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*SSB 3067
State Government*

SENATE/HOUSE FILE _____

BY (PROPOSED DEPARTMENT OF
PUBLIC DEFENSE BILL)

*Succeeded By
SD/HF 2/24*

Passed Senate, Date _____ Passed House, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to the department of public defense by amending
2 the state military code and the Iowa code of military justice,
3 creating a statewide mutual aid compact, providing for the
4 confidentiality of certain records, exempting the department
5 of public defense from certain state service contract
6 requirements and state competitive bidding requirements,
7 exempting the Iowa technology center from anticompetition
8 provisions, increasing a standing appropriation, providing
9 criminal penalties for violations, and providing effective
10 dates.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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DIVISION I

MILITARY DIVISION

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3 Section 1. Section 8.47, Code Supplement 2001, is amended
4 by adding the following new subsection:

5 NEW SUBSECTION. 4. This section does not apply to service
6 contracts or other agreements for services by the department
7 of public defense that are funded with at least seventy-five
8 percent federal moneys. The department of public defense
9 shall establish terms and conditions for service contracts and
10 other agreements for services that comply with this section to
11 the greatest extent possible.

12 Sec. 2. Section 29A.1, subsection 9, Code Supplement 2001,
13 is amended to read as follows:

14 9. "On duty" means training, including unit training
15 assemblies, and other training, operational duty, and other
16 service which may be required under state or federal law,
17 regulations, or orders, and the necessary travel of an officer
18 or enlisted person to the place of performance and return home
19 after performance of that duty, but does not include federal
20 service. A member of the national guard shall be considered
21 to be on duty when called to testify about an incident which
22 the member observed or was involved in while that member was
23 on duty.

24 Sec. 3. Section 29A.1, subsection 11, Code Supplement
25 2001, is amended to read as follows:

26 11. "State active duty" means duty authorized and
27 performed under section 29A.8 ~~or-29A-9~~ and paid for with state
28 funds. "State active duty" also includes serving as the
29 adjutant general, a deputy adjutant general, or the state
30 quartermaster.

31 Sec. 4. Section 29A.7, Code Supplement 2001, is amended to
32 read as follows:

33 29A.7 COMMANDER IN CHIEF.

34 1. The governor is the commander in chief of the military
35 forces, except when they are in federal service. The governor

1 may employ the military forces of the state for the defense or
 2 relief of the state, ~~the-enforcement-of-its-laws, the~~
 3 ~~protection-of-life-and-property,~~ to provide assistance to
 4 civil authorities in emergencies resulting from disasters or
 5 public disorders as defined in section 29C.2, including
 6 homeland security and defense duties, and for parades and
 7 ceremonies of a civic nature.

8 2. The governor shall provide for the participation of the
 9 national guard in training at the times and places as
 10 necessary to ensure readiness for public defense or federal
 11 service.

12 3. If circumstances necessitate the establishment of a
 13 military district under martial law and the general assembly
 14 is not convened, the district shall be established only after
 15 the governor has issued a proclamation convening an
 16 extraordinary session of the general assembly.

17 Sec. 5. Section 29A.8, subsection 1, unnumbered paragraph
 18 1, Code Supplement 2001, is amended to read as follows:

19 The governor may order into state active duty the military
 20 forces of the state, including retired members of the national
 21 guard, ~~both-army-and-air,~~ as the governor deems proper, under
 22 ~~command-of-an-officer-as-the-governor-may-designate-under~~ one
 23 or more of the following circumstances:

24 Sec. 6. Section 29A.8, subsection 1, paragraphs b and c,
 25 Code Supplement 2001, are amended to read as follows:

26 b. For the purpose of ~~aiding~~ assisting the civil
 27 authorities of any political subdivision of the state in
 28 maintaining law and order in the subdivision in cases of
 29 breaches of the peace or imminent danger of breaches of the
 30 peace, if the law enforcement officers of the subdivision are
 31 unable to maintain law and order, and the civil authorities of of
 32 the subdivision request the assistance.

33 c. For the purposes of providing support to civil
 34 authorities during emergencies resulting from disasters or
 35 public disorders and for performing homeland defense or

1 homeland security duties.

2 Sec. 7. Section 29A.8, subsection 1, Code Supplement 2001,
3 is amended by adding the following new paragraphs:

4 NEW PARAGRAPH. d. For training, recruiting, escort duty,
5 and duty at schools of instruction, as a student or
6 instructor, including at the Iowa military academy.

7 NEW PARAGRAPH. e. To participate in parades and
8 ceremonies of a civic nature.

9 NEW PARAGRAPH. f. For other purposes as the governor may
10 deem necessary.

11 Sec. 8. Section 29A.8, subsection 2, Code Supplement 2001,
12 is amended by striking the subsection and inserting in lieu
13 thereof the following:

14 2. The governor may prescribe regulations and requirements
15 for duties performed under this section.

16 Sec. 9. Section 29A.8A, Code Supplement 2001, is amended
17 to read as follows:

18 29A.8A ACTIVE STATE SERVICE.

19 If federal funding and authorization exist for this
20 purpose, the governor may order to active state service the
21 military forces of the Iowa army national guard or Iowa air
22 national guard as the governor may deem appropriate for the
23 purposes of homeland security, homeland defense, or other
24 duty. A state employee shall take either a full day's leave
25 or eight hours of compensatory time on a day in which the
26 state employee receives a full day's pay from federal funds
27 for national guard duty.

28 Sec. 10. Section 29A.19, Code 2001, is amended to read as
29 follows:

30 29A.19 QUARTERMASTER.

