) Questions relating to voir dire examination of jurors and ~~selection of alternate jurors, to serve if a juror becomes incapacitated;~~

(10) Possibility of settlement and imposition of a settlement deadline;

- (11) Filing of advance briefs when required;
- (12) Setting dates for closing of pleadings and discovery;
- (13) Assigning a date for trial;
- (14) Any other matter which may aid, expedite or simplify the trial of any issue.

The pretrial judge may direct the parties to the action to be present or immediately available at the time of conference."

Rules 139 and 143.

That rules 139 and 143 be stricken.

Respectfully submitted,  
THE SUPREME COURT OF IOWA

/s/ W. W. Reynoldson

W. W. REYNOLDSON, CHIEF JUSTICE

Des Moines, Iowa  
January 14, 1983

#### ACKNOWLEDGMENT

I, the undersigned, Secretary of the Senate of the State of Iowa, hereby acknowledge delivery to me on the fourteenth day of January, 1983, of the foregoing report of the Supreme Court of Iowa pertaining to the Rules of Civil Procedure.

/s/ K. Marie Thayer

Secretary of the Senate, 1983 Regular  
Session of the Seventieth General Assembly  
of the State of Iowa

#### ACKNOWLEDGMENT

I, the undersigned, Chief Clerk of the House of Representatives of the State of Iowa, hereby acknowledge delivery to me on the fourteenth day of January, 1983, of the foregoing report of the Supreme Court of Iowa pertaining to the Rules of Civil Procedure.

/s/ Joseph O'Hern

Chief Clerk of the House of Representatives,  
1983 Regular Session of the Seventieth  
General Assembly of the State of Iowa

## CERTIFICATE

I, Robert Anderson, do hereby certify that I am the President of the Senate of the 1983 Regular Session of the Seventieth General Assembly of the State of Iowa; and I, K. Marie Thayer, do hereby certify that I am the Secretary of the Senate of the 1983 Regular Session of the Seventieth General Assembly of the State of Iowa, and we do hereby jointly certify as President and Secretary that on the fourteenth day of January, 1983, the Supreme Court of the State of Iowa reported to the Senate, and filed with it, the attached and foregoing Rules of Civil Procedure;

THAT the date of making that report to the 1983 Regular Session of the Seventieth General Assembly was within twenty days subsequent to the convening of the 1983 Regular Session of the Seventieth General Assembly;

THAT no other report pertaining to the Rules of Civil Procedure was made or filed by the Supreme Court with the Senate;

THAT no changes, modifications, amendments, revisions or additions to the Rules of Civil Procedure as reported by the Supreme Court were made or enacted at the 1983 Regular Session of the Seventieth General Assembly.

Signed this 14th day of May 1983, being the sine die adjournment of the 1983 Regular Session of the Seventieth General Assembly.

/s/ Robert Anderson

ROBERT ANDERSON  
President of the Senate

/s/ K. Marie Thayer

K. MARIE THAYER  
Secretary of the Senate, 1983 Regular  
Session of the Seventieth General Assembly  
of the State of Iowa

## CERTIFICATE

I, Donald Avenson, do hereby certify that I am the Speaker of the House of Representatives of the 1983 Regular Session of the Seventieth General Assembly of the State of Iowa; and I, Joseph O'Hern, do hereby certify that I am the Chief Clerk of the House of Representatives of the 1983 Regular Session of the Seventieth General Assembly of the State of Iowa, and we do hereby jointly certify as Speaker and Chief Clerk that on the fourteenth day of January, 1983, the Supreme Court of the State of Iowa reported to the House of Representatives, and filed with it, the attached and foregoing Rules of Civil Procedure;

THAT the date of making that report to the 1983 Regular Session of the Seventieth General Assembly was within twenty days subsequent to the convening of the 1983 Regular Session of the Seventieth General Assembly;

THAT no other report pertaining to the Rules of Civil Procedure was made or filed by the Supreme Court with the House of Representatives;

THAT no changes, modifications, amendments, revisions or additions to the Rules of Civil Procedure as reported by the Supreme Court were made or enacted at the 1983 Regular Session of the Seventieth General Assembly.

Signed this 14th day of May 1983, being the sine die adjournment of the 1983 Regular Session of the Seventieth General Assembly.

/s/ Donald Avenson

DONALD AVENSON  
Speaker of the House

/s/ Joseph O'Hern

JOSEPH O'HERN  
Chief Clerk of the House of Representatives,  
1983 Regular Session of the Seventieth  
General Assembly of the State of Iowa

**RULES OF CRIMINAL PROCEDURE**

**CHAPTER 218**  
**RULES OF CRIMINAL PROCEDURE**

IN THE MATTER OF THE  
RULES OF CRIMINAL PROCEDURE

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REPORT OF THE  
SUPREME COURT

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TO THE 1983 REGULAR SESSION OF THE SEVENTIETH GENERAL ASSEMBLY OF  
THE STATE OF IOWA:

Pursuant to Iowa Code sections 813.4 and 684.19, the Supreme Court of Iowa has prescribed and hereby reports to the General Assembly changes in existing Rules of Criminal Procedure as follows:

**Rule 3(4)(j).**

That rule 3(4)(j) be amended as follows:

"j. Duty of Grand Jury. The grand jury shall inquire into all indictable offenses brought before it which may be tried within the county, and present them to the court by indictment. The grand jury shall meet at times specified by order of a district judge. In addition to those times, the grand jury shall meet at the request of the county attorney or upon the request of a majority of the grand jurors.

It is made the special duty of the grand jury to inquire into:

- (1) The case of every person imprisoned in the detention facilities of the county on a criminal charge and not indicted.
- (2) The condition and management of the public prisons, county institutions and places of detention within the county.
- (3) The unlawful misconduct in office in the county of public officers and employees.
- (4) ~~The detailed minutes and tape recordings sealed pursuant to section 28A.5.~~"

**Rule 5(4).**

That rule 5(4) be amended as follows:

"4. Approval by Judge. Prior to the filing of the information, it must be approved by a district judge, or a district associate judge or judicial magistrate having jurisdiction of the offense must approve the information by a finding. If the judge or magistrate finds that the evidence contained in the information and the minutes of evidence, if unexplained, would warrant a conviction by the trial jury, the judge or magistrate shall approve the information which shall be promptly filed. If not approved, the charge may be presented to the grand jury for consideration. At any time after judicial approval of an information, and prior to the commencement of trial, the court, on its own motion, may order the information set aside and the case submitted to the grand jury."

## Rule 6(1).

That rule 6(1) be amended as follows:

"1. Multiple Offenses. When the conduct of a defendant may establish the commission of more than one public offense arising out of Two or more public offenses which arose from the same transaction or occurrence, the defendant may be prosecuted for each of such offenses. Each of such offenses or from two or more transactions or occurrences constituting parts of a common scheme or plan may be alleged and prosecuted as separate counts in a single complaint, information or indictment, unless, for good cause shown, the trial court in its discretion determines otherwise. Where the a public offense which is alleged carries with it certain lesser included offenses, the latter should not be charged, and it is sufficient to charge that the accused committed the major offense."

## Rule 7(2)(a).

That rule 7(2)(a) be amended as follows:

"a. Warrant. The warrant shall be signed by the judge or clerk; it shall describe the offense charged in the indictment; and it shall command that the defendant shall be arrested and brought before the court. The amount of bail or other conditions of release may be fixed by the court and endorsed on the warrant."

## Rule 8(2)(b)(3).

That rule 8(2)(b)(3) be amended as follows:

"(3) That the defendant has the right to be tried by a jury, and at such trial has the right to assistance of counsel, the right to confront and cross-examine witnesses against him or her, and the right not to be compelled to incriminate himself or herself, and the right to present witnesses in his or her own behalf and to have compulsory process in securing their attendance."

## Rule 10(10)(d)(6).

That rule 10(10)(d)(6), as adopted by the 1982 Iowa Acts chapter 1021, section 2, be amended as follows:

"(6) The jurors shall be kept together and in the custody of the proper officers while traveling to the place of trial and during the trial. The court may issue orders respecting segregation of the jury while traveling and during the trial as necessary to preserve the integrity of the trial."

## Rule 16(2).

That rule 16(2) be amended as follows:

"2. Findings. In a case tried without a jury the court shall find the facts specially and on the record, separately stating its conclusions of law and directing rendering an appropriate judgment verdict."

## Rule 17.

That rule 17, as amended by 1982 Iowa Acts chapter 1021, section 4, be amended as follows:

"Rule 17. Juries.

1. Selection. The clerk shall prepare and deposit in a box separate ballots containing the names of all persons returned or added as jurors. At each jury trial the clerk shall select ~~six~~

teen jurors by closing and shaking the box to intermingle the ballots, and a number of prospective jurors equal to twelve plus the prescribed number of strikes, by drawing them ballots from the a box without seeing the names. The clerk shall list all jurors so drawn. Computer selection processes may be used instead of separate ballots to select jury panels. Before drawing begins, either party may require that the names of all jurors be called, and have an attachment for those absent who are not engaged in other trials; but the court may wait for its return or not, in its discretion.

2. Depletion of Panel. If for any reason the regular panel is exhausted without a jury being selected, it shall be completed in the manner provided in the chapters upon selecting, drawing, and summoning juries.

3. Challenges to the Panel. Before any juror is sworn for examination, either party may challenge the panel, in writing, distinctly specifying the grounds, which can be founded only on a material departure from the statutory requirements for drawing or returning the jury. On trial thereof, any officer, judicial or ministerial, whose irregularity is complained of, and any other persons, may be examined concerning the facts specified. If the court sustains the challenge it shall discharge the jury, no member of which can serve at the trial.

4. Challenges to Individual Juror. A challenge to an individual juror for cause is an objection which may be taken orally, and is either for cause or peremptory.

5. Challenges for Cause. A challenge for cause may be made by the state or defendant, and must distinctly specify the facts constituting the causes thereof. It may be made for any of the following causes:

- a. A previous conviction of the juror of a felony.
- b. A want of any of the qualifications prescribed by statute to render a person a competent juror.
- c. Unsoundness of mind, or such defects in the faculties of the mind or the organs of the body as render the juror incapable of performing the duties of a juror.
- d. Affinity or consanguinity, within the fourth degree, to the person alleged to be injured by the offense charged, or on whose complaint, or at whose instance, the prosecution was instituted, or to the defendant, to be computed according to the rule of the civil law.
- e. Standing in the relation of guardian and ward, attorney and client, employer and employee, or landlord and tenant, or being a member of the family of the defendant, or of the person alleged to be injured by the offense charged, or on whose complaint, or at whose instance, the prosecution was instituted, or in his or her employ on wages.
- f. Being a party adverse to the defendant in a civil action, or having been the prosecutor against or accused by the defendant in a criminal prosecution.
- g. Having served on the grand jury which found the indictment.
- h. Having served on a trial jury which has tried another defendant for the offense charged in the indictment.
- i. Having been on a jury formerly sworn to try the same indictment and whose verdict was set aside, or which was discharged without a verdict after the cause was submitted to it.
- j. Having served as a juror, in a civil action brought against the defendant, for the act charged as an offense.
- k. Having formed or expressed such an opinion as to the guilt or innocence of the prisoner as would prevent the juror from rendering a true verdict upon the evidence submitted on the trial.
- l. Because of the juror being bail for any defendant in the indictment.

m. Because the juror is defendant in a similar indictment, or complainant against the defendant or any other person indicted for a similar offense.

n. Because the juror is, or within a year preceding has been, engaged or interested in carrying on any business, calling, or employment, the carrying on of which is a violation of law, where the defendant is indicted for a like offense.

o. Because the juror has been a witness, either for or against the defendant, on the preliminary hearing or before the grand jury.

p. Having requested, directly or indirectly, that his or her name be returned as a juror for the regular biennial period.

6. Examination of Jurors. Upon examination the jurors shall be sworn. If an individual juror is challenged, the juror may be examined as a witness to prove or disprove the challenge, and must answer every question pertinent to the inquiry thereon, but the juror's answer shall not afterwards be testimony against him or her. Other witnesses may also be examined on either side. The rules of evidence applicable to the trial of other issues shall govern the admission or exclusion of testimony on the trial of the challenge, and the court shall determine the law and the facts, and must allow or disallow the challenge.

7. Order of Challenges for Cause. The state shall first complete its challenge challenges for cause, and the defendant afterwards afterward, until sixteen jurors have a number of jurors equal to twelve plus the prescribed number of strikes has been obtained against whom no cause of challenge has been found to exist.

8. Order of Challenges in General. The challenges of either party need not be all taken at once, but separately, in the following order, including in each challenge all the causes of challenge belonging to the same class: To the panel; to an individual juror for cause; to an individual juror peremptorily. Vacancy Filled. After each challenge for cause which is sustained, another juror shall be called and examined before a further challenge is made; and any new juror thus called may be challenged for cause and shall be subject to being struck from the list as other jurors.

9. Peremptory Challenges. Peremptory challenges must be made before the jury is sworn to try the case. A juror peremptorily challenged must be excused without reasons being given. After all challenges for cause are completed, the state and defendant shall alternately make or waive their peremptory challenges by appropriate notations on the jury list.

10. Peremptory Challenges Strikes—Number. If the offense charged in the indictment or information is a class "A" felony, the state and defendant shall each have the right to peremptorily challenge eight jurors and shall strike two ten prospective jurors.

If the offense charged be any other is a felony other than a class "A" felony, the state and the defendant shall each have the right to peremptorily challenge four jurors and shall strike two six prospective jurors.

If the offense charged is a misdemeanor, the state and the defendant shall each have the right to peremptorily challenge two jurors and shall strike two four prospective jurors.

11 10. Multiple Charges. If the indictment charges different offenses in different counts, the state and the defendant shall each have that number of peremptory challenges strikes which they each would have if the highest grade of offense charged in the indictment were the only charge.

12 11. Multiple Defendants. In a case where two or more defendants are tried, each defendant shall have one-half the number of challenges strikes allowed in subdivision 11 9 of this rule. The state shall be limited to the challenges and have the number of strikes specified in subdivision 11 equal to the total number of strikes allotted to all defendants. The defendants

collectively shall be limited to two strikes. Subject to the court's approval, the parties may agree to a reduced number of strikes.

