February 27, 1963.
Passed on File.
Industrial Relations 2/27

Senate File 300
By MINCKS.

Passed Senate, Date..... Passed House, Date.....

Vote: Ayes..... Nays..... Vote: Ayes..... Nays.....

Approved.....

A BILL FOR

An Act relating to the creation of an Iowa state labor relations board and the repeal of chapter seven hundred thirty-six A (736A), Code 1962.

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

1 Section 1. Labor relations act; definitions. When used
2 in this chapter:
3 (1) "Commissioner" shall mean the labor commissioner or
4 any representative designated by him; (2) "agent" shall mean
5 the representative of the board who handles all investigations
6 of complaints and violations of this chapter; (3) "bureau"
7 shall mean the bureau of labor; (4) "board" shall mean the
8 labor relations board provided for in section two (2);
9 (5) "person" shall include individuals, partnerships,
10 associations, corporations, trustees, receivers and legal
11 representatives; (6) "employer" shall mean any person acting
12 directly or indirectly in the interest of an employer in
13 relation to an employee, but shall not include any person
14 engaged in farming, or any person subject to the provisions
15 of the National Labor Relations Act, unless the national labor
16 relations board has declined to assert jurisdiction over such
17 person, or any person subject to the provisions of the Federal
18 Railway Labor Act (or any charitable, or religious agency or
19 corporation), or any labor organization, except when acting as
20 an employer, or anyone acting as an officer or agent of such

21 labor organization; (7) "employee" shall include, but shall not
22 be restricted to any individual employed by a labor organization,
23 any individual whose employment has ceased as a consequence of,
24 or in connection with, any current labor dispute or because of
25 any unfair labor practice, and who has not obtained any other
26 regular and substantially equivalent employment, and shall not
27 be limited to the employees of a particular employer; but shall
28 not include any individual employed by his parent or spouse or
29 in the domestic service of any person in his home, any individual
30 employed only for the duration of a labor dispute or any
31 individual employed as an agricultural worker; (8) "repre-
32 sentative" shall include a labor organization or an individual,
33 whether or not employed by the employer or those whom he
34 represents; (9) "labor organization" shall mean any
35 organization which exists and is constituted for the purpose,
36 in whole or in part, of collective bargaining, or of dealing
37 with employers concerning grievances, terms or conditions of
38 employment, or other mutual aid protection, and which is not
39 a company union as defined herein; (10) "company union" shall
40 mean any committee, employee representation plan or association
41 of employees which exists for the purpose, in whole or in part,
42 of dealing with employers concerning grievances or terms and
43 conditions of employment which the employer has initiated or
44 created or whose initiation or creation he has suggested or
45 participated in or in the formulation of whose governing rules
46 or policies or the conduct of whose management, policies or
47 elections the employer participates in or supervises or which
48 the employer manages, finances, controls, dominates or assists
49 in maintaining or financing, whether by compensation to anyone

50 for service performed in its behalf or by donating free service,
51 equipment, materials, office or meeting space or anything else
52 of value or by any other means; (11) "unfair labor practice"
53 shall mean only those unfair labor practices listed in section
54 five (5); (12) "labor dispute" shall include, but shall not
55 be restricted to, any controversy between employers and employees
56 or their representatives concerning terms, tenure or conditions
57 of employment or concerning the association or representation
58 of persons in negotiating, fixing or maintaining, or seeking to
59 negotiate, fix, maintain, or change, terms of conditions of
60 employment.

1 Sec. 2. State board of labor relations. (1) There shall
2 be in the bureau of labor the Iowa state board of labor relations,
3 which shall be composed of three members. On or before July 5,
4 1963, the governor shall with the advice and consent of the
5 senate appoint the members of said board. One member shall
6 be representative of labor, one member shall be representative
7 of management and one member shall be representative of the
8 interests of the public. The original board shall be composed
9 of one member for a two year term, one member for a four year
10 term and one member for a six year term. The governor shall
11 indicate the length of term when making the appointment of the
12 original board. Biennially thereafter, as the term of each
13 member expires, the governor shall, with the advice and consent
14 of the senate, appoint a successor to serve for a term of
15 six years. Each member of said board shall have been a
16 qualified elector in this state for at least one year next
17 preceding his appointment. Any member may be removed by
18 the governor for cause shown in a public hearing after the