31 A present or retired commissioned officer of the national
32 guard who has ten years' service in the Iowa army national
33 guard or the Iowa air national guard and has attained the
34 grade of a field officer, shall be detailed to be the
35 quartermaster and property officer of the state, who shall

1 have charge of and be accountable for, under the adjutant
2 general, all state military property. The quartermaster shall
3 keep property returns and reports and give bond to the state
4 of Iowa as the governor may direct.

5 Sec. 11. Section 29A.25, Code 2001, is amended to read as
6 follows:

7 29A.25 ENLISTMENTS AND DISCHARGES.

8 All enlistments and discharges in the national guard shall
9 be as prescribed by federal law and regulations.

10 Sec. 12. Section 29A.26, unnumbered paragraph 1, Code
11 2001, is amended to read as follows:

12 The number and grade of officers and enlisted personnel in
13 the state headquarters and headquarters detachment shall be as
14 prescribed by federal law and regulations, ~~but.~~ However, in
15 case of war, invasion, insurrection, ~~riot~~ emergency, or
16 imminent danger thereof, the governor may temporarily increase
17 such the force to meet ~~such-emergency~~ the circumstance.

18 Sec. 13. Section 29A.26, unnumbered paragraph 2, Code
19 2001, is amended by striking the unnumbered paragraph.

20 Sec. 14. Section 29A.31, Code 2001, is amended to read as
21 follows:

22 29A.31 UNLAWFUL ORGANIZATIONS.

23 It shall be unlawful for any ~~body-of-persons, other than~~
24 ~~the-national-guard-and-the-troops-of-the-United-States, to~~
25 ~~associate-themselves-together-as~~ person to form a military
26 organization within the limits of this state without the
27 written permission of the governor, which the governor may at
28 any time revoke, but this provision shall not prevent civic,
29 social, or benevolent organizations from wearing uniforms and
30 ~~swords~~ equipment not in conflict with the other provisions of
31 this chapter.

32 Sec. 15. Section 29A.40, unnumbered paragraph 1, Code
33 2001, is amended to read as follows:

34 No A member of the national guard shall not wear the
35 uniform thereof of the national guard while not on duty

1 ~~without-permission-from-competent-authority, except in~~
2 accordance with state or federal regulations. No A person,
3 firm, or corporation, other than a civic, social, or
4 benevolent military organization or the members of such
5 organizations organizing for the benefit of all its members,
6 shall not incorporate under the name of, or adopt any trade
7 name which embodies the name or designation, officially or
8 generally recognized as the name of a military organization
9 now or heretofore formerly in existence, or any distinctive
10 part of such name. ~~Any-person-found-guilty-of-a-violation-of~~
11 ~~any-of-the-provisions-of-this-section-shall-be-guilty-of-a~~
12 ~~simple-misdemeanor.~~

13 Sec. 16. Section 29A.41, Code 2001, is amended to read as
14 follows:

15 29A.41 EXEMPTIONS ---HONORABLE-DISCHARGE.

16 A member of the national guard shall not be arrested, or
17 served with a summons, order, warrant or other civil process
18 after having been ordered to any duty, or while going to,
19 attending, or returning from, any place to which the officer
20 ~~or-enlisted-person~~ national guard member is required to go for
21 military duty. This section does not prevent the ~~officer's-or~~
22 ~~enlisted-person's~~ national guard member's arrest by order of a
23 military officer or for a felony or breach of the peace
24 committed while not in the actual performance of the ~~officer's~~
25 ~~or-enlisted-person's~~ national guard member's duty. The
26 articles of equipment personally owned by such members are
27 exempt from seizure or sale for debt. ~~Every-member-of-the~~
28 ~~national-guard-who-has-faithfully-served-the-full-term-of-the~~
29 ~~member's-commission, warrant-or-enlistment-is-entitled, upon~~
30 ~~application, to-an-honorable-discharge, exempting-the-member~~
31 ~~from-military-duty-except-in-time-of-war-or-public-danger.~~

32 Sec. 17. Section 29A.43, Code Supplement 2001, is amended
33 to read as follows:

34 29A.43 DISCRIMINATION PROHIBITED -- LEAVE OF ABSENCE.

35 A person shall not discriminate against any officer or

1 enlisted person of the national guard or organized reserves of
2 the armed forces of the United States because of that
3 membership. An employer, or agent of an employer, shall not
4 discharge a person from employment because of being an officer
5 or enlisted person of the military forces of the state, or
6 hinder or prevent the officer or enlisted person from
7 performing any military service the person is called upon to
8 perform by proper authority. A member of the national guard
9 or organized reserves of the armed forces of the United States
10 ordered to temporary duty, as defined in section 29A.1,
11 subsection 1, 3, or 11, for any purpose is entitled to a leave
12 of absence during the period of the duty or service, from the
13 member's private employment, other than employment of a
14 temporary nature, and upon completion of the duty or service
15 the employer shall restore the person to the position held
16 prior to the leave of absence, or employ the person in a
17 similar position. However, the person shall give evidence to
18 the employer of satisfactory completion of the training or
19 duty, and that the person is still qualified to perform the
20 duties of the position. The period of absence shall be
21 construed as an absence with leave, and shall in no way affect
22 the employee's rights to vacation, sick leave, bonus, or other
23 employment benefits relating to the employee's particular
24 employment. A person violating a provision of this section is
25 guilty of a simple misdemeanor.

26 Sec. 18. Section 29A.50, Code 2001, is amended to read as
27 follows:

28 29A.50 IMMUNITY.

29 The commanding officer and members of any of the military
30 forces engaged in the suppression of an insurrection, the
31 dispersion-of-a-mob assistance to civil authorities in
32 emergencies, homeland defense, or security duties, or the
33 enforcement of the laws, shall have the same immunity as peace
34 officers.