~~13~~ 12. Clerk to Prepare List—Procedure. The clerk shall prepare a list of jurors called; and, after all challenges for cause are exhausted or waived, the parties each side, commencing with the state, shall alternately challenge peremptorily or waive exercise its strikes by indicating any such challenge the strike upon the list opposite the name of the juror challenged, or by indicating the number of waiver elsewhere on the list.

14. Vacancy Filled. After each challenge, sustained for cause, or made peremptorily as indicated on the list, another juror shall be called and examined for challenge for cause before a further challenge is made; and any new juror thus called may be challenged for cause and shall be subject to peremptory challenge or to being struck from the list as other jurors.

~~15~~ 13. Reading of Names. After all challenges have thus been exercised or waived and four the required number of jurors have has been struck from the list the clerk shall read the names of the twelve jurors remaining who shall constitute the jury selected.

~~16~~ 14. Jurors Sworn. When twelve jurors are accepted they shall be sworn to try the issues.

~~17~~ 15. Alternate Jurors. The court may impanel require one or more alternate jurors to be selected whose qualifications, powers, functions, facilities, and privileges shall be the same as regular jurors. After the regular jury is selected, the clerk shall draw the names of three more persons if one alternate juror is desired, or four more persons if two alternate jurors are desired, and so on in like proportion, who are to serve under this rule, who shall be sworn and subject to examination and challenge for cause as provided in this rule. Each side must then strike off one such name, and the one or two or appropriate number remaining shall be sworn to try the case with the regular jury, and sit at the trial. Alternate jurors shall, in the order they were drawn, replace any juror who becomes unable to act, or is disqualified, before the jury retires, and if not so needed shall then be discharged.

If a jury is being selected for trial of an action outside of the county pursuant to rule 10, subsection 10, paragraph d, the court shall impanel require two alternate jurors to be selected, who shall be sworn with the regular jury to try the case, and who shall sit at the trial. These alternates shall be used or discharged as provided in unnumbered paragraph 1 in accordance with this rule. The court may require the impaneling of more than two alternates to be selected.

~~18~~ 16. Returning Ballots to Box. When a jury is sworn, the ballots containing the names of those absent or excused from the trial shall be immediately returned to the box. Those containing the names of jurors sworn shall be set aside, and returned to the box immediately on the discharge of that jury."

Rules 23(3)(d) and 23(3)(e).

That rules 23(3)(d) and 23(3)(e) be amended as follows:

"d. Effect of Order Arresting Judgment. The effect of an order arresting judgment on any ground other than a defect in a guilty plea proceeding is to place the defendant in the same situation in which he or she was immediately before the indictment was found or the information filed. The effect of an order arresting judgment on the ground the guilty plea proceeding was defective is to place the defendant in the same situation in which he or she was immediately after the indictment was found or the information filed; provided, however, that when the only ground upon which the guilty plea is found to be defective is failure to establish a factual basis for the charge, the court shall afford the state an opportunity to establish an adequate factual basis before ruling on the motion in arrest of judgment.

e. Proceedings After Order Arresting Judgment on any Ground Other than a Defect in a Guilty Plea Proceeding. If, from the evidence on the trial, there is reasonable ground to believe the defendant guilty, and a new indictment or information can be framed, the court may order the defendant to be recommitted to the officer of the proper county, or admitted to bail or otherwise released anew, to answer the new indictment. In such case the order arresting judgment shall not be a bar to another prosecution. But if the evidence upon trial appears to the trial court insufficient to charge the defendant with any offense, the defendant must, if in custody, be released; or, if admitted to bail, his or her bail be exonerated; or if money has been deposited instead of bail, it must be refunded to the defendant or to the person or persons found by the court to have deposited said money on behalf of said the defendant."

Respectfully submitted,  
THE SUPREME COURT OF IOWA

/s/ W. W. Reynoldson

W. W. REYNOLDSON, CHIEF JUSTICE

Des Moines, Iowa  
January 14, 1983

#### ACKNOWLEDGMENT

I, the undersigned, Secretary of the Senate of the State of Iowa, hereby acknowledge delivery to me on the fourteenth day of January, 1983, of the foregoing report of the Supreme Court of Iowa pertaining to the Rules of Criminal Procedure.

/s/ K. Marie Thayer

Secretary of the Senate, 1983 Regular  
Session of the Seventieth General Assembly  
of the State of Iowa

#### ACKNOWLEDGMENT

I, the undersigned, Chief Clerk of the House of Representatives of the State of Iowa, hereby acknowledge delivery to me on the fourteenth day of January, 1983, of the foregoing report of the Supreme Court of Iowa pertaining to the Rules of Criminal Procedure.

/s/ Joseph O'Hern

Chief Clerk of the House of Representatives,  
1983 Regular Session of the Seventieth  
General Assembly of the State of Iowa

## CERTIFICATE

I, Robert Anderson, do hereby certify that I am the President of the Senate of the 1983 Regular Session of the Seventieth General Assembly of the State of Iowa; and I, K. Marie Thayer, do hereby certify that I am the Secretary of the Senate of the 1983 Regular Session of the Seventieth General Assembly of the State of Iowa, and we do hereby jointly certify as President and Secretary that on the fourteenth day of January, 1983, the Supreme Court of the State of Iowa reported to the Senate, and filed with it, the attached and foregoing Rules of Criminal Procedure;

THAT the date of making that report to the 1983 Regular Session of the Seventieth General Assembly was within twenty days subsequent to the convening of the 1983 Regular Session of the Seventieth General Assembly;

THAT no other report pertaining to the Rules of Criminal Procedure was made or filed by the Supreme Court with the Senate;

THAT no changes, modifications, amendments, revisions or additions to the Rules of Criminal Procedure as reported by the Supreme Court were made or enacted at the 1983 Regular Session of the Seventieth General Assembly.

Signed this 14th day of May, 1983, being the sine die adjournment of the 1983 Regular Session of the Seventieth General Assembly.

/s/ Robert Anderson

ROBERT ANDERSON  
President of the Senate

/s/ K. Marie Thayer

K. MARIE THAYER  
Secretary of the Senate, 1983 Regular  
Session of the Seventieth General Assembly  
of the State of Iowa

## CERTIFICATE

I, Donald Avenson, do hereby certify that I am the Speaker of the House of Representatives of the 1983 Regular Session of the Seventieth General Assembly of the State of Iowa; and I, Joseph O'Hern, do hereby certify that I am the Chief Clerk of the House of Representatives of the 1983 Regular Session of the Seventieth General Assembly of the State of Iowa, and we do hereby jointly certify as Speaker and Chief Clerk that on the fourteenth day of January, 1983, the Supreme Court of the State of Iowa reported to the House of Representatives, and filed with it, the attached and foregoing Rules of Criminal Procedure;

THAT the date of making that report to the 1983 Regular Session of the Seventieth General Assembly was within twenty days subsequent to the convening of the 1983 Regular Session of the Seventieth General Assembly;

THAT no other report pertaining to the Rules of Criminal Procedure was made or filed by the Supreme Court with the House of Representatives;

THAT no changes, modifications, amendments, revisions or additions to the Rules of Criminal Procedure as reported by the Supreme Court were made or enacted at the 1983 Regular Session of the Seventieth General Assembly.

Signed this 14th day of May, 1983, being the sine die adjournment of the 1983 Regular Session of the Seventieth General Assembly.

/s/ Donald Avenson

DONALD AVENSON  
Speaker of the House

/s/ Joseph O'Hern

JOSEPH O'HERN  
Chief Clerk of the House of Representatives,  
1983 Regular Session of the Seventieth  
General Assembly of the State of Iowa

**RULES OF EVIDENCE**

**CHAPTER 219**  
**RULES OF EVIDENCE**

IN THE MATTER OF THE  
RULES OF EVIDENCE

}

REPORT OF THE  
SUPREME COURT

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TO THE 1983 REGULAR SESSION OF THE SEVENTIETH GENERAL ASSEMBLY OF  
THE STATE OF IOWA:

Pursuant to 1981 Iowa Acts chapter 203 and Iowa Code sections 684.18(1) and 684.19, the Supreme Court of Iowa has prescribed and hereby reports to the General Assembly the following new Iowa Rules of Evidence:

**ARTICLE I**  
**GENERAL PROVISIONS**

**Rule 101. Scope.** These rules govern proceedings in the courts of this state to the extent and with the exceptions stated in rule 1101, Iowa Rules of Evidence.

**Rule 102. Purpose and Construction.** These rules shall be construed to secure fairness in administration, elimination of unjustifiable expense and delay, and promotion of growth and development of the law of evidence to the end that the truth may be ascertained and proceedings justly determined.

**Rule 103. Rulings on Evidence.**

(a) **Effect of erroneous ruling.** Error may not be predicated upon a ruling which admits or excludes evidence unless a substantial right of the party is affected, and

(1) **Objection.** In case the ruling is one admitting evidence, a timely objection or motion to strike appears of record, stating the specific ground of objection, if the specific ground was not apparent from the context; or

(2) **Offer of proof.** In case the ruling is one excluding evidence, the substance of the evidence was made known to the court by offer or was apparent from the context within which questions were asked.

(b) **Record of offer and ruling.** The court may add any other or further statement which shows the character of the evidence, the form in which it was offered, the objection made, and the ruling thereon. It may direct the making of an offer in question and answer form.

(c) **Hearing of jury.** In jury cases, proceedings shall be conducted to the extent practicable, so as to prevent inadmissible evidence from being suggested to the jury by any means, such as making statements or offers of proof or asking questions in the hearing of the jury.

**Rule 104. Preliminary Questions.**

(a) Questions of admissibility generally. Preliminary questions concerning the qualification of a person to be a witness, the existence of a privilege, or the admissibility of evidence shall be determined by the court, subject to the provisions of subdivision (b). In making its determination it is not bound by the rules of evidence except those with respect to privileges.

(b) Relevancy conditioned on fact. When the relevancy of evidence depends upon the fulfillment of a condition of fact, the court shall admit it upon, or subject to, the introduction of evidence sufficient to support a finding of the fulfillment of the condition.

(c) Hearing of jury. Hearings on the admissibility of confessions shall in all cases be conducted out of the hearing of the jury. Hearings on other preliminary matters shall be so conducted when the interests of justice require or, when an accused is a witness, if he so requests.

(d) Testimony by accused. The accused does not, by testifying upon a preliminary matter, subject himself to cross-examination as to other issues in the case. Testimony given by the accused upon a preliminary question is not admissible against him on the issue of guilt but may be used for impeachment if inconsistent with testimony given by him at the trial.

(e) Weight and credibility. This rule does not limit the right of a party to introduce before the jury evidence relevant to weight or credibility.

**Rule 105. Limited Admissibility.** When evidence which is admissible as to one party or for one purpose but not admissible as to another party or for another purpose is admitted, the court, upon request, shall restrict the evidence to its proper scope and instruct the jury accordingly.

**Rule 106. Remainder of Related Acts, Declarations, Conversations, Writings, or Recorded Statements.**

(a) When an act, declaration, conversation, writing, or recorded statement, or part thereof, is introduced by a party, any other part or any other act, declaration, conversation, writing, or recorded statement is admissible when necessary in the interest of fairness, a clear understanding, or an adequate explanation.

(b) Upon request by an adverse party, the court may, in its discretion, require the offering party to introduce contemporaneously with the act, declaration, conversation, writing, or recorded statement, or part thereof, any other part or any other act, declaration, conversation, writing, or recorded statement which is admissible under subdivision (a) of this rule. This subdivision, however, does not limit the right of any party to develop further on cross-examination or in his case in chief matters admissible under subdivision (a) of this rule.

## ARTICLE II JUDICIAL NOTICE

**Rule 201. Judicial Notice of Adjudicative Facts.**

(a) Scope of rule. This rule governs only judicial notice of adjudicative facts.

(b) Kinds of facts. A judicially noticed fact must be one not subject to reasonable dispute in that it is either (1) generally known within the territorial jurisdiction of the trial court or (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.

(c) When discretionary. A court may take judicial notice, whether requested or not.

(d) When mandatory. A court shall take judicial notice if requested by a party and supplied with the necessary information.

(e) Opportunity to be heard. A party is entitled upon timely request to an opportunity to be heard as to the propriety of taking judicial notice and the tenor of the matter noticed. In the absence of prior notification, the request may be made after judicial notice has been taken.

(f) Time of taking notice. Judicial notice may be taken at any stage of the proceeding.

(g) Instructing jury. In a civil action or proceeding, the court shall instruct the jury to accept as conclusive any fact judicially noticed. In a criminal case, the court shall instruct the jury that it may, but is not required to, accept as conclusive any fact judicially noticed.

### ARTICLE III

#### PRESUMPTIONS IN CIVIL ACTIONS AND PROCEEDINGS

Rule 301. Presumptions in General in Civil Actions and Proceedings. Nothing in these rules shall be deemed to modify or supersede existing law relating to presumptions in civil actions and proceedings.

Rule 302. (Reserved.)

### ARTICLE IV

#### RELEVANCY AND ITS LIMITS

Rule 401. Definition of "Relevant Evidence." "Relevant evidence" means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.

Rule 402. Relevant Evidence Generally Admissible; Irrelevant Evidence Inadmissible. All relevant evidence is admissible, except as otherwise provided by the Constitutions of the United States or the State of Iowa, by statute, by these rules, or by other rules of the Iowa Supreme Court. Evidence which is not relevant is not admissible.

Rule 403. Exclusion of Relevant Evidence on Grounds of Prejudice, Confusion, or Waste of Time. Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.

Rule 404. Character Evidence not Admissible to Prove Conduct; Exceptions; Other Crimes.

(a) Character evidence generally. Evidence of a person's character or a trait of his character is not admissible for the purpose of proving that he acted in conformity therewith on a particular occasion, except:

(1) Character of accused. Evidence of a pertinent trait of his character offered by an accused, or by the prosecution to rebut the same;

(2) Character of victim.

(A) In criminal cases. Subject to rule 412, Iowa Rules of Evidence, evidence of a pertinent

trait of character of the victim of the crime offered by an accused, or by the prosecution to rebut the same, or evidence of a character trait of peacefulness of the victim offered by the prosecution in any case where the victim is unavailable to testify due to death or physical or mental incapacity to rebut evidence that the victim was the first aggressor;

(B) In civil cases. Evidence of character for violence of the victim of assaultive conduct offered on the issue of self defense by a party accused of the assaultive conduct, or evidence of peaceable character to rebut the same;

(3) Character of witness. Evidence of the character of a witness, as provided in rules 607, 608, and 609, Iowa Rules of Evidence.