19 accused shall have been given a copy of the charges made and
20 shall have had an opportunity to answer such charges. The
21 governor shall fill any vacancy by appointment for the unexpired
22 term. Each member shall receive no salary but shall be paid
23 forty (40) dollars in lieu of expenses for each day during
24 which he shall be engaged in the duties of said board. The
25 offices of the board shall be in the bureau at Des Moines. The
26 board is authorized to hold hearings at any place in this state.
27 The board shall appoint such employees, including an assistant
28 to the agent, for such periods as may be necessary to carry
29 out the work of the board and the provisions of this chapter
30 without undue delay. All files, records and documents
31 accumulated by the board shall be kept in offices provided
32 by the bureau. (2) All decisions shall be made by a majority
33 of the board and a copy shall be filed with the commissioner.
34 (3) At the end of each fiscal year, and more frequently if
35 required by the governor, the board shall make a written report
36 to the governor, a copy of which shall be filed with the
37 commissioner.

1 Sec. 3. Agent. (1) The board shall, on or before July 5,
2 1963, and quadrennially thereafter, appoint an agent, who shall
3 be the representative of the board, for a term of four (4)
4 years at an annual salary to be set by said board. Said agent
5 may be removed by the board for cause shown in public hearing,
6 after the agent shall have been given a copy of the charges
7 made, and shall have had an opportunity to answer such charges.
8 The board may fill any vacancy in this office by appointment
9 for the unexpired term. (2) Said agent shall diligently
10 investigate any complaints referred to him by the board and any

11 other violations of this chapter that come to his attention.
12 If the agent finds reasonable ground for any complaint or
13 considers that there is or has been a violation of this chapter,
14 he shall issue and cause to be served upon the person complained
15 of a petition stating the charges and containing a notice of
16 a hearing before the board at the time and place therein fixed,
17 to be held not less than seven (7) days after the service of
18 such complaint. If the agent considers that there has been
19 no violation of this chapter, he shall report in writing to
20 the board, stating fully his reasons and recommendations.

1 Sec. 4. Rights of employees. Employees shall have the
2 right of self-organization, to form, join or assist labor
3 organizations, to bargain collectively through representatives
4 of their own choice and to engage in concerted activities
5 for the purpose of collective bargaining or other mutual aid
6 or protection, free from actual interference, restraint or
7 coercion by employers.

1 Sec. 5. Unfair labor practices. It shall be an unfair
2 labor practice for an employer: (1) to spy upon or keep
3 under surveillance, whether directly or through agents or any
4 other person, any activities of employees or their repre-
5 sentatives in the exercise of the rights set forth in section
6 four (4); (2) to prepare, maintain, distribute or circulate
7 any blacklist of individuals for the purpose of preventing
8 any such individuals from obtaining or retaining employment
9 because of the exercise of such individuals of any of the rights
10 set forth in section four (4): (3) to dominate or actually
11 interfere with the formation, existence or administration of
12 any employee organization or association, agency or plan which

13 exists in whole or in part for the purpose of dealing with
14 employers concerning terms or conditions of employment, labor
15 disputes or grievances, or to contribute financial or other
16 support to any such organization, by any means, including but
17 not limited to the following: (a) By participation or assisting
18 in, supervising, controlling or dominating (1) the initiation
19 or creation of any such employee organization or association,
20 agency or plan or (2) the meetings, management, operation,
21 elections, formulation or amendment of the constitution, rules
22 or policies of any such employee organization or association,
23 agency or plan; (b) By urging the employees to join any such
24 employee organization or association, agency or plan for the
25 purpose of encouraging membership in the same; (c) By compen-
26 sating any employee or individual for services performed in
27 behalf of any such employee organization or association,
28 agency or plan, or by donating free services, equipment,
29 materials, office or meeting space or anything else of value
30 for the use of any such employee organization or association,
31 agency or plan, provided an employer shall not be prohibited
32 from permitting employees to confer with him during working
33 hours without loss of time or pay; (4) to require an employee
34 or one seeking employment as a condition of employment to join
35 any company union or to refrain from forming or joining or
36 assisting a labor organization of his own choosing; (5) to
37 encourage membership in any company union or discourage
38 membership in any labor organization by discrimination in
39 regard to hire or tenure or any term or condition of employment,
40 provided nothing in this chapter shall preclude an employer
41 from making an agreement with a labor organization requiring

42 as a condition of employment membership therein, if such labor
43 organization is the representative of employees as provided in
44 section six (6); (6) to refuse to bargain collectively with
45 the representatives of employees, subject to the provisions of
46 said section six (6); (7) to refuse to discuss grievances
47 with representatives of employees, subject to the provisions
48 of said section six (6); (8) to discharge or otherwise
49 discriminate against an employee because he has signed or filed
50 any affidavit, petition or complaint or given any information
51 or testimony under this chapter; (9) to distribute or circulate
52 any blacklist of individuals exercising any right created or
53 confirmed by this chapter, or of members of labor organizations,
54 or to inform any person of the exercise by any individual of
55 such right, or of the membership of any individual in a labor
56 organization for the purpose of preventing individuals so
57 blacklisted or so named from obtaining or retaining employment;
58 or (10) to do any acts other than those enumerated in this
59 section which restrain, coerce or interfere with employees in
60 the excercise of the rights set forth in section four (4).