35 Sec. 19. Section 29A.51, Code 2001, is amended to read as

1 follows:

2 29A.51 SUIT OR PROCEEDING -- DEFENSE.

3 If a suit or proceeding is commenced in any court by any
4 person against ~~an-officer~~ a member of the military forces of
5 the state for an act done by ~~that-officer~~ the member in the
6 ~~officer's~~ member's official capacity in the discharge of a
7 duty under this chapter or chapter 29B, ~~or-against-an-enlisted~~
8 ~~person-acting-under-the-authority-or-order-of-an-officer, or~~
9 ~~by-virtue-of-a-warrant-issued-by-the-officer-pursuant-to-law,~~
10 the attorney general or state staff judge advocate, upon the
11 request of the adjutant general, shall defend the member of
12 ~~the-military-forces-of-the-state~~ against whom the suit or
13 proceeding has been instituted. The costs of the defense
14 shall be paid out of any funds in the state treasury not
15 otherwise appropriated. Before the suit or proceeding is
16 filed or maintained against the ~~officer-or-enlisted-person~~
17 member, the plaintiff must give security, to be approved by
18 the court in a sum not less than one hundred dollars to secure
19 the costs. If the plaintiff fails to recover judgment, the
20 costs shall be taxed and judgment rendered against the
21 plaintiff and the plaintiff's sureties. When ~~troops~~ members
22 of the military forces of the state are called into active
23 state service active duty by the governor under martial law or
24 ~~as-aid~~ to the assist civil authorities, in addition to the
25 judge advocate's other duties, any judge advocate on duty with
26 those troops may be appointed by the attorney general as an
27 assistant attorney general, without pay for the judge
28 advocate's services for acting in that capacity.

29 Sec. 20. Section 29A.54, Code 2001, is amended to read as
30 follows:

31 29A.54 SENIOR COMMANDER ALLOWANCES.

32 A fund shall be established from an annual appropriation of
33 funds to be used by senior commanders as an expense allowance
34 to defer expenses incurred in conducting command functions or
35 escorting military guests while acting in their official

1 capacity as commander. Appropriations to the fund shall be
 2 made at the beginning of each fiscal year in the amount of
 3 ~~four~~ seven hundred fifty dollars for each federally recognized
 4 general officer of the army national guard and the air
 5 national guard. The adjutant general of Iowa shall have
 6 custodial and administrative responsibility for the fund and
 7 shall prescribe regulations requiring an itemized statement of
 8 expenditures from the fund. The fund shall not be used to
 9 purchase an alcoholic beverage or beer.

10 Sec. 21. Section 29A.74, unnumbered paragraph 1, Code
 11 2001, is amended to read as follows:

12 Except as otherwise provided in this chapter ~~no~~, an agency
 13 created by a power of attorney in writing given by a principal
 14 who is at the time of execution, or who after executing such
 15 power of attorney becomes, ~~either~~ a member of the national
 16 guard or the armed forces of the United States, ~~or~~ a person
 17 serving as a merchant seaman outside the limits of the United
 18 States included within the fifty states and the District of
 19 Columbia, or a person outside ~~said~~ those limits by permission,
 20 assignment or direction of any department, ~~in-connection-with~~
 21 ~~any-activity-pertaining-to-or-connected-with-the-prosecution~~
 22 ~~of-any-war-in-which-the-United-States-is-then-engaged~~, shall
 23 not be revoked or terminated by the death of the principal, as
 24 to the agent or other person who, without actual knowledge or
 25 actual notice of the death of the principal, shall have acted
 26 or shall act, in good faith, under or in reliance upon such
 27 power of attorney or agency, and any action so taken, unless
 28 otherwise invalid or unenforceable, shall be binding on the
 29 heirs, devisees, legatees, or personal representatives of the
 30 principal.

31 Sec. 22. Section 29A.9, Code Supplement 2001, is repealed.

32 Sec. 23. EFFECTIVE DATE. This division of this Act, being
 33 deemed of immediate importance, takes effect upon enactment.

34 DIVISION II
 35 IOWA NATIONAL GUARD CIVIL RELIEF

1 Sec. 24. NEW SECTION. 29A.90 DEFINITIONS.

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

4 1. "Dependent" means the spouse and children of a service
5 member or any other person dependent upon the service member
6 for support.

7 2. "Interest" includes service charges, renewal charges,
8 fees, or any other charges in respect to any obligation or
9 liability.

10 3. "Military service" means full-time active state service
11 or state active duty, as defined in section 29A.1, for a
12 period of at least ninety consecutive days, commencing on or
13 after the effective date of this Act.

14 4. "Service member" means a member of the military forces
15 of the state performing military service.

16 Sec. 25. NEW SECTION. 29A.91 APPLICABILITY.

17 1. This division shall apply to all service members on
18 military orders who are unable to perform, continue, or
19 complete civil obligations due to military service.

20 2. This division does not apply to military duty performed
21 under orders issued pursuant to 10 U.S.C.

22 3. Proper application of this division shall suspend or
23 postpone actions upon those obligations until thirty days
24 after discharge from military service.

25 Sec. 26. NEW SECTION. 29A.92 REOPENING DEFAULT
26 JUDGMENTS.

27 1. A default judgment rendered in any civil action against
28 a service member during a period of military service or within
29 thirty days after termination of military service may be set
30 aside under the following circumstances:

31 a. It appears that the service member was prejudiced by
32 reason of military service in making a defense to the action.

33 b. Application by the service member or the service
34 member's legal representative is made to the court rendering
35 the judgment not later than thirty days after the termination

1 of military service.

2 c. The application provides enough facts that it appears
3 that the service member has a meritorious or legal defense to
4 the action or some part of the action.