(b) Other crimes, wrongs, or acts. Evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show that he acted in conformity therewith. It may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident.

#### Rule 405. Methods of Proving Character.

(a) Reputation or opinion. In all cases in which evidence of character or a trait of character of a person is admissible, proof may be made by testimony as to reputation or by testimony in the form of an opinion. On cross-examination, inquiry is allowable into relevant specific instances of conduct.

(b) Specific instances of conduct. In cases in which character or a trait of character of a person is an essential element of a charge, claim, or defense, proof may also be made of specific instances of his conduct.

Rule 406. Habit; Routine Practice. Evidence of the habit of a person or of the routine practice of an organization, whether corroborated or not and regardless of the presence of eyewitnesses, is relevant to prove that the conduct of the person or organization on a particular occasion was in conformity with the habit or routine practice.

Rule 407. Subsequent Remedial Measures. When, after an event, measures are taken which, if taken previously, would have made the event less likely to occur, evidence of the subsequent measures is not admissible to prove negligence or culpable conduct in connection with the event. This rule does not require the exclusion of evidence of subsequent measures when offered in connection with a claim based on strict liability in tort or breach of warranty or for another purpose, such as proving ownership, control, or feasibility of precautionary measures, if controverted, or impeachment.

Rule 408. Compromise and Offers to Compromise. Evidence of (1) furnishing or offering or promising to furnish, or (2) accepting or offering or promising to accept, a valuable consideration in compromising or attempting to compromise a claim which was disputed as to either validity or amount, is not admissible to prove liability for or invalidity of the claim or its amount. Evidence of conduct or statements made in compromise negotiations is likewise not admissible. This rule does not require the exclusion of any evidence otherwise discoverable merely because it is presented in the course of compromise negotiations. This rule also does not require exclusion when the evidence is offered for another purpose, such as proving bias or prejudice of a witness, negating a contention of undue delay, or proving an effort to obstruct a criminal investigation or prosecution.

**Rule 409. Payment of Expenses.** Evidence of furnishing or offering or promising to pay expenses occasioned by an injury is not admissible to prove liability for the injury.

**Rule 410. Inadmissibility of Pleas, Plea Discussions, and Related Statements.** Except as otherwise provided in this rule, evidence of the following is not, in any civil or criminal proceeding, admissible against the defendant who made the plea or was a participant in the plea discussions:

- (1) a plea of guilty which was later withdrawn;
- (2) a plea of nolo contendere in a federal court or criminal proceeding in another state;
- (3) any statement made in the course of any proceedings under rule 11 of the Federal Rules of Criminal Procedure, rule 9 of the Iowa Rules of Criminal Procedure, or comparable procedure in other states regarding either of the foregoing pleas; or
- (4) any statement made in the course of plea discussions with an attorney for the prosecuting authority which do not result in a plea of guilty or which result in a plea of guilty later withdrawn.

However, such a statement is admissible (i) in any proceeding wherein another statement made in the course of the same plea or plea discussions has been introduced and the statement ought in fairness be considered contemporaneously with it, or (ii) in a criminal proceeding for perjury or false statement if the statement was made by the defendant under oath, on the record and in the presence of counsel.

**Rule 411. Liability Insurance.** Evidence that a person was or was not insured against liability is not admissible upon the issue whether he acted negligently or otherwise wrongfully. This rule does not require the exclusion of evidence of insurance against liability when offered for another purpose, such as proof of agency, ownership, or control, or bias or prejudice of a witness.

**Rule 412. Sexual Abuse Cases; Relevance of Victim's Past Behavior.**

(a) Notwithstanding any other provision of law, in a criminal case in which a person is accused of sexual abuse, reputation or opinion evidence of the past sexual behavior of an alleged victim of such sexual abuse is not admissible.

(b) Notwithstanding any other provision of law, in a criminal case in which a person is accused of sexual abuse, evidence of a victim's past sexual behavior other than reputation or opinion evidence is also not admissible, unless such evidence other than reputation or opinion evidence is —

(1) admitted in accordance with subdivisions (c)(1) and (c)(2) and is constitutionally required to be admitted; or

(2) admitted in accordance with subdivision (c) and is evidence of —

(A) past sexual behavior with persons other than the accused, offered by the accused upon the issue of whether the accused was or was not, with respect to the alleged victim, the source of semen or injury; or

(B) past sexual behavior with the accused and is offered by the accused upon the issue of whether the alleged victim consented to the sexual behavior with respect to which sexual abuse is alleged.

(c) (1) If the person accused of sexual abuse intends to offer under subdivision (b) evidence of specific instances of the alleged victim's past sexual behavior, the accused shall make a written motion to offer such evidence not later than fifteen days before the date on which the trial

in which such evidence is to be offered is scheduled to begin, except that the court may allow the motion to be made at a later date, including during trial, if the court determines either that the evidence is newly discovered and could not have been obtained earlier through the exercise of due diligence or that the issue to which such evidence relates has newly arisen in the case. Any motion made under this paragraph shall be served on all other parties and on the alleged victim.

(2) The motion described in paragraph (1) shall be accompanied by a written offer of proof. If the court determines that the offer of proof contains evidence described in subdivision (b), the court shall order a hearing in chambers to determine if such evidence is admissible. At such hearing the parties may call witnesses, including the alleged victim, and offer relevant evidence. Notwithstanding rule 104(b), Iowa Rules of Evidence, if the relevancy of the evidence which the accused seeks to offer in the trial depends upon the fulfillment of a condition of fact, the court, at the hearing in chambers or at a subsequent hearing in chambers scheduled for such purpose, shall accept evidence on the issue of whether such condition of fact is fulfilled and shall determine such issue.

(3) If the court determines on the basis of the hearing described in paragraph (2) that the evidence which the accused seeks to offer is relevant and that the probative value of such evidence outweighs the danger of unfair prejudice, such evidence shall be admissible in the trial to the extent an order made by the court specifies evidence which may be offered and areas with respect to which the alleged victim may be examined or cross-examined.

(d) For purposes of this rule, the term "past sexual behavior" means sexual behavior other than the sexual behavior with respect to which sexual abuse is alleged.

#### ARTICLE V PRIVILEGES

Rule 501. General Rule. Nothing in these rules shall be deemed to modify or supersede existing law relating to the privilege of a witness, person, government, state or political subdivision.

#### ARTICLE VI WITNESSES

Rule 601. General Rule of Competency. Every person of sufficient capacity to understand the obligation of an oath or affirmation is competent to be a witness except as otherwise provided in these rules.

Rule 602. Lack of Personal Knowledge. A witness may not testify to a matter unless evidence is introduced sufficient to support a finding that he has personal knowledge of the matter. Evidence to prove personal knowledge may, but need not, consist of the testimony of the witness himself. This rule is subject to the provisions of rule 703, Iowa Rules of Evidence, relating to opinion testimony by expert witnesses.

Rule 603. Oath or Affirmation. Before testifying, every witness shall be required to declare that he will testify truthfully, by oath or affirmation administered in a form calculated to awaken his conscience and impress his mind with his duty to do so.

Rule 604. Interpreters. An interpreter is subject to the provisions of these rules relating to qualification as an expert and the administration of an oath or affirmation that he will make a true translation.

**Rule 605. Competency of Judge as Witness.** The judge presiding at the trial may not testify in that trial as a witness. No objection need be made in order to preserve the point.

**Rule 606. Competency of Juror as Witness.**

(a) At the trial. A member of the jury may not testify as a witness before that jury in the trial of the case in which he is sitting as a juror. If he is called so to testify, the opposing party shall be afforded an opportunity to object out of the presence of the jury.

(b) Inquiry into validity of verdict or indictment. Upon an inquiry into the validity of a verdict or indictment, a juror may not testify as to any matter or statement occurring during the course of the jury's deliberations or to the effect of anything upon his or any other juror's mind or emotions as influencing him to assent to or dissent from the verdict or indictment or concerning his mental processes in connection therewith, except that a juror may testify on the question whether extraneous prejudicial information was improperly brought to the jury's attention or whether any outside influence was improperly brought to bear upon any juror. Nor may his affidavit or evidence of any statement by him concerning a matter about which he would be precluded from testifying be received for these purposes.

**Rule 607. Who May Impeach.** The credibility of a witness may be attacked by any party, including the party calling him.

**Rule 608. Evidence of Character and Conduct of Witness.**

(a) Opinion and reputation evidence of character. The credibility of a witness may be attacked or supported by evidence in the form of opinion or reputation, but subject to these limitations: (1) the evidence may refer only to character for truthfulness or untruthfulness, and (2) evidence of truthful character is admissible only after the character of the witness for truthfulness has been attacked by opinion or reputation evidence or otherwise.

(b) Specific instances of conduct. Specific instances of the conduct of a witness, for the purpose of attacking or supporting his credibility, other than conviction of crime as provided in rule 609, Iowa Rules of Evidence, may not be proved by extrinsic evidence. They may, however, in the discretion of the court, if probative of truthfulness or untruthfulness, be inquired into on cross-examination of the witness (1) concerning his character for truthfulness or untruthfulness, or (2) concerning the character for truthfulness or untruthfulness of another witness as to which character the witness being cross-examined has testified.

The giving of testimony, whether by an accused or by any other witness, does not operate as a waiver of his privilege against self-incrimination when examined with respect to matters which relate only to credibility.

**Rule 609. Impeachment by Evidence of Conviction of Crime.**

(a) General rule. For the purpose of attacking the credibility of a witness, evidence that the witness has been convicted of a crime involving dishonesty or false statement shall be admitted if elicited from the witness or established by public record during cross-examination, but only if the crime constituted a felony, aggravated misdemeanor, or other crime punishable by imprisonment in excess of one year pursuant to the law under which he was convicted, and the court determines that the probative value of admitting this evidence outweighs its prejudicial effect.

(b) Time limit. Evidence of a conviction under this rule is not admissible if a period of more than ten years has elapsed since the date of the conviction or of the release of the witness from the confinement imposed for that conviction, whichever is the later date, unless the court determines, in the interests of justice, that the probative value of the conviction supported by specific facts and circumstances substantially outweighs its prejudicial effect. However,

evidence of a conviction more than ten years old as calculated herein, is not admissible unless the proponent gives to the adverse party sufficient advance written notice of intent to use such evidence to provide the adverse party with a fair opportunity to contest the use of such evidence.

(c) **Effect of pardon.** Evidence of a conviction is not admissible under this rule if the conviction has been the subject of a pardon.

(d) **Juvenile adjudications.** Evidence of juvenile adjudications is generally not admissible under this rule. The court may, however, in a criminal case allow evidence of a juvenile adjudication of a witness other than the accused if conviction of the offense would be admissible to attack the credibility of an adult and the court is satisfied that admission in evidence is necessary for a fair determination of the issue of guilt or innocence.

(e) **Pendency of appeal.** The pendency of an appeal therefrom does not render evidence of a conviction inadmissible. Evidence of the pendency of an appeal is admissible.

**Rule 610. Religious Beliefs or Opinions.** Evidence of the beliefs or opinions of a witness on matters of religion is not admissible for the purpose of showing that by reason of their nature his credibility is impaired or enhanced.

**Rule 611. Mode and Order of Interrogation and Presentation.**

(a) **Control by court.** The court shall exercise reasonable control over the mode and order of interrogating witnesses and presenting evidence so as to (1) make the interrogation and presentation effective for the ascertainment of the truth, (2) avoid needless consumption of time, and (3) protect witnesses from harassment or undue embarrassment.

(b) **Scope of cross-examination.** Cross-examination should be limited to the subject matter of the direct examination and matters affecting the credibility of the witness. The court may, in the exercise of discretion, permit inquiry into additional matters as if on direct examination.

(c) **Leading questions.** Leading questions should not be used on the direct examination of a witness except as may be necessary to develop his testimony. When a party calls a hostile witness, an adverse party, or a witness identified with an adverse party, interrogation may be by leading questions. Ordinarily, leading questions should be permitted on cross-examination of a hostile or adverse witness only.

**Rule 612. Writing Used to Refresh Memory.** Except as otherwise provided in criminal proceedings by rule 13 of the Iowa Rules of Criminal Procedure, if a witness uses a writing to refresh his memory for the purpose of testifying, either —

(1) while testifying, or

(2) before testifying, if the court in its discretion finds a necessity in the interests of justice, an adverse party is entitled to have the writing produced at the hearing, to inspect it, to cross-examine the witness thereon, and to introduce in evidence those portions which relate to the testimony of the witness. If it is claimed that the writing contains matters not related to the subject matter of the testimony the court shall examine the writing in camera, excise any portions not so related, and order delivery of the remainder to the party entitled thereto. Any portion withheld over objections shall be preserved and made available to the appellate court in the event of an appeal. If a writing is not produced or delivered pursuant to order under this rule, the court shall make any order justice requires, except that in criminal cases when the prosecution elects not to comply, the order shall be one striking the testimony or, if the court in its discretion, determines that the interests of justice so require, declaring a mistrial.

**Rule 613. Prior Statements of Witnesses.**

(a) Examining witness concerning prior statement. In examining a witness concerning a prior statement made by him, whether written or not, the statement need not be shown nor its contents disclosed to him at that time, but on request the same shall be shown or disclosed to opposing counsel.

(b) Extrinsic evidence of prior inconsistent statement of witness. Extrinsic evidence of a prior inconsistent statement by a witness is not admissible unless the witness is afforded an opportunity to explain or deny the same and the opposite party is afforded an opportunity to interrogate him thereon, or the interests of justice otherwise require. This provision does not apply to admissions of a party-opponent as defined in rule 801(d)(2), Iowa Rules of Evidence.

**Rule 614. Calling and Interrogation of Witnesses by Court.**

(a) Calling by court. For good cause in exceptional cases, the court may, on its own motion or at the suggestion of a party, call witnesses, and all parties are entitled to cross-examine witnesses thus called.

(b) Interrogation by court. When necessary in the interest of justice, the court may interrogate witnesses, whether called by itself or by a party.