1 Sec. 6. Election of representatives. (1) Representatives
2 designated or selected for the purposes of collective bargaining
3 by the majority of the employees in a unit appropriate for such
4 purposes or by the majority of the employees voting in an
5 election conducted pursuant to this section shall be the
6 exclusive representative of all the employees in such unit for
7 the purposes of collective bargaining in respect to rates of
8 pay, wages, hours of employment or other conditions of employ-
9 ment, provided any employee, directly or through representa-
10 tives, shall have the right at any time to present any

11 grievance to his employer. (2) In order to secure to employees
12 the full benefit of this chapter, the board shall decide in
13 each case whether the appropriate unit shall be an employer
14 unit, craft unit, plant unit or any other unit, except that
15 when the majority of the employees of a craft so decide, the
16 board may at its own discretion designate such craft as the
17 appropriate unit. (3) When it is complained by an employee
18 or his representative that there is a question or controversy
19 concerning the representation of employees, the board shall hear
20 the matter and order an election. (4) when it is complained
21 by an employer or his representative that there is a question
22 or controversy concerning the representation of employees
23 between two or more labor organizations, the board shall hold
24 a public hearing on such complaint after due notice. If
25 after hearing the board finds that there is a controversy
26 concerning the representation of employees, it may conduct
27 an election. (5) The board shall have the power to determine
28 who may participate in the election and to establish the rules
29 governing such election, provided no election need be directed
30 by the board solely because of the request of an employer or
31 of employees prompted thereto by their employer, nor shall any
32 individual employed for the duration of a strike or a lockout
33 be eligible to vote in such election, nor shall such election
34 be conducted with the employer's participation, assistance
35 or supervision. (6) If, at the election conducted pursuant
36 to this section, three or more nominees for exclusive collective
37 bargaining representatives appear on the ballot and no one of
38 them receives a majority of the votes cast at the election, the
39 two nominees who receive the highest number of votes shall

40 appear on the ballot of a second election to be conducted
41 hereunder, and the one receiving a majority of the votes cast
42 at the second election shall be the exclusive representative
43 of all the employees in such unit for the purpose of collective
44 bargaining in respect to rates of pay, wages, hours of employ-
45 ment or other conditions of employment. (7) A labor organization
46 nominated as the representative of employees shall be listed
47 by name on the ballots authorized by subsection three (3)
48 four (4) and five (5) of this section. If after the hearing
49 provided for in subsection three (3) and four (4) of this
50 section the board finds that any committee, employee, employee
51 representation plan or association of employees involved is
52 a company union, or if any such committee, employee represen-
53 tation plan or association of employees is found to be a
54 company union, it shall not be listed on the ballots or
55 otherwise recognized as eligible to be the representative of
56 employees under this chapter. (8) The board shall have full
57 powers of investigation. (9) All elections ordered by the
58 board shall be by secret ballot.

1 Sec. 7. Complaints of unfair labor practices: hearings
2 and orders. (1) The board is empowered and directed to
3 prevent any unfair practices. (2) When a complaint has
4 been made to the board that any employer has engaged in or is
5 engaging in an unfair labor practice, the board shall refer
6 such complaint to the agent. (3) Upon receiving a report from
7 the agent recommending dismissal of a complaint, the board may
8 issue an order dismissing the complaint or may order a further
9 investigation or a hearing thereon. (4) Upon receiving a
10 complaint issued by the agent, the board shall set a time and