5 2. Vacating, setting aside, or reversing a judgment
6 because of any of the provisions of this chapter shall not
7 impair any right or title acquired by a bona fide purchaser
8 for value under the judgment.

9 Sec. 27. NEW SECTION. 29A.93 STAY OF PROCEEDINGS.

10 1. If at any point during an action or proceeding it
11 appears that a plaintiff or defendant is a service member and
12 may be adversely affected by military service in the conduct
13 of the proceedings, the court may, on its own motion, stay the
14 proceedings.

15 2. The court shall stay the proceedings if the service
16 member or another person on the service member's behalf makes
17 a request in writing to the court, unless the court determines
18 on the record that the ability of the plaintiff to pursue the
19 action or the defendant to conduct a defense, is not
20 materially affected by reason of military service.

21 Sec. 28. NEW SECTION. 29A.94 FINES AND PENALTIES ON
22 CONTRACTS.

23 1. If compliance with the terms of a contract is stayed
24 pursuant to this division, a fine or penalty shall not accrue
25 by reason of failure to comply with the terms of the contract
26 during the period of the stay.

27 2. If a service member has not obtained a stay, and a fine
28 or penalty is imposed for nonperformance of an obligation, a
29 court may relieve enforcement if the service member was in
30 military service when the penalty was incurred and the service
31 member's ability to pay or perform was materially impaired.

32 Sec. 29. NEW SECTION. 29A.95 EXERCISE OF RIGHTS NOT TO
33 AFFECT FUTURE FINANCIAL TRANSACTIONS.

34 An application by a service member in military service for,
35 or receipt of, a stay, postponement, or suspension under the

1 provisions of this division in the payment of any fine,
2 penalty, insurance premium, or other civil obligation or
3 liability shall not be used as the basis for any of the
4 following:

5 1. A determination by any lender or other person that the
6 service member is unable to pay any civil obligation or
7 liability in accordance with its terms.

8 2. With respect to a credit transaction between a creditor
9 and a service member:

10 a. A denial or revocation of credit by the creditor.

11 b. A change by the creditor in the terms of an existing
12 credit arrangement.

13 c. A refusal by the creditor to grant credit to the
14 service member in substantially the amount or on substantially
15 the terms requested.

16 d. An adverse report relating to the creditworthiness of
17 the service member by or to any person or entity engaged in
18 the practice of assembling or evaluating consumer credit
19 information.

20 Sec. 30. NEW SECTION. 29A.96 STAY OF EXECUTION OF
21 JUDGMENT.

22 Unless the court determines on the record that the ability
23 of a service member to comply with a judgment or order entered
24 or sought is not materially affected by reason of military
25 service, the court shall, on its own motion, or upon
26 application to it by the service member or another person on
27 the service member's behalf, do the following:

28 1. Stay the execution of a judgment or order entered
29 against the service member, as provided in this chapter.

30 2. Vacate or stay an attachment or garnishment of
31 property, money, or debts in the hands of another, whether
32 before or after judgment as provided in this chapter.

33 Sec. 31. NEW SECTION. 29A.97 DURATION OF STAYS.

34 1. A stay of an action, proceeding, attachment, or
35 execution, ordered by a court under the provisions of this

1 division, may be ordered for the period of military service
2 plus thirty days after its termination or any part of that
3 time period.

4 2. Where the service member in military service is a
5 codefendant with others, the plaintiff may, with the
6 permission of the court, proceed against the others.

7 Sec. 32. NEW SECTION. 29A.98 STATUTES OF LIMITATIONS
8 AFFECTED BY MILITARY SERVICE.

9 The period of military service shall not be included in
10 computing any period limited by law, rule, or order for the
11 bringing of any action or proceeding in any court, board,
12 bureau, commission, department, or other agency of government
13 by or against any service member or by or against the service
14 member's heirs, executors, administrators, or assigns, whether
15 the cause of action or the right or privilege to institute the
16 action or proceeding has accrued prior to or during the period
17 of military service.

18 Sec. 33. NEW SECTION. 29A.99 MAXIMUM RATE OF INTEREST.

19 An obligation or liability bearing interest at a rate in
20 excess of six percent per year incurred before entry into
21 military service by a service member shall not, during any
22 part of the period of military service, bear interest at a
23 rate in excess of six percent per year unless, in the opinion
24 of the court and upon application to the court by the obligee,
25 the ability of the service member to pay interest upon the
26 obligation or liability at a rate in excess of six percent per
27 year is not materially affected by reason of the member's
28 service. The court may make any order in the action that, in
29 its opinion, is just.

30 Sec. 34. NEW SECTION. 29A.100 DEPENDENT BENEFITS.

31 Dependents of a service member are entitled to the benefits
32 accorded to service members under the provisions of sections
33 29A.101 through 29A.105. Dependents may obtain the benefits
34 upon application to a court, unless, in the opinion of the
35 court, the ability of the dependents to comply with the terms

1 of the obligation, contract, lease, or bailment has not been
2 materially impaired by reason of the military service of the
3 service member of the dependents.

4 Sec. 35. NEW SECTION. 29A.101 TERMINATION OF LEASE OR
5 RENTAL AGREEMENT -- EXCEPTIONS.

6 1. A landlord shall not terminate the lease or rental
7 agreement of a service member or the service member's
8 dependents for nonpayment of rent from any premises used as a
9 dwelling by the service member or dependents during the period
10 of military service if the rent on the premises occupied by
11 the service member or dependents is less than one thousand two
12 hundred dollars per month. However, a court may allow an
13 eviction or the recovery of property pursuant to chapter 646
14 or 648.

15 2. In any action affecting the right of possession, the
16 court may, on its own motion, stay the proceedings for not
17 longer than three months, or make any order the court
18 determines to be reasonable and just under the circumstances,
19 unless the court finds that the ability of the service member
20 to pay the agreed rent is not materially affected by reason of
21 military service.