(c) Objections. Objections to the calling of witnesses by the court or to interrogation by it may be made at the time or at the next available opportunity when the jury is not present.

**Rule 615. Exclusion of Witnesses.** At the request of a party the court may order witnesses excluded so that they cannot hear the testimony of other witnesses, and it may make the order of its own motion. This rule does not authorize exclusion of (1) a party who is a natural person, or (2) an officer or employee of a party which is not a natural person designated as its representative by its attorney, or (3) a person whose presence is shown by a party to be essential to the presentation of his cause.

## ARTICLE VII OPINIONS AND EXPERT TESTIMONY

**Rule 701. Opinion Testimony by Lay Witnesses.** If the witness is not testifying as an expert, his testimony in the form of opinions or inferences is limited to those opinions or inferences which are (a) rationally based on the perception of the witness and (b) helpful to a clear understanding of his testimony or the determination of a fact in issue.

**Rule 702. Testimony by Experts.** If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education may testify thereto in the form of an opinion or otherwise.

**Rule 703. Bases of Opinion Testimony by Experts.** The facts or data in the particular case upon which an expert bases an opinion or inference may be those perceived by or made known to him at or before the trial or hearing. If of a type reasonably relied upon by experts in the particular field in forming opinions or inferences upon the subject, the facts or data need not be admissible in evidence.

**Rule 704. Opinion on Ultimate Issue.** Testimony in the form of an opinion or inference otherwise admissible is not objectionable because it embraces an ultimate issue to be decided by the trier of fact.

**Rule 705. Disclosure of Facts or Data Underlying Expert Opinion.** The expert may testify in terms of opinion or inference and give his reasons therefor without prior disclosure of the underlying facts or data, unless the court requires otherwise. The expert may in any event be required to disclose the underlying facts or data on cross-examination.

**Rule 706. Court-Appointed Experts.**

(a) **Appointment.** The court may on the motion of any party enter an order to show cause why expert witnesses should not be appointed, and may request the parties to submit nominations. The court may appoint any expert witnesses agreed upon by the parties, and may appoint expert witnesses of its own selection. An expert witness shall not be appointed by the court unless he consents to act. A witness so appointed shall be informed of his duties by the court in writing, a copy of which shall be filed with the clerk, or at a conference in which the parties shall have opportunity to participate. A witness so appointed shall advise the parties of his findings, if any; his deposition may be taken by any party; and he may be called to testify by the court or any party. He shall be subject to cross-examination by each party, including a party calling him as a witness.

(b) **Compensation.** Expert witnesses so appointed are entitled to reasonable compensation in whatever sum the court may allow. Except as otherwise provided by law, the compensation shall be paid by the parties in such proportion and at such time as the court directs, and thereafter charged in like manner as other costs.

(c) **Disclosure of appointment.** In the exercise of its discretion, the court may authorize disclosure to the jury of the fact that the court appointed the expert witness.

(d) **Parties' experts of own selection.** Nothing in this rule limits the parties in calling expert witnesses of their own selection.

## ARTICLE VIII HEARSAY

**Rule 801. Definitions.** The following definitions apply under this article:

(a) **Statement.** A "statement" is (1) an oral or written assertion or (2) nonverbal conduct of a person, if it is intended by him as an assertion.

(b) **Declarant.** A "declarant" is a person who makes a statement.

(c) **Hearsay.** "Hearsay" is a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted.

(d) **Statements which are not hearsay.** A statement is not hearsay if —

(1) **Prior statement by witness.** The declarant testifies at the trial or hearing and is subject to cross-examination concerning the statement, and the statement is (A) inconsistent with his testimony, and was given under oath subject to the penalty of perjury at a trial, hearing, or other proceeding, or in a deposition, or (B) consistent with his testimony and is offered to rebut an express or implied charge against him of recent fabrication or improper influence or motive, or (C) one of identification of a person made after perceiving him; or

(2) **Admission by party-opponent.** The statement is offered against a party and is (A) his own statement, in either his individual or a representative capacity, or (B) a statement of which he has manifested his adoption or belief in its truth, or (C) a statement by a person authorized by him to make a statement concerning the subject, or (D) a statement by his agent or servant concerning a matter within the scope of his agency or employment, made during the existence of the relationship, or (E) a statement by a coconspirator of a party during the course and in furtherance of the conspiracy.

**Rule 802. Hearsay Rule.** Hearsay is not admissible except as provided by the Constitution of the State of Iowa, by statute, by these rules, or by other rules of the Iowa Supreme Court.

**Rule 803. Hearsay Exceptions; Availability of Declarant Immaterial.** The following are not excluded by the hearsay rule, even though the declarant is available as a witness:

(1) **Present sense impression.** A statement describing or explaining an event or condition made while the declarant was perceiving the event or condition, or immediately thereafter.

(2) **Excited Utterance.** A statement relating to a startling event or condition made while the declarant was under the stress of excitement caused by the event or condition.

(3) **Then existing mental, emotional, or physical condition.** A statement of the declarant's then existing state of mind, emotion, sensation, or physical condition (such as intent, plan, motive, design, mental feeling, pain, and bodily health), but not including a statement of memory or belief to prove the fact remembered or believed unless it relates to the execution, revocation, identification, or terms of declarant's will.

(4) **Statements for purposes of medical diagnosis or treatment.** Statements made for purposes of medical diagnosis or treatment and describing medical history, or past or present symptoms, pain, or sensations, or the inception or general character of the cause or external source thereof insofar as reasonably pertinent to diagnosis or treatment.

(5) **Recorded recollection.** A memorandum or record concerning a matter about which a witness once had knowledge but now has insufficient recollection to enable him to testify fully and accurately, shown to have been made or adopted by the witness when the matter was fresh in his memory and to reflect that knowledge correctly. If admitted, the memorandum or record may be read into evidence but may not itself be received as an exhibit unless offered by an adverse party.

(6) **Records of regularly conducted activity.** A memorandum, report, record, or data compilation, in any form, of acts, events, conditions, opinions, or diagnoses, made at or near the time by, or from information transmitted by, a person with knowledge, if kept in the course of a regularly conducted business activity, and the regular practice of that business activity was to make the memorandum, report, record, or data compilation, all as shown by the testimony of the custodian or other qualified witness, unless the source of information or the method or circumstances of preparation indicate lack of trustworthiness. The term "business" as used in this paragraph includes business, institution, association, profession, occupation, and calling of every kind, whether or not conducted for profit.

(7) **Absence of entry in records kept in accordance with the provisions of paragraph (6).** Evidence that a matter is not included in the memoranda reports, records, or data compilations, in any form, kept in accordance with the provisions of paragraph (6), to prove the nonoccurrence or nonexistence of the matter, if the matter was of a kind of which a memorandum, report, record, or data compilation was regularly made and preserved, unless the sources of information or other circumstances indicate lack of trustworthiness.

(8) **Public records and reports.** (A) To the extent not otherwise provided in (B), records, reports, statements, or data compilations in any form of a public office or agency setting forth its regularly conducted and regularly recorded activities, or matters observed pursuant to a duty imposed by law and as to which there was a duty to report, or factual findings resulting from an investigation made pursuant to authority granted by law. (B) The following are not within this exception to the hearsay rule: (i) investigative reports by police and other law enforcement personnel; (ii) investigative reports prepared by or for a government, a public office or an agency when offered by it in a case in which it is a party; (iii) factual findings offered

by the State or political subdivision in criminal cases; (iv) factual findings resulting from special investigation of a particular complaint, case, or incident; (v) any matter as to which the sources of information or other circumstances indicate lack of trustworthiness. This subdivision, however, shall not supersede specific statutory provisions regarding the admissibility of particular public records and reports.

(9) Records of vital statistics. Records or data compilations, in any form, of births, fetal deaths, adoptions, deaths, marriages, divorces, dissolutions and annulments, if the report thereof was made to a public office pursuant to requirements of law.

(10) Absence of public record or entry. To prove the absence of a record, report, statement, or data compilation, in any form, or the nonoccurrence or nonexistence of a matter of which a record, report, statement, or data compilation, in any form, was regularly made and preserved by a public office or agency, evidence in the form of a certification in accordance with rule 902, Iowa Rules of Evidence, or testimony, that diligent search failed to disclose the record, report, statement, or data compilation, or entry.

(11) Records of religious organizations. Statements of births, marriages, divorces, deaths, legitimacy, ancestry, relationship by blood or marriage, or other similar facts of personal or family history, contained in a regularly kept record of a religious organization.

(12) Marriage, baptismal, and similar certificates. Statements of fact contained in a certificate that the maker performed a marriage or other ceremony or administered a sacrament, made by a clergyman, public official, or other person authorized by the rules or practices of a religious organization or by law to perform the act certified, and purporting to have been issued at the time of the act or within a reasonable time thereafter.

(13) Family records. Statements of fact concerning personal or family history contained in family Bibles, genealogies, charts, engravings on rings, inscriptions on family portraits, engravings on urns, crypts, or tombstones, or the like.

(14) Records of documents affecting an interest in property. The record of a document purporting to establish or affect an interest in property, as proof of the content of the original recorded document and its execution and delivery by each person by whom it purports to have been executed, if the record is a record of a public office and an applicable statute authorizes the recording of documents of that kind in that office.

(15) Statements in documents affecting an interest in property. A statement contained in a document purporting to establish or affect an interest in property if the matter stated was relevant to the purpose of the document, unless dealings with the property since the document was made have been inconsistent with the truth of the statement or the purport of the document.

(16) Statements in ancient documents. Statements in a document in existence thirty years or more the authenticity of which is established.

(17) Market reports, commercial publications. Market quotations, tabulations, lists, directories, or other published compilations, generally used and relied upon by the public or by persons in particular occupations.

(18) Learned treatises. To the extent called to the attention of an expert witness upon cross-examination, statements contained in published treatises, periodicals, or pamphlets on a subject of history, medicine, or other science or art, established as a reliable authority by the testimony or admission of the witness. If admissible, the statements may be read into evidence but may not be received as exhibits.

(19) Reputation concerning personal or family history. Reputation among members of his family by blood, adoption, or marriage, or among his associates, or in the community, concerning a person's birth, adoption, marriage, divorce, dissolution, death, legitimacy, relationship

by blood, adoption, or marriage, ancestry, or other similar fact of his personal or family history.

(20) Reputation concerning boundaries or general history. Reputation in a community, arising before the controversy, as to boundaries of or customs affecting lands in the community, and reputation as to events of general history important to the community or state or nation in which located.

(21) Reputation as to character. Reputation of a person's character among his associates or in the community.

(22) Judgment of previous conviction. Evidence of a final judgment, entered after a trial or upon a plea of guilty (but not upon a plea of *nolo contendere*), adjudging a person guilty of a crime punishable by death or imprisonment in excess of one year, to prove any fact essential to sustain the judgment, but not including, when offered by the state or political subdivision in a criminal prosecution for purposes other than impeachment, judgments against persons other than the accused. The pendency of an appeal may be shown but does not affect admissibility.

(23) Judgment as to personal, family or general history, or boundaries. Judgments as proof of matters of personal, family or general history, or boundaries, essential to the judgment, if the same would be provable by evidence of reputation.

(24) Other exceptions. A statement not specifically covered by any of the foregoing exceptions but having equivalent circumstantial guarantees of trustworthiness, if the court determines that (A) the statement is offered as evidence of a material fact; (B) the statement is more probative on the point for which it is offered than any other evidence which the proponent can procure through reasonable efforts; and (C) the general purposes of these rules and the interests of justice will best be served by admission of the statement into evidence. However, a statement may not be admitted under this exception unless the proponent of it makes known to the adverse party sufficiently in advance of the trial or hearing to provide the adverse party with a fair opportunity to prepare to meet it, his intention to offer the statement and the particulars of it, including the name and address of the declarant.

**Rule 804. Hearsay Exceptions; Declarant Unavailable.**

(a) Definition of unavailability. "Unavailability as a witness" includes situations in which the declarant —

(1) is exempted by ruling of the court on the ground of privilege from testifying concerning the subject matter of his statement; or

(2) persists in refusing to testify concerning the subject matter of his statement despite an order of the court to do so; or

(3) testifies to a lack of memory of the subject matter of his statement; or

(4) is unable to be present or to testify at the trial or hearing because of death or then existing physical or mental illness or infirmity; or

(5) is absent from the trial or hearing and the proponent of his statement has been unable to procure his attendance by process or other reasonable means.

A declarant is not unavailable as a witness if his exemption, refusal, claim of lack of memory, inability, or absence is due to the procurement or wrongdoing of the proponent of his statement for the purpose of preventing the witness from attending or testifying.

(b) Hearsay exceptions. The following are not excluded by the hearsay rule if the declarant is unavailable as a witness:

(1) Former testimony. Testimony given as a witness at another trial or hearing of the same or a different proceeding, or in a deposition taken in compliance with law in the course of the same or another proceeding, if the party against whom the testimony is now offered, or, in a civil action or proceeding, a predecessor in interest, had an opportunity and similar motive to develop the testimony by direct, cross, or redirect examination.

(2) Statement under belief of impending death. A statement made by a declarant while believing that his death was imminent, concerning the cause or circumstances of what he believed to be his impending death.

(3) Statement against interest. A statement which was at the time of its making so far contrary to the declarant's pecuniary or proprietary interest, or so far tended to subject him to civil or criminal liability, or to render invalid a claim by him against another, that a reasonable man in his position would not have made the statement unless he believed it to be true. A statement tending to expose the declarant to criminal liability and offered to exculpate the accused is not admissible unless corroborating circumstances clearly indicate the trustworthiness of the statement.

(4) Statement of personal or family history. (A) A statement concerning the declarant's own birth, adoption, marriage, divorce, dissolution, legitimacy, relationship by blood, adoption, or marriage, ancestry, or other similar fact of personal or family history, even though declarant had no means of acquiring personal knowledge of the matter stated; or (B) a statement concerning the foregoing matters, and death also, of another person, if the declarant was related to the other by blood, adoption, or marriage or was so intimately associated with the other's family as to be likely to have accurate information concerning the matter declared.