11 place for the hearing, which time and place may be changed by
12 the board at the request of the agent or the employer for cause
13 shown. Any such complaint may be amended with the permission
14 of the board. The person so complained of shall have the right
15 to file an answer to the original or amended complaint within
16 five days after the service of such complaint or within such
17 other time as the board may limit. Said person shall have the
18 right to appear in person or otherwise to defend against said
19 complaint. In the discretion of the board any person may be
20 allowed to intervene in said proceeding. In any hearing the
21 board shall not be bound by technical rules of evidence
22 prevailing in the courts. (5) A transcript of the testimony
23 taken at any hearing before the board shall be filed with the
24 board. The board shall have the power to order the taking
25 of further testimony and for further argument. If, upon all
26 the testimony, the board determines that the employer has
27 engaged in or is engaging in any unfair labor practice, it
28 shall state its finding of fact and shall issue and cause to
29 be served on such employer an order requiring him to cease
30 and desist from such unfair labor practice, and shall take
31 such further affirmative action as well as will effectuate the
32 policies of this chapter, including, but not limited to:
33 (a) withdrawal of recognition from and refraining from
34 bargaining collectively with any company union, established,
35 maintained or assisted by an action defined in this chapter
36 as an unfair labor practice; (b) awarding of back pay;
37 (c) reinstatement with or without back pay of any employee
38 discriminated against in violation of section five (5) or
39 by maintenance of a preferential list from which such employee

40 shall be returned to work; (d) reinstatement with or without
41 back pay of all employees whose work has ceased or whose return
42 to work has been delayed or prevented as the result of unfair
43 labor practice in respect to any employee or employees or the
44 maintenance of a preferential list from which such employees
45 shall be returned to work. Such order may further require such
46 person to make reports from time to time showing the extent
47 to which the order has been complied with. If upon all the
48 testimony the board is of the opinion that the person or persons
49 named in the complaint have not engaged in or are not engaging
50 in any such unfair labor practice, then the board shall make
51 its finding of fact and shall issue an order dismissing the
52 complaint; (e) the board shall not require as a condition
53 of taking action or issuing any order under this chapter that
54 employees on strike or engaged in any other lawful concerted
55 activity shall discontinue such strike or such activity;
56 (6) Until a transcript of the record in a case has been filed
57 in the superior court, as provided in section eight (8), the
58 board may, at any time, upon due notice, modify or set aside
59 in whole or in part any finding or order made or issued by
60 it. Proceedings before the board shall be held with all
61 possible expedition.

1 Sec. 8. Enforcement of orders; appeals. (1) The board
2 shall have power to petition the district court within the
3 county wherein the unfair labor practice in question occurred
4 or wherein any person charged with the unfair labor practice
5 resides or transacts business, or, if said court is not in
6 session, any judge of said court, for the enforcement of an
7 order and for appropriate temporary relief or a restraining

8 order, and shall certify and file in the court a transcript
9 of the entire record of the proceedings, including the pleadings
10 and testimony upon which such order was made and the findings
11 and orders of the board. Within five days after filing such
12 petition in the district court, the board shall cause a notice
13 of such petition to be sent by registered mail to all parties
14 or their representatives. The district court, or, if said
15 court is not in session, any judge of said court shall have
16 jurisdiction of the proceedings and of the questions determined
17 thereon, and shall have the power to grant such relief,
18 including temporary relief, as it deems just and suitable and
19 to make and enter a decree enforcing, modifying and enforcing
20 as so modified, or setting aside in whole or in part the order
21 of the board. (2) No objection that has not been urged before
22 the board shall be considered by the court, unless the failure
23 to urge such objection is excused because of extraordinary
24 circumstances. The findings of the board as to the facts,
25 if supported by substantial evidence, shall be conclusive.
26 If their party applies to the court for leave to adduce
27 additional evidence and shows to the satisfaction of the
28 court that such additional evidence is materal and that
29 there were reasonable grounds for the failure to adduce such
30 evidence in the hearing before the board, the court may order
31 such additional evidence to be taken before the board, and
32 to be made part of the transcript. The board may modify its
33 findings as to the facts, or make new findings, by reason of
34 additional evidence so taken, and it shall file such modified
35 or new findings, which, if supported by substantial evidence,
36 shall be conclusive, and shall file its recommendations, if

37 any, for the modification of setting aside of its original
38 order. (3) The jurisdiction of the district court shall be
39 exclusive and its judgment and decree shall be final, except
40 that the same shall be subject to review by the supreme court,
41 on appeal, by either party, irrespective of the nature of the
42 decree or judgment or the amount involved. Such appeal shall
43 be taken and prosecuted in the same manner and form and with the
44 same effect as is provided in other cases of appeal to the
45 supreme court, and the record so certified shall contain all
46 that was before the lower court. (4) Any person aggrieved
47 by a final order of the board granting or denying in whole or
48 in part the relief sought may obtain a review of such order in
49 the district court for the county where the unfair labor practice
50 was alleged to have occurred or in the county wherein such person
51 resides or transacts business by filing in the court, within
52 two weeks from the date of such order, a written petition in
53 duplicate praying that the order of the board be modified or
54 set aside, or, if the said court is not in session, with any
55 judge thereof. The clerk of the district court shall thereupon
56 mail the duplicate copy to the board. The board shall then file
57 in said court a transcript of the entire record in the proceeding,
58 certified by the board including the pleadings, testimony and
59 order of the board. Upon such filing said court or such judge
60 shall proceed in the same manner as in the case of a petition
61 by the board under this section and shall have the same
62 exclusive jurisdiction to grant to the person such temporary
63 relief or restraining order as it deems just and suitable,
64 and in like manner to make and enter a decree enforcing or
65 modifying and enforcing as so modified or setting aside, in