22 3. When a stay is granted or other order is made by the
23 court, the owner of the premises shall be entitled, upon
24 application, to relief with respect to the premises similar to
25 that granted service members in military service in sections
26 29A.102 through 29A.104 to the extent and for any period as
27 the court determines to be just and reasonable under the
28 circumstances.

29 4. A person who knowingly takes part in any eviction or
30 distress otherwise than as provided in subsection 1, or
31 attempts to do so, commits a simple misdemeanor.

32 5. The governor may order an allotment of the pay of a
33 service member in military service in reasonable proportion to
34 discharge the rent of premises occupied for dwelling purposes
35 by any dependents of the service member.

1 Sec. 36. NEW SECTION. 29A.102 INSTALLMENT CONTRACTS.

2 1. The creditor of a service member who, prior to entry
3 into military service, has entered into an installment
4 contract for the purchase of real or personal property shall
5 not terminate the contract or repossess the property for
6 nonpayment or for any breach occurring during military service
7 without an order from a court of competent jurisdiction.

8 2. The court, upon application to it under this section,
9 shall, unless the court finds on the record that the ability
10 of the service member to comply with the terms of the contract
11 is not materially affected by reason of military service, do
12 one or more of the following:

13 a. Order repayment of any prior installments or deposits
14 as a condition of terminating the contract and resuming
15 possession of the property.

16 b. Order a stay of the proceedings on its own motion, or
17 on motion by the service member or another person on behalf of
18 the service member.

19 c. Make any other disposition of the case it considers to
20 be equitable to conserve the interests of all parties.

21 3. A person who knowingly repossesses property which is
22 the subject of this section, other than as provided in
23 subsection 1, commits a simple misdemeanor.

24 Sec. 37. NEW SECTION. 29A.103 MORTGAGE FORECLOSURES.

25 1. The creditor of a service member who, prior to entry
26 into military service, has entered into a mortgage contract
27 with the service member for the purchase of real or personal
28 property shall not foreclose on the mortgage or repossess the
29 property for nonpayment or for any breach occurring during
30 military service without an order from a court of competent
31 jurisdiction.

32 2. The court, upon application to it under this section,
33 shall, unless the court finds on the record that the ability
34 of the service member to comply with the terms of the mortgage
35 is not materially affected by reason of military service, do

1 one or more of the following:

2 a. Order repayment of any prior installments or deposits
3 as a condition of terminating the contract and resuming
4 possession of the property.

5 b. Order a stay of the proceedings on its own motion, or
6 on motion by the service member or another person on behalf of
7 the service member.

8 c. Make any other disposition of the case as it considers
9 to be equitable to conserve the interests of all parties.

10 3. In order to come within the provisions of this section,
11 the service member must establish all of the following:

12 a. That relief is sought on an obligation secured by a
13 mortgage, trust deed, or other security in the nature of a
14 mortgage on either real or personal property.

15 b. That the obligation originated prior to the service
16 member's entry into military service.

17 c. That the property was owned by the service member prior
18 to the commencement of military service.

19 d. That the property is owned by the service member at the
20 time relief is sought.

21 4. A person who knowingly forecloses on property that is
22 the subject of this section, other than as provided in
23 subsection 1, commits a simple misdemeanor.

24 Sec. 38. NEW SECTION. 29A.104 APPLICATION FOR RELIEF.

25 1. A service member may, at any time during military
26 service or within thirty days after discharge or termination
27 of military service, apply to a court for relief in respect of
28 any obligation or liability incurred by the service member
29 prior to military service.

30 2. The court, after appropriate notice and hearing, unless
31 in its opinion the ability of the service member to comply
32 with the terms of the obligation or liability has not been
33 materially affected by reason of military service, shall grant
34 the following relief:

35 a. In the case of an obligation payable under its terms in

1 installments under a contract for the purchase of real estate,
 2 or secured by a mortgage or other instrument in the nature of
 3 a mortgage upon real estate, a stay of the enforcement of the
 4 obligation during the applicant's period of military service
 5 and, from the date of termination of the period of military
 6 service or from the date of application if made after
 7 termination of military service, for a period equal to the
 8 period of the remaining life of the installment contract or
 9 other instrument plus a period of time equal to the period of
 10 military service of the applicant, or any part of the combined
 11 period, subject to payment of the balance of principal and
 12 accumulated interest due and unpaid at the date of termination
 13 of the period of military service or from the date of
 14 application, in equal installments during the combined period
 15 at the rate of interest on the unpaid balance as is prescribed
 16 in the contract, or other instrument evidencing the
 17 obligation, for installments paid when due, and subject to any
 18 other terms as the court may consider just.

19 b. In the case of any other obligation or liability, a
 20 stay of the enforcement during the applicant's period of
 21 military service and, from the date of termination of the
 22 period of military service or from the date of application if
 23 made after termination of the period of military service, for
 24 a period of time equal to the period of military service of
 25 the applicant or any part of that period, subject to payment
 26 of the balance of principal and accumulated interest due and
 27 unpaid at the date of termination of the period of military
 28 service or from the date of application, in equal periodic
 29 installments during the extended period at the rate of
 30 interest prescribed for the obligation or liability, if paid
 31 when due, and subject to other terms the court considers to be
 32 reasonable and just.

33 3. When any court has granted a stay as provided in this
 34 section, a fine or penalty shall not accrue for failure to
 35 comply with the terms or conditions of the obligation or

1 liability for which the stay was granted during the period the
2 terms and conditions of the stay are complied with.