(5) Other exceptions. A statement not specifically covered by any of the foregoing exceptions but having equivalent circumstantial guarantees of trustworthiness, if the court determines that (A) the statement is offered as evidence of a material fact; (B) the statement is more probative on the point for which it is offered than any other evidence which the proponent can procure through reasonable efforts; and (C) the general purposes of these rules and the interests of justice will best be served by admission of the statement into evidence. However, a statement may not be admitted under this exception unless the proponent of it makes known to the adverse party sufficiently in advance of the trial or hearing to provide the adverse party with a fair opportunity to prepare to meet it, his intention to offer the statement and the particulars of it, including the name and address of the declarant.

**Rule 805. Hearsay Within Hearsay.** Hearsay included within hearsay is not excluded under the hearsay rule if each part of the combined statements conforms with an exception to the hearsay rule provided in these rules.

**Rule 806. Attacking and Supporting Credibility of Declarant.** When a hearsay statement, or a statement defined in rule 801(d)(2)(C), (D), or (E), Iowa Rules of Evidence, has been admitted in evidence, the credibility of the declarant may be attacked, and if attacked may be supported, by any evidence which would be admissible for those purposes if declarant had testified as a witness. Evidence of a statement or conduct by the declarant at any time, inconsistent with his hearsay statement, is not subject to any requirement that he may have been afforded an opportunity to deny or explain. If the party against whom a hearsay statement has been admitted calls the declarant as a witness, the party is entitled to examine him on the statement as if under cross-examination.

**ARTICLE IX  
AUTHENTICATION AND IDENTIFICATION**

**Rule 901. Requirement of Authentication or Identification.**

(a) General provision. The requirement of authentication or identification as a condition precedent to admissibility is satisfied by evidence sufficient to support a finding that the matter in question is what its proponent claims.

(b) Illustrations. By way of illustration only, and not by way of limitation, the following are examples of authentication or identification conforming with the requirements of this rule:

(1) Testimony of witness with knowledge. Testimony that a matter is what it is claimed to be.

(2) Nonexpert opinion on handwriting. Nonexpert opinion as to the genuineness of handwriting, based upon familiarity not acquired for purposes of the litigation.

(3) Comparison by trier or expert witness. Comparison by the trier of fact or by expert witnesses with specimens which have been authenticated.

(4) Distinctive characteristics and the like. Appearance, contents, substance, internal patterns, or other distinctive characteristics, taken in conjunction with circumstances.

(5) Voice identification. Identification of a voice, whether heard firsthand or through mechanical or electronic transmission or recording, by opinion based upon hearing the voice at any time under circumstances connecting it with the alleged speaker.

(6) Telephone conversations. Telephone conversations, by evidence that a call was made to the number assigned at the time by the telephone company to a particular person or business, if (A) in the case of a person, circumstances, including self-identification, show the person answering to be the one called, or (B) in the case of a business, the call was made to a place of business and the conversation related to business reasonably transacted over the telephone.

(7) Public records or reports. Evidence that a writing authorized by law to be recorded or filed and in fact recorded or filed in a public office, or a purported public record, report, statement, or data compilation, in any form, is from the public office where items of this nature are kept.

(8) Ancient documents or data compilation. Evidence that a document or data compilation, in any form, (A) is in such condition as to create no suspicion concerning its authenticity, (B) was in a place where it, if authentic, would likely be, and (C) has been in existence thirty years or more at the time it is offered.

(9) Process or system. Evidence describing a process or system used to produce a result and showing that the process or system produces an accurate result.

(10) Methods provided by statute or rule. Any method of authentication or identification provided by statute or by rules prescribed by the Iowa Supreme Court.

**Rule 902. Self-Authentication.** Extrinsic evidence of authenticity as a condition precedent to admissibility is not required with respect to the following:

(1) Domestic public documents under seal. A document bearing a seal purporting to be that of the United States, or of any state, district, commonwealth, territory, or insular possession thereof, or the Panama Canal Zone, or the Trust Territory of the Pacific Islands, or of a political subdivision, department, officer, or agency thereof, and a signature purporting to be an attestation or execution.

(2) Domestic public documents not under seal. A document purporting to bear the signature in his official capacity of an officer or employee of any entity included in paragraph (1) hereof, having no seal, if a public officer having a seal and having official duties in the district or political subdivision of the officer or employee certifies under seal that the signer has the official capacity and that the signature is genuine.

(3) Foreign public documents. A document purporting to be executed or attested in his official capacity by a person authorized by the laws of a foreign country to make the execution or attestation, and accompanied by a final certification as to the genuineness of the signature and official position (A) of the executing or attesting person, or (B) of any foreign official whose certificate of genuineness of signature and official position relates to the execution or attestation or is in a chain of certificates of genuineness of signature and official position relating to the execution or attestation. A final certification may be made by a secretary of embassy or legation, consul general, consul, vice consul, or consular agent of the United States, or a diplomatic or consular official of the foreign country assigned or accredited to the United States. If reasonable opportunity has been given to all parties to investigate the authenticity and accuracy of official documents, the court may, for good cause shown, order that they be treated as presumptively authentic without final certification or permit them to be evidenced by an attested summary with or without final certification.

(4) Certified copies of public records. A copy of an official record or report or entry therein, or of a document authorized by law to be recorded or filed and actually recorded or filed in a public office, including data compilations in any form, certified as correct by the custodian or other person authorized to make the certification, by certificate complying with paragraph (1), (2), or (3) of this rule or complying with any Act of Congress or rule prescribed by the United States Supreme Court pursuant to statutory authority, or statutes of Iowa or any other state or territory of the United States, or rule prescribed by the Iowa Supreme Court.

(5) Official publications. Books, pamphlets, or other publications purporting to be issued by public authority.

(6) Newspapers and periodicals. Printed materials purporting to be newspapers or periodicals.

(7) Trade inscriptions and the like. Inscriptions, signs, tags, or labels purporting to have been affixed in the course of business and indicating ownership, control, or origin.

(8) Acknowledged documents. Documents accompanied by a certificate of acknowledgment executed in the manner provided by law by a notary public or other officer authorized by law to take acknowledgments.

(9) Commercial paper and related documents. Commercial paper, signatures thereon, and documents relating thereto to the extent provided by general commercial law.

(10) Presumptions under Acts of Congress or statute of Iowa or any other state or territory of the United States. Any signature, document or other matter declared by Act of Congress or statute of Iowa or any other state or territory of the United States to be presumptively or prima facie genuine or authentic.

**Rule 903. Subscribing Witness' Testimony Unnecessary.** The testimony of a subscribing witness is not necessary to authenticate a writing unless required by laws of the jurisdiction whose laws govern the validity of the writing. Nothing in this rule shall affect the admission of a foreign will into probate in this state.

ARTICLE X  
CONTENTS OF WRITINGS, RECORDINGS AND PHOTOGRAPHS

Rule 1001. Definitions. For purposes of this article the following definitions are applicable:

(1) Writings and recordings. "Writings" and "recordings" consist of letters, words, or numbers, or their equivalent, set down by handwriting, typewriting, printing, photostating, photographing, magnetic impulse, mechanical or electronic recording, or other form of data compilation.

(2) Photographs. "Photographs" include still photographs, X-ray films, video tapes, and motion pictures.

(3) Original. An "original" of a writing or recording is the writing or recording itself or any counterpart intended to have the same effect by a person executing or issuing it. An "original" of a photograph includes the negative or any print therefrom. If data are stored in a computer or similar device, any printout or other output readable by sight, shown to reflect the data accurately, is an "original."

(4) Duplicate. A "duplicate" is a counterpart produced by the same impression as the original, or from the same matrix, or by means of photography, including enlargements and miniatures, or by mechanical or electronic re-recording, or by chemical reproduction, or by other equivalent techniques which accurately reproduce the original.

Rule 1002. Requirement of Original. To prove the content of a writing, recording, or photograph, an original is required, except as otherwise provided in these rules or by statute.

Rule 1003. Admissibility of Duplicates. A duplicate is admissible to the same extent as an original unless (1) a genuine question is raised as to the authenticity of the original or (2) under the circumstances, admission of the duplicate would be unfair.

Rule 1004. Admissibility of Other Evidence of Contents. The original is not required and other evidence of the contents of a writing, recording, or photograph is admissible if —

(1) Originals lost or destroyed. All originals are lost or have been destroyed, unless the proponent lost or destroyed them in bad faith; or

(2) Original not obtainable. No original can be obtained by any available judicial process or procedure; or

(3) Original in possession of opponent. At a time an original was under the control of the party against whom offered, he was put on notice, by the pleadings or otherwise, that the contents would be a subject of proof at the trial or hearing, and he does not produce the original at the trial or hearing; or

(4) Collateral matters. The writing, recording, or photograph is not closely related to a controlling issue.

Rule 1005. Public Records. The contents of an official record, or of a document authorized to be recorded or filed and actually recorded or filed, including data compilations in any form, if otherwise admissible, may be proved by copy, certified as correct in accordance with rule 902, Iowa Rules of Evidence, or testified to be correct by a witness who has compared it with the original. If a copy which complies with the foregoing cannot be obtained by the exercise of reasonable diligence, then other evidence of the contents may be given.

**Rule 1006. Summaries.** The contents of voluminous writings, recordings, or photographs which cannot conveniently be examined in court may be presented in the form of a chart, summary, or calculation. The originals, or duplicates, shall be made available for examination or copying, or both, by other parties at reasonable time and place. The court may order that they be produced in court.

**Rule 1007. Testimony or Written Admission of Party.** Contents of writings, recordings, or photographs may be proved by the testimony or deposition of the party against whom offered or by his written admission, without accounting for the nonproduction of the original.

**Rule 1008. Functions of Court and Jury.** When the admissibility of other evidence of contents of writings, recordings, or photographs under these rules depends upon the fulfillment of a condition of fact, the question whether the condition has been fulfilled is ordinarily for the court to determine in accordance with the provisions of rule 104, Iowa Rules of Evidence. When, however, an issue is raised (a) whether the asserted writing ever existed, or (b) whether another writing, recording, or photograph produced at the trial is the original, or (c) whether other evidence of contents correctly reflects the contents, the issue is for the trier of fact to determine as in the case of other issues of fact.

#### ARTICLE XI MISCELLANEOUS RULES

**Rule 1101. Applicability of Rules.**

(a) **General applicability.** These rules apply in all proceedings in the courts of this state, including proceedings before magistrates and court appointed referees and masters, except as otherwise provided by statute, by this rule, or other rules of the Iowa Supreme Court.

(b) **Rules of privilege.** Rule 501, Iowa Rules of Evidence, with respect to privilege, applies at all stages of all actions, cases, and proceedings.

(c) **Rules inapplicable.** These rules, other than rule 501, Iowa Rules of Evidence, with respect to privilege, do not apply in the following situations:

(1) **Preliminary questions of fact.** The determination of questions of fact preliminary to the admissibility of evidence when the issue is to be determined by the court under rule 104(a), Iowa Rules of Evidence.

(2) **Grand jury.** Proceedings before grand juries.

(3) **Summary contempt.** Contempt proceedings in which an adjudication is made without prior notice and a hearing.

(4) **Miscellaneous proceedings.** Proceedings for extradition or rendition; preliminary hearings in criminal cases, sentencing, and granting or revoking probation; issuance of warrants for arrest, criminal complaints, and search warrants; and proceedings with respect to release on bail or otherwise.

**Rule 1102. (Reserved.)**

Rule 1103. Title. These rules shall be known as the Iowa Rules of Evidence and may be cited as Iowa R. Evid.

Respectfully submitted,  
THE SUPREME COURT OF IOWA

/s/ W. W. Reynoldson

W. W. REYNOLDSON, CHIEF JUSTICE

Des Moines, Iowa  
January 28, 1983

ACKNOWLEDGMENT

I, the undersigned, Secretary of the Senate of the State of Iowa, hereby acknowledge delivery to me on the twenty-eighth day of January, 1983, of the foregoing report of the Supreme Court of Iowa pertaining to the Iowa Rules of Evidence.

/s/ K. Marie Thayer

Secretary of the Senate, 1983 Regular  
Session of the Seventieth General Assembly  
of the State of Iowa

ACKNOWLEDGMENT

I, the undersigned, Chief Clerk of the House of Representatives of the State of Iowa, hereby acknowledge delivery to me on the twenty-eighth day of January, 1983, of the foregoing report of the Supreme Court of Iowa pertaining to the Iowa Rules of Evidence.

/s/ Joseph O'Hern

Chief Clerk of the House of Representatives,  
1983 Regular Session of the Seventieth  
General Assembly of the State of Iowa

## CERTIFICATE

I, Robert Anderson, do hereby certify that I am the President of the Senate of the 1983 Regular Session of the Seventieth General Assembly of the State of Iowa; and I, K. Marie Thayer, do hereby certify that I am the Secretary of the Senate of the 1983 Regular Session of the Seventieth General Assembly of the State of Iowa, and we do hereby jointly certify as President and Secretary that on the twenty-eighth day of January, 1983, the Supreme Court of the State of Iowa reported to the Senate, and filed with it, the attached and foregoing Iowa Rules of Evidence;

THAT the date of making that report to the 1983 Regular Session of the Seventieth General Assembly was within twenty days subsequent to the convening of the 1983 Regular Session of the Seventieth General Assembly;

THAT no other report pertaining to the Iowa Rules of Evidence was made or filed by the Supreme Court with the Senate;

THAT no changes, modifications, amendments, revisions or additions to the Iowa Rules of Evidence as reported by the Supreme Court were made or enacted at the 1983 Regular Session of the Seventieth General Assembly.

Signed this 14th day of May, 1983, being the sine die adjournment of the 1983 Regular Session of the Seventieth General Assembly.

/s/ Robert Anderson

ROBERT ANDERSON  
President of the Senate

/s/ K. Marie Thayer

K. MARIE THAYER  
Secretary of the Senate, 1983 Regular  
Session of the Seventieth General Assembly  
of the State of Iowa

**CERTIFICATE**

I, Donald Avenson, do hereby certify that I am the Speaker of the House of Representatives of the 1983 Regular Session of the Seventieth General Assembly of the State of Iowa; and I, Joseph O'Hern, do hereby certify that I am the Chief Clerk of the House of Representatives of the 1983 Regular Session of the Seventieth General Assembly of the State of Iowa, and we do hereby jointly certify as Speaker and Chief Clerk that on the twenty-eighth day of January, 1983, the Supreme Court of the State of Iowa reported to the House of Representatives, and filed with it, the attached and foregoing Iowa Rules of Evidence;

THAT the date of making that report to the 1983 Regular Session of the Seventieth General Assembly was within twenty days subsequent to the convening of the 1983 Regular Session of the Seventieth General Assembly;

THAT no other report pertaining to the Iowa Rules of Evidence was made or filed by the Supreme Court with the House of Representatives;

THAT no changes, modifications, amendments, revisions or additions to the Iowa Rules of Evidence as reported by the Supreme Court were made or enacted at the 1983 Regular Session of the Seventieth General Assembly.