66 whole or in part, the order of the board. (5) Any employer
67 who appeals from an order or part of an order containing a
68 direction to pay back to employees need not comply with
69 so much of said order as directs such payment during the
70 pendency of an appeal to the district court or the supreme court.
71 (6) Except as provided in subsection five (5) of this section,
72 unless otherwise directed by the court, commencements of
73 proceedings under subsection one (1) and four (4) shall not
74 operate as a stay of such order. (7) Petitions filed under
75 this section shall be heard expeditiously and determined upon
76 the transcript filed, without requirement of printing.
77 Hearings in the district court or supreme court under this
78 chapter shall take precedence over all other matters, except
79 matters of the same character.

1 Sec. 9. Oaths, subpoenas; service of process. (1) For
2 the purpose of hearings before the board, the board shall have
3 power to administer oaths and affirmations and to issue
4 subpoenas requiring the attendance of witnesses. (2) In case
5 of contumacy or refusal to obey a subpoena issued to any
6 person, the district court, upon application by the board
7 shall have jurisdiction to order such person to appear before
8 the board to produce evidence or to give testimony touching
9 the matter under investigation or in question, and any failure
10 to obey such order may be punished by said court as a contempt
11 thereof. (3) No person shall be excused from attending and
12 testifying or from producing books, records, correspondence,
13 documents or other evidence in obedience to the subpoena of
14 the board, on the ground that the testimony or evidence
15 required of him may tend to incriminate him or subject him to

16 a penalty or forfeiture; but no individual shall be prosecuted
17 or subjected to any penalty or forfeiture for or on account of
18 any transaction, matter or thing concerning which he is compelled,
19 after having claimed his privilege against self-incrimination,
20 to testify or produce evidence, except that such individual
21 so testifying shall not be exempt from prosecution and
22 punishment for perjury committed in so testifying. (4) Com-
23 plaints, orders and other processes and papers of the board
24 or the agent may be served personally, by registered mail,
25 by telegraph or by leaving a copy thereof at the principal
26 office or place of business of the person required to be
27 served. The verified return of service shall be proof of such
28 service. Witnesses summoned before the board or the agent shall
29 be paid the same fee and mileage allowance that are paid
30 witnesses in the courts of this state, and witnesses whose
31 depositions are taken and the person taking the same shall
32 severally be entitled to the same fees as are paid for like
33 services in the courts of this state. (5) All processes
34 of any court to which an application or petition may be made
35 under this chapter may be served in the county wherein the
36 person or persons required to be served reside or may be found.

1 Sec. 10. Records and proceedings to the public. Subject
2 to regulations to be made by the board, the complaints, orders
3 and testimony relating to a proceeding instituted under section
4 seven (7) may be available for inspection or copying. All
5 proceedings pursuant to said section seven (7) shall be open
6 to the public.

1 Sec. 11. Budget. Prior to November fifteenth (15) of each

2 year, the board shall submit to the state comptroller for
3 his approval an estimated budget of the expenses for administer-
4 ing this chapter for the ensuing fiscal year. All moneys
5 appropriated to the bureau of such expenses shall be expended
6 and audited in the manner provided for all other expenditures
7 under the supervision of the commissioner.

1 Sec. 12. Penalty. Any person who willfully resists, prevents
2 or interferes with any member of the board or the agent in the
3 performance of duties pursuant to this chapter, or who inter-
4 feres with the free exercise by employees of the right to
5 select representatives in an election directed by the board
6 pursuant to section six (6), shall be fined not more than five
7 hundred (500) dollars or imprisoned not more than six (6)
8 months or both.

1 Sec. 13. The board shall issue and promulgate such rules
2 and regulations as may be necessary, (1) to aid or assist in
3 carrying out the intent of this act, or (2) the efficient
4 operation of the Iowa state board of labor relations, or (3)
5 the orderly administration of the act. Such regulations shall
6 bear the statutory authority of this act.

1 Sec. 14. Chapter seven hundred thirty-six A (736A), Code
2 1962, is hereby repealed.