3 Sec. 39. NEW SECTION. 29A.105 PROVISIONS APPLY
4 NOTWITHSTANDING CONTRARY CODE PROVISIONS.

5 Sections 29A.90 through 29A.104 apply notwithstanding any
6 contrary provision of state law, which may include but is not
7 limited to Titles XIII, XIV, and XV.

8 Sec. 40. EFFECTIVE DATE. This division of this Act, being
9 deemed of immediate importance, takes effect upon enactment.

10 DIVISION III

11 MILITARY JUSTICE

12 Sec. 41. Section 29B.1, Code 2001, is amended to read as
13 follows:

14 29B.1 PERSONS SUBJECT TO CODE.

15 This chapter applies to all members of the state military
16 forces, while not in federal service. As used in this
17 chapter, unless the context otherwise requires, "state
18 military forces" ~~means the national guard of the state of Iowa~~
19 ~~as defined in 32-U.S.C.-§-1017-(37-47-6)-(1981) and any other~~
20 ~~military force organized under state law when the national~~
21 ~~guard or other military force is not in a status subjecting it~~
22 ~~to jurisdiction under 10-U.S.C.-ch.-47-(1981)~~ has the same
23 meaning as in section 29A.6, and "code" means this chapter,
24 which may be cited as the "Iowa Code of Military Justice".

25 Sec. 42. Section 29B.13, unnumbered paragraph 1, Code
26 2001, is amended to read as follows:

27 Under such regulations as may be prescribed under this code
28 a person subject to this code who is on active state service
29 or state active duty who is accused of an offense against
30 civil authority may be delivered, upon request, to the civil
31 authority for trial.

32 Sec. 43. Section 29B.22, unnumbered paragraphs 1 and 2,
33 Code 2001, are amended by striking the paragraphs and
34 inserting in lieu thereof the following:

35 A judge advocate in the state military forces shall be a

1 commissioned officer who is a member of the bar of the state.
 2 However, a judge advocate serving in the military forces of
 3 the state on the effective date of this division of this Act
 4 who is not a member of the bar of the state shall not be
 5 required to become a member of the bar of the state to
 6 maintain military membership as a judge advocate. A judge
 7 advocate shall be either a federally recognized judge advocate
 8 or appointed as a judge advocate in the state military forces
 9 by the adjutant general.

10 The adjutant general shall designate a staff judge advocate
 11 for the army national guard and the air national guard. The
 12 adjutant general may appoint the number of judge advocates of
 13 the state military forces as the adjutant general considers
 14 necessary to perform state active duty to supplement or
 15 replace national guard judge advocates in emergencies or when
 16 the national guard judge advocates are in federal service.

17 Sec. 44. Section 29B.27, unnumbered paragraph 2, Code
 18 2001, is amended to read as follows:

19 A military judge must be a commissioned officer of the
 20 state armed forces or a retired officer of the reserve
 21 components of the armed forces of the United States, a member
 22 of the bar of a federal court or a member of the bar of the
 23 highest court of the state, and certified to be qualified for
 24 the duty by the ~~judge-advocate-of-the-armed-forces-or-the~~
 25 state appropriate staff judge advocate of the state force
 26 concerned. The state judge advocate responsible for
 27 certifying the military judge may recommend to the adjutant
 28 general that the adjutant general order to active duty retired
 29 personnel of the national guard or the United States armed
 30 forces who are qualified to act as military judges.

31 Sec. 45. Section 29B.28, unnumbered paragraph 2, Code
 32 2001, is amended to read as follows:

33 Trial counsel or defense counsel detailed for a general
 34 court-martial must be a person who is a member of the bar of
 35 the highest court of the state, ~~or a member of the bar of a~~

1 ~~federal-court~~ and certified as competent for the duty by the
2 state staff judge advocate.

3 Sec. 46. Section 29B.35, unnumbered paragraph 1, Code
4 2001, is amended to read as follows:

5 Before directing the trial of any charge by general court-
6 martial, the convening authority shall refer ~~it~~ the charge to
7 the state appropriate staff judge advocate of the state force
8 concerned for consideration and advice. The convening
9 authority may not refer a charge to a general court-martial
10 for trial unless the authority has found that the charge
11 alleges an offense under this code and is warranted by
12 evidence indicated in the report of the investigation.

13 Sec. 47. Section 29B.62, Code 2001, is amended to read as
14 follows:

15 29B.62 SAME -- GENERAL COURT-MARTIAL RECORDS.

16 The convening authority shall refer the record of each
17 general court-martial to the state appropriate staff judge
18 advocate of the state force concerned, who shall submit a
19 written opinion thereon to the convening authority. If the
20 final action of the court has resulted in an acquittal of all
21 charges and specifications, the opinion shall be limited to
22 questions of jurisdiction.

23 Sec. 48. Section 29B.65, subsections 2, 4, 5, 6, and 7,
24 Code 2001, are amended to read as follows:

25 2. In all other cases not covered by subsection 1 ~~of this~~
26 ~~section~~, if the sentence of a special court-martial as
27 approved by the convening authority includes a bad-conduct
28 discharge, dishonorable discharge, dismissal, or confinement,
29 whether or not suspended, the entire record shall be sent to
30 the appropriate staff judge advocate of the state force
31 concerned to be reviewed in the same manner as a record of
32 trial by general court-martial. ~~The record and the opinion of~~
33 ~~the staff judge advocate or legal officer shall then be sent~~
34 ~~to the state judge advocate for review.~~

35 4. The state staff judge advocate of the state force

1 concerned shall review the record of trial in each case sent
2 for review as provided under this section. If the final
3 action of the court-martial has resulted in an acquittal of
4 all charges and specifications, the opinion of the state staff
5 judge advocate is limited to questions of jurisdiction.