Signed this 14th day of May, 1983, being the sine die adjournment of the 1983 Regular Session of the Seventieth General Assembly.

/s/ Donald Avenson

**DONALD AVENSON**  
Speaker of the House

/s/ Joseph O'Hern

**JOSEPH O'HERN**  
Chief Clerk of the House of Representatives,  
1983 Regular Session of the Seventieth  
General Assembly of the State of Iowa

**RULES OF APPELLATE PROCEDURE**

**CHAPTER 220**  
**RULES OF APPELLATE PROCEDURE**

IN THE MATTER OF THE RULES  
OF APPELLATE PROCEDURE

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REPORT OF THE  
SUPREME COURT

TO THE 1983 REGULAR SESSION OF THE SEVENTIETH GENERAL ASSEMBLY OF  
THE STATE OF IOWA:

Pursuant to Iowa Code sections 684.18(2) and 684.19, the Supreme Court of Iowa has prescribed and hereby reports to the General Assembly a change in the Rules of Appellate Procedure as follows:

Rule 5(a)

That the first paragraph of rule 5(a) be amended as follows:

"(a) Appeals Except as provided by rule 20(b), rules of appellate procedure, appeals to the supreme court must be taken within, and not after, thirty days from the entry of the order, judgment or decree, unless a motion for new trial or judgment notwithstanding the verdict as provided in R.C.P. 247, or a motion as provided in R.C.P. 179(b), is filed, and then within thirty days after the entry of the ruling on such motion; provided however that where an application to the supreme court or any justice thereof to grant or certify an appeal under rule 2 or 3, rules of appellate procedure, is made within thirty days from the date of the ruling, decision, or judgment sought to be reviewed, any appeal allowed or certified upon such application shall be deemed timely taken."

Respectfully submitted,  
THE SUPREME COURT OF IOWA

/s/ W. W. Reynoldson

W. W. REYNOLDSON, CHIEF JUSTICE

Des Moines, Iowa  
January 14, 1983

**ACKNOWLEDGMENT**

I, the undersigned, Secretary of the Senate of the State of Iowa, hereby acknowledge delivery to me on the fourteenth day of January, 1983, of the foregoing report of the Supreme Court of Iowa pertaining to the Rules of Appellate Procedure.

/s/ K. Marie Thayer

Secretary of the Senate, 1983 Regular  
Session of the Seventieth General Assembly  
of the State of Iowa

**ACKNOWLEDGMENT**

I, the undersigned, Chief Clerk of the House of Representatives of the State of Iowa, hereby acknowledge delivery to me on the fourteenth day of January, 1983, of the foregoing report of the Supreme Court of Iowa pertaining to the Rules of Appellate Procedure.

/s/ Joseph O'Hern

Chief Clerk of the House of Representatives,  
1983 Regular Session of the Seventieth  
General Assembly of the State of Iowa

## CERTIFICATE

I, Robert Anderson, do hereby certify that I am the President of the Senate of the 1983 Regular Session of the Seventieth General Assembly of the State of Iowa; and I, K. Marie Thayer, do hereby certify that I am the Secretary of the Senate of the 1983 Regular Session of the Seventieth General Assembly of the State of Iowa, and we do hereby jointly certify as President and Secretary that on the fourteenth day of January, 1983, the Supreme Court of the State of Iowa reported to the Senate, and filed with it, the attached and foregoing Rules of Appellate Procedure;

THAT the date of making that report to the 1983 Regular Session of the Seventieth General Assembly was within twenty days subsequent to the convening of the 1983 Regular Session of the Seventieth General Assembly;

THAT no other report pertaining to the Rules of Appellate Procedure was made or filed by the Supreme Court with the Senate;

THAT no changes, modifications, amendments, revisions or additions to the Rules of Appellate Procedure as reported by the Supreme Court were made or enacted at the 1983 Regular Session of the Seventieth General Assembly.

Signed this 14th day of May, 1983, being the sine die adjournment of the 1983 Regular Session of the Seventieth General Assembly.

/s/ Robert Anderson

ROBERT ANDERSON  
President of the Senate

/s/ K. Marie Thayer

K. MARIE THAYER  
Secretary of the Senate, 1983 Regular  
Session of the Seventieth General Assembly  
of the State of Iowa

## CERTIFICATE

I, Donald Avenson, do hereby certify that I am the Speaker of the House of Representatives of the 1983 Regular Session of the Seventieth General Assembly of the State of Iowa; and I, Joseph O'Hern, do hereby certify that I am the Chief Clerk of the House of Representatives of the 1983 Regular Session of the Seventieth General Assembly of the State of Iowa, and we do hereby jointly certify as Speaker and Chief Clerk that on the fourteenth day of January, 1983, the Supreme Court of the State of Iowa reported to the House of Representatives, and filed with it, the attached and foregoing Rules of Appellate Procedure;

THAT the date of making that report to the 1983 Regular Session of the Seventieth General Assembly was within twenty days subsequent to the convening of the 1983 Regular Session of the Seventieth General Assembly;

THAT no other report pertaining to the Rules of Appellate Procedure was made or filed by the Supreme Court with the House of Representatives;

THAT no changes, modifications, amendments, revisions or additions to the Rules of Appellate Procedure as reported by the Supreme Court were made or enacted at the 1983 Regular Session of the Seventieth General Assembly.

Signed this 14th day of May, 1983, being the sine die adjournment of the 1983 Regular Session of the Seventieth General Assembly.

/s/ Donald Avenson

DONALD AVENSON  
Speaker of the House

/s/ Joseph O'Hern

JOSEPH O'HERN  
Chief Clerk of the House of Representatives,  
1983 Regular Session of the Seventieth  
General Assembly of the State of Iowa

**RULES FOR HOSPITALIZATION OF MENTALLY ILL**

**CHAPTER 221**

**RULES FOR INVOLUNTARY HOSPITALIZATION OF MENTALLY ILL**

IN THE MATTER OF RULES OF PRO-  
CEDURE FOR INVOLUNTARY  
HOSPITALIZATION OF  
MENTALLY ILL



REPORT OF THE  
SUPREME COURT

TO THE 1983 REGULAR SESSION OF THE SEVENTIETH GENERAL ASSEMBLY OF  
THE STATE OF IOWA:

Pursuant to Iowa Code sections 229.40 and 684.19, the Supreme Court of Iowa has pre-  
scribed and hereby reports to the General Assembly changes in existing Rules of Procedure  
for the Involuntary Hospitalization of the Mentally Ill as follows:

Rule 32.

That rule 32 be amended as follows:

"32. If, pursuant to section 229.14(3), The Code, the chief medical officer determines that  
the patient is suited for outpatient care, the chief medical officer (or his designee) and the  
patient shall discuss and agree upon determine the specific care and treatment guidelines in  
upon which the best interests of the patient outpatient status will be paramount based and  
shall discuss these guidelines with the patient. These written guidelines shall be known as the  
Outpatient Treatment Plan (O.T.P.). If either the patient or the chief medical officer (or his  
designee) alleges that the O.T.P. has been breached, the judge or a judicial hospitalization  
referee shall hold a hearing as provided by sections 229.14(3) and 229.12, The Code, to deter-  
mine whether the patient should be rehospitalized, whether the O.T.P. should be revised, or  
whether some other remedy should be ordered. The patient is entitled to shall be given  
reasonable notice of such a hearing."

Respectfully submitted,  
THE SUPREME COURT OF IOWA

/s/ W. W. Reynoldson  
W. W. REYNOLDSON, CHIEF JUSTICE

Des Moines, Iowa  
January 28, 1983

ACKNOWLEDGMENT

I, the undersigned, Secretary of the Senate of the State of Iowa, hereby acknowledge delivery to me on the twenty-eighth day of January, 1983, of the foregoing report of the Supreme Court of Iowa pertaining to the Rules of Procedure for Involuntary Hospitalization of the Mentally Ill.

/s/ K. Marie Thayer

Secretary of the Senate, 1983 Regular  
Session of the Seventieth General Assembly  
of the State of Iowa

ACKNOWLEDGMENT

I, the undersigned, Chief Clerk of the House of Representatives of the State of Iowa, hereby acknowledge delivery to me on the twenty-eighth day of January, 1983, of the foregoing report of the Supreme Court of Iowa pertaining to the Rules of Procedure for Involuntary Hospitalization of the Mentally Ill.

/s/ Joseph O'Hern

Chief Clerk of the House of Representatives,  
1983 Regular Session of the Seventieth  
General Assembly of the State of Iowa

## CERTIFICATE

I, Robert Anderson, do hereby certify that I am the President of the Senate of the 1983 Regular Session of the Seventieth General Assembly of the State of Iowa; and I, K. Marie Thayer, do hereby certify that I am the Secretary of the Senate of the 1983 Regular Session of the Seventieth General Assembly of the State of Iowa, and we do hereby jointly certify as President and Secretary that on the twenty-eighth day of January, 1983, the Supreme Court of the State of Iowa reported to the Senate, and filed with it, the attached and foregoing Rules of Procedure for Involuntary Hospitalization of the Mentally Ill;

THAT the date of making that report to the 1983 Regular Session of the Seventieth General Assembly was within twenty days subsequent to the convening of the 1983 Regular Session of the Seventieth General Assembly;

THAT no other report pertaining to the Rules of Procedure for Involuntary Hospitalization of the Mentally Ill was made or filed by the Supreme Court with the Senate;

THAT no changes, modifications, amendments, revisions or additions to the Rules of Procedure for Involuntary Hospitalization of the Mentally Ill as reported by the Supreme Court were made or enacted at the 1983 Regular Session of the Seventieth General Assembly.

Signed this 14th day of May, 1983, being the sine die adjournment of the 1983 Regular Session of the Seventieth General Assembly.

/s/ Robert Anderson

ROBERT ANDERSON  
President of the Senate

/s/ K. Marie Thayer

K. MARIE THAYER  
Secretary of the Senate, 1983 Regular  
Session of the Seventieth General Assembly  
of the State of Iowa

## CERTIFICATE

I, Donald Avenson, do hereby certify that I am the Speaker of the House of Representatives of the 1983 Regular Session of the Seventieth General Assembly of the State of Iowa; and I, Joseph O'Hern, do hereby certify that I am the Chief Clerk of the House of Representatives of the 1983 Regular Session of the Seventieth General Assembly of the State of Iowa, and we do hereby jointly certify as Speaker and Chief Clerk that on the twenty-eighth day of January, 1983, the Supreme Court of the State of Iowa reported to the House of Representatives, and filed with it, the attached and foregoing Rules of Procedure for Involuntary Hospitalization of the Mentally Ill;

THAT the date of making that report to the 1983 Regular Session of the Seventieth General Assembly was within twenty days subsequent to the convening of the 1983 Regular Session of the Seventieth General Assembly;

THAT no other report pertaining to the Rules of Procedure for Involuntary Hospitalization of the Mentally Ill was made or filed by the Supreme Court with the House of Representatives;

THAT no changes, modifications, amendments, revisions or additions to the Rules of Procedure for Involuntary Hospitalization of the Mentally Ill as reported by the Supreme Court were made or enacted at the 1983 Regular Session of the Seventieth General Assembly.

Signed this 14th day of May, 1983, being the sine die adjournment of the 1983 Regular Session of the Seventieth General Assembly.

/s/ Donald Avenson

DONALD AVENSON  
Speaker of the House

/s/ Joseph O'Hern

JOSEPH O'HERN  
Chief Clerk of the House of Representatives,  
1983 Regular Session of the Seventieth  
General Assembly of the State of Iowa

**RULES OF JUVENILE PROCEDURE**

**CHAPTER 222**

**RULES OF JUVENILE PROCEDURE**

IN THE MATTER OF THE RULES  
OF JUVENILE PROCEDURE



REPORT OF THE  
SUPREME COURT

TO THE 1983 REGULAR SESSION OF THE SEVENTIETH GENERAL ASSEMBLY OF  
THE STATE OF IOWA:

Pursuant to Iowa Code sections 232.152 and 684.19, the Supreme Court of Iowa has prescribed and hereby reports to the General Assembly the following new Rule of Juvenile Procedure:

Rule 1. Forms. The forms contained in the appendix of forms are illustrative and not mandatory and any particular instrument may be in more or less the form illustrated.

APPENDIX OF FORMS

Form 1.

IN THE IOWA DISTRICT COURT FOR \_\_\_\_\_ COUNTY  
JUVENILE COURT

IN RE THE FAMILY OF \_\_\_\_\_;  
UPON THE PETITION OF \_\_\_\_\_

JUVENILE NO. \_\_\_\_\_

A CHILD/CHILDREN OR  
A PARENT, GUARDIAN OR  
CUSTODIAN.

PETITION FOR  
FAMILY IN NEED OF ASSISTANCE

The petitioner respectfully states to the court that (child/children) and (parent, guardian or custodian) are a family in need of assistance within the purview of Iowa Code sections 232.122 through 232.127, in that there has been a breakdown in the familial relationship. In support thereof, petitioner states as follows:

(STATE BRIEFLY FACTS RELIED ON TO SUSTAIN PETITION.)

Petitioner has sought services from \_\_\_\_\_, a private or public agency, to maintain and improve the familial relationship, but the relationship has not improved and petitioner now requests the aid of the court.

The name(s) and residence(s) of the child/children are \_\_\_\_\_

The age(s) of the child/children is/are \_\_\_\_\_

The names and residences of the living parents, guardian or custodian are

The name and address of the guardian ad litem are

WHEREFORE, the undersigned prays that the court set a time and place for hearing on the petition, appoint counsel for the child, order that notice be directed to all parties in interest in a manner provided by law, and upon hearing adjudicate this family to be a family in need of assistance and make such order or orders as may maintain and improve the familial relationship.

Petitioner

Address

VERIFICATION

State of Iowa }  
County ss

I, \_\_\_\_\_, being duly sworn, depose and say that I have read and signed the foregoing petition and that the allegations therein made are true to the best of my information and belief.

Petitioner

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Notary Public or Deputy Clerk

SOURCE: Iowa Code §§ 232.125, 232.126, 232.127; Iowa R. Juv. P. form 1.

Form 2.

IN THE IOWA DISTRICT COURT FOR \_\_\_\_\_ COUNTY  
JUVENILE COURT

IN RE THE FAMILY OF \_\_\_\_\_;  
UPON THE PETITION OF \_\_\_\_\_.

JUVENILE NO. \_\_\_\_\_

A CHILD/CHILDREN OR  
A PARENT, GUARDIAN OR  
CUSTODIAN.

ORDER  
SETTING HEARING, APPOINTING  
COUNSEL AND GIVING NOTICE  
(FAMILY IN NEED OF ASSISTANCE)

TO: \_\_\_\_\_

You are hereby notified that there is presently on file in this court a verified petition alleging the above-named family to be a family in need of assistance; a copy of the petition is attached. An adjudicatory hearing on the merits of the petition is set for the time and place stated below.

You are further notified that the court shall appoint counsel or a guardian ad litem to represent the interests of the child at the adjudicatory hearing unless the child already has such counsel or guardian and that the court shall appoint counsel for the parent, guardian, or custodian if that person desires but is financially unable to employ counsel.

You are further notified that if you wish to state your views, you must appear or in your absence the court may order you to comply with any other reasonable orders designed to maintain and improve the familial relationship.

The court having found that a hearing on this matter should be set, IT IS HEREBY ORDERED:

1. That the above matter is set for adjudicatory hearing at \_\_\_ o'clock, \_\_m., on the \_\_\_ day of \_\_\_\_\_, 19\_\_\_, before this court at the \_\_\_\_\_ County Courthouse at \_\_\_\_\_, in the city of \_\_\_\_\_, \_\_\_\_\_ County, Iowa.

2. That \_\_\_\_\_, an attorney practicing before this court is appointed to represent the child, \_\_\_\_\_, in this matter as guardian ad litem.\*

3. That the clerk of the juvenile court is directed to send by certified mail a copy of this order with the attached petition to the above-named child, child's counsel and said child's parent, guardian or custodian no less than \_\_\_\_\_ days prior to the time set out above, said mailing to serve as notice of said hearing.

Dated this \_\_\_ day of \_\_\_\_\_, 19\_\_\_.

---

Judge

\* Delete this paragraph if the child is already represented by counsel.

SOURCE: Iowa Code §§ 232.126, 232.127; Iowa R. Juv. P. form 2.

Respectfully submitted,  
THE SUPREME COURT OF IOWA

/s/ W. W. Reynoldson

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W. W. REYNOLDSON, CHIEF JUSTICE

Des Moines, Iowa  
January 14, 1983

ACKNOWLEDGMENT

I, the undersigned, Secretary of the Senate of the State of Iowa, hereby acknowledge delivery to me on the fourteenth day of January, 1983, of the foregoing report of the Supreme Court of Iowa pertaining to the Rules of Juvenile Procedure.

/s/ K. Marie Thayer

Secretary of the Senate, 1983 Regular  
Session of the Seventieth General Assembly  
of the State of Iowa

ACKNOWLEDGMENT

I, the undersigned, Chief Clerk of the House of Representatives of the State of Iowa, hereby acknowledge delivery to me on the fourteenth day of January, 1983, of the foregoing report of the Supreme Court of Iowa pertaining to the Rules of Juvenile Procedure.

/s/ Joseph O'Hern

Chief Clerk of the House of Representatives,  
1983 Regular Session of the Seventieth  
General Assembly of the State of Iowa

## CERTIFICATE

I, Robert Anderson, do hereby certify that I am the President of the Senate of the 1983 Regular Session of the Seventieth General Assembly of the State of Iowa; and I, K. Marie Thayer, do hereby certify that I am the Secretary of the Senate of the 1983 Regular Session of the Seventieth General Assembly of the State of Iowa, and we do hereby jointly certify as President and Secretary that on the fourteenth day of January, 1983, the Supreme Court of the State of Iowa reported to the Senate, and filed with it, the attached and foregoing Rules of Juvenile Procedure;

THAT the date of making that report to the 1983 Regular Session of the Seventieth General Assembly was within twenty days subsequent to the convening of the 1983 Regular Session of the Seventieth General Assembly;

THAT no other report pertaining to the Rules of Juvenile Procedure was made or filed by the Supreme Court with the Senate;

THAT no changes, modifications, amendments, revisions or additions to the Rules of Juvenile Procedure as reported by the Supreme Court were made or enacted at the 1983 Regular Session of the Seventieth General Assembly.

Signed this 14th day of May, 1983, being the sine die adjournment of the 1983 Regular Session of the Seventieth General Assembly.

/s/ Robert Anderson

ROBERT ANDERSON  
President of the Senate

/s/ K. Marie Thayer

K. MARIE THAYER  
Secretary of the Senate, 1983 Regular  
Session of the Seventieth General Assembly  
of the State of Iowa

## CERTIFICATE

I, Donald Avenson, do hereby certify that I am the Speaker of the House of Representatives of the 1983 Regular Session of the Seventieth General Assembly of the State of Iowa; and I, Joseph O'Hern, do hereby certify that I am the Chief Clerk of the House of Representatives of the 1983 Regular Session of the Seventieth General Assembly of the State of Iowa, and we do hereby jointly certify as Speaker and Chief Clerk that on the fourteenth day of January, 1983, the Supreme Court of the State of Iowa reported to the House of Representatives, and filed with it, the attached and foregoing Rules of Juvenile Procedure;

THAT the date of making that report to the 1983 Regular Session of the Seventieth General Assembly was within twenty days subsequent to the convening of the 1983 Regular Session of the Seventieth General Assembly;

THAT no other report pertaining to the Rules of Juvenile Procedure was made or filed by the Supreme Court with the House of Representatives;

THAT no changes, modifications, amendments, revisions or additions to the Rules of Juvenile Procedure as reported by the Supreme Court were made or enacted at the 1983 Regular Session of the Seventieth General Assembly.

Signed this 14th day of May, 1983, being the sine die adjournment of the 1983 Regular Session of the Seventieth General Assembly.

/s/ Donald Avenson

DONALD AVENSON  
Speaker of the House

/s/ Joseph O'Hern

JOSEPH O'HERN  
Chief Clerk of the House of Representatives,  
1983 Regular Session of the Seventieth  
General Assembly of the State of Iowa

### SENATE CONCURRENT RESOLUTION 13

A Concurrent Resolution relating to the board of regents ten-year building program.

WHEREAS, pursuant to section 262A.3, the state board of regents prepared and within seven days after the convening of the Seventieth General Assembly of the State of Iowa, First Session, submitted to the Seventieth General Assembly, First Session, for approval the proposed ten-year building program for each institution of higher learning under the jurisdiction of the board, containing a list of the buildings and facilities which the board deems necessary to further the educational objectives of the institutions, together with an estimate of the cost of each of the buildings and facilities and an estimate of the maximum amount of bonds which the board expects to issue under chapter 262A for each year of the fiscal biennium beginning July 1, 1983, and ending June 30, 1985; and

WHEREAS, the projects contained in the building program are deemed necessary for the proper performance of the instructional, research, and service functions of the institutions; and

WHEREAS, section 262A.4 provides that the state board of regents, after authorization by a constitutional majority of each house of the general assembly and approval by the governor, may undertake and carry out at the institutions of higher learning under the jurisdiction of the board any project as defined in chapter 262A; and

WHEREAS, chapter 262A authorizes the state board of regents to borrow money and to issue and sell negotiable revenue bonds to pay all or any part of the cost of carrying out projects at any institution payable solely from and secured by an irrevocable pledge of a sufficient portion of the student fees and charges and institutional income received by the particular institution; and

WHEREAS, to further the educational objectives of the institutions, the state board of regents requests authorization to undertake and carry out certain projects at this time and to finance their cost by borrowing money and issuing negotiable bonds under chapter 262A in a total amount not to exceed sixty-three million seven hundred eighty thousand (63,780,000) dollars, the remaining cost of the projects to be financed by capital appropriations or by federal or other funds lawfully available; NOW THEREFORE,

BE IT RESOLVED BY THE SENATE, THE HOUSE CONCURRING, That the proposed ten-year building program submitted by the state board of regents for each institution of higher learning under its jurisdiction, including the estimate of the maximum amount of bonds which the board expects to issue under chapter 262A during the biennium which commences July 1, 1983, and ends June 30, 1985, is approved as follows:

State University of Iowa .....	\$	132,435,000
Iowa State University of Science and Technology .....		109,060,000
University of Northern Iowa .....		<u>27,375,000</u>
Total ten-year program 1983-1993 .....	\$	<u>268,870,000</u>

BE IT FURTHER RESOLVED, That no commitment is implied or intended by approval to fund any portion of the proposed ten-year building program submitted by the state board of regents beyond the portion that is financed and approved by the Seventieth General Assembly, First Session, and the Governor; and

BE IT FURTHER RESOLVED, That during the biennium which commences July 1, 1983,

and which ends June 30, 1985, the maximum amount of bonds which the state board of regents expects to issue under chapter 262A is sixty-three million seven hundred eighty thousand (63,780,000) dollars, all or any part of which may be issued during the fiscal year ending June 30, 1984, and if all that amount should not be issued during the fiscal year ending June 30, 1984, any remaining balance may be issued during the fiscal year ending June 30, 1985, and this plan of financing is approved; and

BE IT FURTHER RESOLVED, That the state board of regents is authorized to undertake and carry out the following projects and to pay all or any part of the cost of carrying out the projects by borrowing money and issuing negotiable revenue bonds under the provisions of chapter 262A in a total amount not to exceed sixty-three million seven hundred eighty thousand (63,780,000) dollars:

State University of Iowa

Law building construction and equipment

Cost of issuance of bonds

Iowa State University of Science and Technology

Agronomy addition construction and equipment

Cooling tower replacement

Central chiller plant addition

Cost of issuance of bonds

University of Northern Iowa

Communication arts center construction and equipment

Cost of issuance of bonds

Adopted S.J. 689; H.J. 1455

Approved May 9, 1983

## SENATE CONCURRENT RESOLUTIONS

*[Priorities determined by Legislative Council, SCR 37]*

- SCR 1 Legislative materials distributed free to county auditors and to Iowa's congressional delegation. Adopted, S.J. 13, 14; Adopted, H.J. 56, 57.
- SCR 2 Joint inaugural committee appointed. Adopted, S.J. 14, 15; Adopted, H.J. 78.
- SCR 3 Compensation of chaplains, officers and employees of the General Assembly. Adopted, S.J. 52-62, 87, 88; Adopted, H.J. 76, 79-94.
- SCR 4 Joint rules, Senate and House, Seventieth General Assembly. Introduced, S.J. 62-70, Withdrawn, S.J. 114. [See HCR 2]
- SCR 5 City of Cushing, congratulated upon its one hundredth anniversary, June 17-19, 1983. Introduced, S.J. 120, 148.
- SCR 6 Jaycee Week proclaimed, January 16-22, 1983. Introduced, S.J. 128, 183.
- SCR 7 Atomic radiation effects, U.S. Congress urged to revise regulations pertaining to health care of veterans exposed to atomic radiation. Adopted, S.J. 182, 183, 194, 789, 974; Introduced, H.J. 908, 909.
- SCR 8 Board of Regents to issue bonds for construction at the State University of Iowa hospitals. Adopted, S.J. 235, 236, 240, 241, 263, 267-269; Adopted, H.J. 246, 247, 352, 374-377, 388, 389.
- SCR 9 Nuclear arms race, joint strategic arms control with Soviet Union urged. Introduced, S.J. 326, 327, 353.
- SCR 10 City of Pierson, congratulations upon its one hundredth anniversary, June 23-25, 1983. Introduced, S.J. 342, 343, 366.
- SCR 11 William P. Angrick, II confirmed as citizens' aide for four-year term commencing July 1, 1982. Adopted, S.J. 376, 385, 413; Adopted, H.J. 430, 1771.
- SCR 12 Judicial impact statements of bills or study bills. Adopted, S.J. 430, 443, 487; Introduced, H.J. 487.
- SCR 13 Ten-year building program of Board of Regents approved. Adopted, S.J. 570-572, 578, 619, 640, 689, 1641; Adopted, H.J. 677-679, 811, 819, 1109, 1110, 1449-1455, 1486, 1528, 2006. Signed by Governor, 5/9/83, S.J. 1641, H.J. 2006. [Published on preceding page herein]
- SCR 14 City of Burlington, congratulations upon its one hundred fiftieth anniversary. Introduced, S.J. 596, 597, 637.
- SCR 15 Unemployment trust funds, General Assembly petitions Congress to forgive interest charged on federal advances to the fund. Adopted, S.J. 653, 654, 657, 666, 667; Introduced, H.J. 657, 658.
- CR 16 "Women's History Week", March 6-12, 1983, recognition by General Assembly. Introduced, S.J. 663, 664, 692.
- SCR 17 Interim study of special rules of negligence to apply to volunteer workers. Introduced, S.J. 722, 723.
- SCR 18 Comparative fault, comparative negligence and contributory negligence. Introduced, S.J. 760, 761, Withdrawn, S.J. 1780.
- SCR 19 Frank Miller honored for contributions his cartoons made. Adopted, S.J. 761, 762, 790, 974; Introduced, H.J. 909, 910.
- SCR 20 Easter recess, March 31-April 5, 1983. Introduced, S.J. 781, 790, 814, Withdrawn, S.J. 816. [See HCR 18]