6 The state staff judge advocate shall take final action in
7 any case reviewable by the state staff judge advocate.

8 5. In a case reviewable by the appropriate state staff
9 judge advocate under this section, the state staff judge
10 advocate may act only with respect to the findings and
11 sentence as approved by the convening authority. The state
12 staff judge advocate may affirm only such findings of guilty,
13 and the sentence or such part or amount of the sentence, as
14 the state staff judge advocate finds correct in law and fact
15 and determines, on the basis of the entire record, should be
16 approved. In consideration of the record, the state staff
17 judge advocate may weigh the evidence, judge the credibility
18 of witnesses, and determine controverted questions of fact,
19 recognizing that the trial court saw and heard the witnesses.
20 If the state staff judge advocate sets aside the findings and
21 sentence, the state staff judge advocate may, except where the
22 setting aside is based on lack of sufficient evidence in the
23 record to support the findings, order a rehearing. If the
24 state staff judge advocate sets aside the findings and
25 sentence and does not order a rehearing, the state staff judge
26 advocate shall order that the charges be dismissed.

27 6. In a case reviewable by the state staff judge advocate
28 under this section, the state staff judge advocate shall
29 instruct the convening authority to act in accordance with the
30 decision on the review. If the state staff judge advocate has
31 ordered a rehearing but the convening authority finds a
32 rehearing impracticable, the state staff judge advocate may
33 dismiss the charges.

34 7. The state staff judge advocate may order one or more
35 boards of review each composed of not less than three

1 commissioned officers of the state military forces, each of
2 whom must be a member of the bar of the highest court of the
3 state. Each board of review shall review the record of any
4 trial by court-martial including a sentence to a dishonorable
5 discharge, dismissal or confinement, referred to it by the
6 state staff judge advocate. Boards of review have the same
7 authority on review as the state staff judge advocate has
8 under this section.

9 Sec. 49. Section 29B.67, Code 2001, is amended to read as
10 follows:

11 29B.67 REVIEW COUNSEL.

12 Upon the final review of a sentence of a general court-
13 martial or of a sentence to a dishonorable discharge,
14 dismissal, or confinement, the accused has the right to be
15 represented by counsel before the reviewing authority, and
16 before the appropriate staff judge advocate, ~~and before the~~
17 ~~appropriate-state-judge-advocate.~~

18 Upon the request of an accused entitled to be so
19 represented, the state appropriate staff judge advocate shall
20 appoint a lawyer who is a member of the state military forces
21 and who has the qualifications prescribed in section 29B.28,
22 if available, to represent the accused before the reviewing
23 authority, and before the appropriate staff judge advocate,
24 ~~and before the appropriate-state-judge-advocate,~~ in the review
25 of cases specified in this section.

26 If provided by the accused, an accused entitled to be so
27 represented may be represented by civilian counsel before the
28 reviewing authority, and before the appropriate staff judge
29 advocate ~~and before the appropriate-state-judge-advocate.~~

30 Sec. 50. Section 29B.116, Code 2001, is amended to read as
31 follows:

32 29B.116 GENERAL ARTICLE.

33 Though not specifically mentioned in this code, all
34 disorders and neglects to the prejudice of good order and
35 discipline in the state military forces, of which persons

1 subject to this code may be guilty, shall be taken cognizance
2 of by a general, special, or summary court-martial, according
3 to the nature and degree of the offense, and shall be punished
4 at the discretion of that court. However, cognizance shall
5 not be taken of, and jurisdiction shall not be extended to,
6 the crimes of murder, manslaughter, sexual abuse, robbery,
7 maiming, sodomy, arson, extortion, assault, burglary, or
8 housebreaking, jurisdiction of which is reserved to civil
9 courts.

10 Sec. 51. Section 29B.129, subsection 1, Code 2001, is
11 amended by striking the subsection.

12 Sec. 52. EFFECTIVE DATE. This division of this Act, being
13 deemed of immediate importance, takes effect upon enactment.

14 DIVISION IV

15 EMERGENCY MANAGEMENT DIVISION

16 Sec. 53. Section 22.7, Code Supplement 2001, is amended by
17 adding the following new subsection:

18 NEW SUBSECTION. 43. The critical asset protection plan or
19 any part of the plan prepared pursuant to section 29C.8.

20 Sec. 54. Section 29C.8, subsection 3, Code Supplement
21 2001, is amended by adding the following new paragraph:

22 NEW PARAGRAPH. e. Prepare a critical asset protection
23 plan that contains an inventory of infrastructure, facilities,
24 systems, other critical assets, and symbolic landmarks that
25 may be targets of terrorism, an assessment of the criticality,
26 vulnerability, and level of terrorist threat to the assets,
27 and information pertaining to the mobilization, deployment,
28 and tactical operations involved in responding to or
29 protecting the assets.

30 (1) Notwithstanding chapter 22, the division shall keep
31 confidential any information supplied by a public or private
32 agency or organization used in the development of the critical
33 asset protection plan to include, but not be limited to,
34 surveys, lists, maps, or photographs. The critical asset
35 protection plan and policies, procedures, tactics, or other

1 measures developed by the division or by any governmental body
2 for the purposes of implementing the plan shall be kept
3 confidential.

4 (2) The division may provide all or part of the critical
5 asset protection plan to federal, state, or local governmental
6 agencies which have emergency planning or response functions
7 if the administrator is satisfied that the need to know and
8 intended use are reasonable. An agency receiving critical
9 asset protection plan information from the division shall not
10 redisseminate the information.