- SCR 21 Petitioning President Reagan to release economic emergency funds for loans under the Farmers Home Administration. Adopted, S.J. 859, 884, 978; Introduced, H.J. 910, 911.
- SCR 22 Designation of April 20, 1983 as "Iowa Teachers Day". Adopted, S.J. 872, 908, 1111, 1156; Adopted, H.J. 1157, 1158, 1342.
- SCR 23 El Salvador, Iowa's Congressional delegation and President Reagan urged to halt military aid. Introduced, S.J. 935, 936, 948. [See HCR 19]
- SCR 24 Noxious weed laws review by interim study committee. Introduced, S.J. 1029, 1045. [See HCR 26]
- SCR 25 Tribute to Frank T. Nye recognizing his contributions to fair and modern legislative procedures. Adopted, S.J. 1029, 1030, 1146, 1185; Introduced, H.J. 1256, 1257.
- SCR 26 Railroad Retirement Solvency Act of 1983, Congress urged to support. Adopted, S.J. 1134, 1138, 1554, 1587; Adopted, H.J. 1925, 1926, 2130.
- SCR 27 Adoption and termination statutes and procedures, interim committee to study. Introduced, S.J. 1137, 1138, 1146. [See HCR 31]
- SCR 28 Soil conservation practices, fifty million dollar bonding program to finance, study feasibility. Introduced, S.J. 1154, 1161, Withdrawn, S.J. 1340.
- SCR 29 Budget process study by an interim committee to determine improvements in the process. Introduced, S.J. 1154, 1155.
- SCR 30 Department of Corrections transition to be monitored by a joint subcommittee. Introduced, S.J. 1156, 1157.
- SCR 31 Coal slurry pipeline legislation opposed. Introduced, S.J. 1222. [See HCR 17]
- SCR 32 Emergency telephone, 911, service needs, study by Communications Review Committee. Introduced, S.J. 1262, 1263.
- SCR 33 State-chartered banks, savings and loan associations, credit unions or their service corporations permitted to own, manage or acquire interest in real estate brokerage office, study. Introduced, S.J. 1337.
- SCR 34 Governmental transportation services, study to compile information, coordinating services provided by state and local governmental bodies. Introduced, S.J. 1345, 1351.
- SCR 35 Child day care needs, study committee. Introduced, S.J. 1346, 1351. [See HCR 32]
- SCR 36 County compensation board, interim study committee. Introduced, S.J. 1346, 1347, 1351.
- SCR 37 Legislative council to determine priorities of interim study committees not approved. Adopted, S.J. 1375, 1376, 1387, 1497, 1530; Adopted, H.J. 1850, 1851, 1973.
- SCR 38 Professional and Occupational Regulation Commission to include in its report to the 1984 Session of the Seventieth General Assembly an evaluation and recommendations regarding a profession or occupation whose practices were expanded or restricted. Adopted, S.J. 1376, 1377, 1387, 1498, 1530, 1531; Introduced, H.J. 1851, 1852.
- SCR 39 Feasibility of examinations for teacher certification and student minimum competency, study committee. Introduced, S.J. 1470, 1471. [See HCR 30]
- SCR 40 Office for Planning and Programming structure and programs, interim study committee. Introduced, S.J. 1511, 1512.
- SCR 41 Study the feasibility of and recommend changes to S.F. 510 regarding liens against crops and livestock. Introduced, S.J. 1514, 1517.
- SCR 42 Examine high tech educational systems and audio-visual systems for schools and make recommendations. Introduced, S.J. 1545, 1546, 1564.

- SCR 43 License fees for grain dealers and agricultural warehouses, interim subcommittee to study. Introduced, S.J. 1573, 1574, 1585.
- SCR 44 Iowa's foreign exports and imports and operations of the international offices of the Iowa Development Commission, interim study committee. Introduced, S.J. 1574, 1585.
- SCR 45 Public construction projects, study of letting contracts to lowest responsible bidders. Introduced, S.J. 1574, 1575, 1585.
- SCR 46 Road funding mechanism study including various types of road bonding, fuel-user fee concept, fluctuation in federal aid and other revenue-related issues. Introduced, S.J. 1600, 1619.
- SCR 47 Adjournment of the 1983 Session of the Seventieth General Assembly, May 14, 1983. Adopted, S.J. 1660, 1771, 1781, 1782; Adopted, H.J. 2244.
- SCR 48 Medically needy program studied. Introduced, S.J. 1687-1689. [See HCR 37]
- SCR 49 Rights of children, interim committee to study problems and make recommendations. Introduced, S.J. 1716.
- SCR 50 Insurance practices and alternatives, study committee to make recommendations of feasibility of a file and use rate system. Introduced, S.J. 1723, 1724.
- SCR 51 Quality of public instruction in Iowa, education study commission created to analyze recent studies. Introduced, S.J. 1724, 1725.
- SCR 52 Teacher certification requirements, study by interim committee. Introduced, S.J. 1734.
- SCR 53 Department of Substance Abuse, study of structure and funding. Introduced, S.J. 1740, 1741. [See HCR 21]
- SCR 54 Health care cost reduction study. Introduced, S.J. 1751, 1752.

**HOUSE CONCURRENT RESOLUTIONS**

*(Priorities determined by Legislative Council, SCR 37)*

- HCR 1 Joint convention, January 10, 1983, 1:30 p.m., Governor Robert D. Ray's condition of the state message. Adopted, H.J. 13; Adopted, S.J. 17, 18.
- HCR 2 Joint rules, House and Senate, Seventieth General Assembly. Adopted, H.J. 61-76, 90, 95, 96, 112, 126-128; Adopted, S.J. 90, 103-114, 171, 184. [See SCR 4]
- HCR 3 Compensation of chaplains, officers and employees of the General Assembly. SCR 3 substituted, H.J. 78.
- HCR 4 Joint convention, January 19, 1983, 10:00 a.m., message by Supreme Court Chief Justice W. Ward Reynoldson, on the condition of the judicial department. Adopted, H.J. 97, 106; Adopted, S.J. 127, 129.
- HCR 5 Joint convention, January 21, 1983, 10:00 a.m., Governor Terry E. Branstad's budget message. Adopted, H.J. 97, 106; Adopted, S.J. 128, 130.
- HCR 6 Nuclear arms freeze, petition to U.S. Congress. Adopted, H.J. 216, 217, 243, 244; Adopted, S.J. 298, 299, 315, 380, 455, 487-489.
- HCR 7 University of Iowa hospitals addition, twenty million dollars to be financed through bonds. Introduced, H.J. 236, 237, 240, Withdrawn, H.J. 389. [See SCR 8]
- HCR 8 Tax structure, interim study committee, detailed study. Introduced, H.J. 279.
- HCR 9 Natural Gas Policy Act of 1978, opposition by General Assembly to any legislation, with or without a windfall profits tax, to accelerate the decontrol of natural gas. Adopted, H.J. 371, 372, 380, 519-521; Adopted, S.J. 584-586, 616, 746, 824.
- HCR 10 United States Supreme Court urged to file an action to require an audit of the Federal Reserve. Introduced, H.J. 407, 408.
- HCR 11 Rock Island Railroad bankruptcy trustee to negotiate with the bidders to allow trackage rights serving the best interests of the public at a reasonable fee. Adopted, H.J. 408, 431, 620, 621, 667, 668; Introduced, S.J. 690, 712.
- HCR 12 Joint memorial session in recognition of the public service of departed members of the General Assembly, March 29, 1983, 7:30 p.m. Adopted, H.J. 468, 486; Adopted, S.J. 521, 539, 579, 596.
- HCR 13 Dr. Martin Luther King, Jr. birthday urged as a national holiday. Introduced, H.J. 468, 469.
- HCR 14 Federal motor fuel tax funds to be used for repair and maintenance of Iowa roads. Introduced, H.J. 526, 762, 763.
- HCR 15 Pioneer Lawmakers Association meeting and program presentation in joint session, April 21, 1983. Adopted, H.J. 544, 648; Adopted, S.J. 681, 712, 772, 813, 814.
- HCR 16 American Library Association's symbol designated as official symbol for Iowa libraries. Adopted, H.J. 553, 1128, 1129; Introduced, S.J. 1204, 1223.
- HCR 17 Coal slurry pipeline legislation opposed. Adopted, H.J. 729, 1128; Introduced, S.J. 1204, 1223. [See SCR 31]
- HCR 18 Easter recess, March 31-April 5, 1983. Adopted, H.J. 734, 761; Adopted, S.J. 812, 814. [See SCR 20]
- HCR 19 Aid to El Salvador, petition Congress to withdraw military aid and advisers. Introduced, H.J. 745, 746. [See SCR 23]
- HCR 20 Adverse economic impacts currently existing in agricultural communities to be reviewed by Governor. Introduced, H.J. 757, 764.

- HCR 21 Department of Substance Abuse, interim committee to study structure and funding. Adopted, H.J. 930, 931, 933, 1857; Introduced, S.J. 1593, 1619. [See SCR 53]
- HCR 22 House File 611 dealing with establishment of a public outdoor recreation and resources fund to be studied. Introduced, H.J. 1204.
- HCR 23 Study to determine savings in criminal investigation and law enforcement academy through reorganization. Introduced, H.J. 1204, 1205.
- HCR 24 Interstate Commerce Commission requested to intervene in Rock Island Railroad bankruptcy. Adopted H.J. 1212, 1213, 1286; Introduced, S.J. 1276, 1277, 1298.
- HCR 25 Public retirement systems, study of funding and benefit levels. Introduced, H.J. 1343.
- HCR 26 Noxious weed laws review by study committee. Introduced, H.J. 1418. [See SCR 24]
- HCR 27 Investment by local governments of temporarily idle public funds, study legislative proposals. Introduced, H.J. 1567.
- HCR 28 Child abuse, interim committee to study judicial disposition and supervision of children subject to abuse. Introduced, H.J. 1688, 1689.
- HCR 29 Hospital cost discrimination and equity among payers, joint subcommittee to study. Introduced, H.J. 1912, 1913.
- HCR 30 School curricula, teacher selection, training and certification study. Introduced, H.J. 1973, 1974. [See SCR 39]
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- HCR 32 Request for evaluation of Department of Social Services child care licensing, registration and inspection procedures. Adopted, H.J. 2014, 2138; Introduced, S.J. 1740. [See SCR 35]
- HCR 33 Health care needs and changes, interim study committee. Introduced, H.J. 2014, 2015.
- HCR 34 Minimum price for certain agricultural commodities sold to be studied. Introduced, H.J. 2067.
- HCR 35 Land use program studied with regard to problems associated with the implementation. Introduced, H.J. 2131.
- HCR 36 Education study commission be created to analyze the quality of education in Iowa. Introduced, H.J. 2132.
- HCR 37 Medically needy program within the state medical assistance program be studied by the Legislative Fiscal Bureau. Introduced, H.J. 2133-2135. [See SCR 48]
- HCR 38 Adoption of rules to prevent area education agency printing services from unfairly competing. Adopted, H.J. 2155, 2156, 2172; Introduced, S.J. 1787.
- HCR 39 Childhood cancer, hemophilia, muscular dystrophy and related genetic diseases programs to be studied by University of Iowa Hospitals and Clinics regarding fees charged and financial status and third-party coverage. Introduced, H.J. 2244, 2245.

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- SR 2 Senate code of ethics for the Seventieth General Assembly. Adopted, S.J. 249-252, 262, 311.
- SR 3 Senate rules governing lobbyists for the Seventieth General Assembly. Adopted, S.J. 252-256, 263, 311.
- SR 4 James M. "Shorty" Sullivan, honoring him for his years of service in the Senate and wishing him a speedy recovery. Adopted, S.J. 359, 360.
- SR 5 Amend permanent rules of the Senate. Adopted, S.J. 372, 373, 385, 394.
- SR 6 Approving terms of gubernatorial appointments. Adopted, S.J. 373-376, 385, 394, 395.
- SR 7 Payment-in-kind program endorsed by Senate. Introduced, S.J. 448, 480.
- SR 8 Senate files to be re-referred to Finance Committee, amendment to permanent Senate rules. Adopted, S.J. 572, 573, 579, 629.
- SR 9 City of Elk Horn, congratulations for selection as site of national Danish heritage museum. Introduced, S.J. 594, 595, 637.
- SR 10 "Victim Rights Week", April 17-23, 1983. Introduced, S.J. 1133, 1138. [See HR 7]
- SR 11 Bruce W. Foudree confirmation as insurance commissioner deferred. Introduced, S.J. 1197.
- SR 12 House amendment to a Senate File ruled not germane constitutes refusal to concur, amendment to permanent Senate rules. Introduced, S.J. 1446, 1462.
- SR 13 Collective bargaining for state employees, study to determine cost to taxpayers. Introduced, S.J. 1676, 1677.
- SR 14 Federal funding of veterans centers urged to be continued. Adopted, S.J. 1686, 1771, 1772.
- SR 15 Senate budgetary plan. Adopted, S.J. 1771, 1772-1774.
- SR 16 Ralph Hayes, dedicate one race at each track each year to him for his efforts to promote racing in Iowa. Adopted, S.J. 1763.

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- HR 1 Opening sessions with prayer, committee to arrange with ministers of the state. Adopted, H.J. 17.
- HR 2 Appointment of clerks, secretaries and pages. Adopted, H.J. 17.
- HR 3 Permanent rules of the House for the Seventieth General Assembly. Adopted, H.J. 164-184, 192, 205, 223, 224.
- HR 4 House code of ethics. Adopted, H.J. 269-274, 276, 349.
- HR 5 Soil and water conservation practices should be top priority of Reagan administration. Introduced, H.J. 448, 449.
- HR 6 Sympathy to Representative and Mrs. Kyle Hummel and family. Adopted, H.J. 839, 853.
- HR 7 "Victim Rights Week", April 17-23, 1983. Introduced, H.J. 1205. [See SR 10]
- HR 8 Election law changes studied. Introduced, H.J. 1558.
- HR 9 Acid rain pollution, extent and source to be studied by United States Congress. Introduced, H.J. 1687, 1688.
- HR 10 Grant ethics committee two days for interim meetings to conduct review of reporting of gifts and lobbying activities. Introduced, H.J. 1774.
- HR 11 Crop damage due to migratory waterfowl studied and possible solutions sought. Introduced, H.J. 1774.
- HR 12 New state office building construction feasibility. Introduced, H.J. 1866.
- HR 13 Study to determine cost to taxpayers of collective bargaining effect on all levels of state government. Introduced, H.J. 2067, 2068.
- HR 14 Congress urged to continue federal funding of veterans centers. Adopted, H.J. 2120, 2121, 2138.

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