11 Sec. 55. NEW SECTION. 29C.22 STATEWIDE MUTUAL AID
12 COMPACT.

13 This statewide mutual aid compact is entered into with all
14 other counties, cities, and other political subdivisions that
15 enter into this compact in substantially the following form:

16 ARTICLE I

17 PURPOSE AND AUTHORITIES

18 This compact is made and entered into by and between the
19 participating counties, cities, and political subdivisions
20 which enact this compact. For the purposes of this agreement,
21 the term "participating governments" means counties, cities,
22 townships, and other political subdivisions of the state which
23 have, through ordinance or resolution of the governing body,
24 acted to adopt this compact.

25 The purpose of this compact is to provide for mutual
26 assistance between the participating governments entering into
27 this compact in managing any emergency or disaster that is
28 declared in accordance with a countywide comprehensive
29 emergency operations plan or by the governor, whether arising
30 from natural disaster, technological hazard, man-made
31 disaster, community disorder, insurgency, terrorism, or enemy
32 attack.

33 This compact shall also provide for mutual cooperation in
34 emergency-related exercises, testing, or other training
35 activities using equipment and personnel simulating

1 performance of any aspect of the giving and receiving of aid
2 by participating governments during emergencies, such actions
3 occurring outside actual declared emergency periods.

4 ARTICLE II

5 GENERAL IMPLEMENTATION

6 Each participating government entering into this compact
7 recognizes many emergencies transcend political jurisdictional
8 boundaries and that intergovernmental coordination is
9 essential in managing these and other emergencies under this
10 compact. Each participating government further recognizes
11 that there will be emergencies which require immediate access
12 and present procedures to apply outside resources to make a
13 prompt and effective response to the emergency. This is
14 because few, if any, individual governments have all the
15 resources they may need in all types of emergencies or the
16 capability of delivering resources to areas where emergencies
17 exist.

18 The prompt, full, and effective use of resources of the
19 participating governments, including any resources on hand or
20 available from any source, that are essential to the safety,
21 care, and welfare of the people in the event of any emergency
22 or disaster declared by the governor or any participating
23 government, shall be the underlying principle on which all
24 articles of this compact shall be understood.

25 On behalf of the participating government in the compact,
26 the legally designated official who is assigned responsibility
27 for emergency management will be responsible for formulation
28 of the appropriate intrastate mutual aid plans and procedures
29 necessary to implement this compact.

30 ARTICLE III

31 PARTICIPATING GOVERNMENT RESPONSIBILITIES

32 1. It shall be the responsibility of each participating
33 government to formulate procedural plans and programs for
34 intrastate cooperation in the performance of the
35 responsibilities listed in this article. In formulating the

1 plans, and in carrying them out, the participating
2 governments, insofar as practical, shall:

3 a. Review individual hazards analyses and, to the extent
4 reasonably possible, determine all those potential emergencies
5 the participating governments might jointly suffer, whether
6 due to natural disaster, technological hazard, man-made
7 disaster, civil disorders, insurgency, terrorism, or enemy
8 attack.

9 b. Review the participating governments' individual
10 emergency plans and develop a plan that will determine the
11 mechanism for the intrastate management and provision of
12 assistance concerning any potential emergency.

13 c. Develop intrastate procedures to fill any identified
14 gaps and to resolve any identified inconsistencies or overlaps
15 in existing or developed plans.

16 d. Assist in warning communities adjacent to or crossing
17 the participating governments' boundaries.

18 e. Protect and ensure uninterrupted delivery of services,
19 medicines, water, food, energy and fuel, search and rescue,
20 and critical lifeline equipment, services, and resources, both
21 human and material.

22 f. Inventory and set procedures for the intrastate loan
23 and delivery of human and material resources, together with
24 procedures for reimbursement or forgiveness.

25 g. Provide, to the extent authorized by law, for temporary
26 suspension of any ordinances that restrict the implementation
27 of the above responsibilities.

28 2. The authorized representative of a participating
29 government may request assistance of another participating
30 government by contacting the authorized representative of that
31 participating government. The provisions of this compact
32 shall only apply to requests for assistance made by and to
33 authorized representatives. Requests may be verbal or in
34 writing. If verbal, the request shall be confirmed in writing
35 within thirty days of the verbal request. Requests shall

1 provide all of the following:

2 a. A description of the emergency service function for
3 which assistance is needed, such as but not limited to fire
4 services, law enforcement, emergency medical, transportation,
5 communications, public works and engineering, building
6 inspection, planning and information assistance, mass care,
7 resource support, health and medical services, and search and
8 rescue.

9 b. The amount and type of personnel, equipment, materials
10 and supplies needed, and a reasonable estimate of the length
11 of time that the personnel, equipment, materials, and supplies
12 will be needed.

13 c. The specific place and time for staging of the
14 assisting participating government's response and a point of
15 contact at that location.

16 3. The authorized representative of a participating
17 government may initiate a request by contacting the emergency
18 management division of the state department of public defense.
19 When a request is received by the division, the division shall
20 directly contact other participating governments to coordinate
21 the provision of mutual aid.

22 4. Frequent consultation shall occur between officials who
23 have been assigned emergency management responsibilities and
24 other appropriate representatives of the participating
25 governments with affected jurisdictions and state government,
26 with free exchange of information, plans, and resource records
27 relating to emergency capabilities.

28 ARTICLE IV
29 LIMITATIONS

30 Any participating government requested to render mutual aid
31 or conduct exercises and training for mutual aid shall take
32 the necessary action to provide and make available the
33 resources covered by this compact in accordance with the terms
34 of the compact. However, it is understood that the
35 participating government rendering aid may withhold resources

1 to the extent necessary to provide reasonable protection for
2 the participating government. Each participating government
3 shall afford to the emergency forces of any other
4 participating government, while operating within its
5 jurisdictional limits under the terms and conditions of this
6 compact, the same powers, except that of arrest unless
7 specifically authorized by the receiving participating
8 government, duties, rights, and privileges as are afforded
9 forces of the participating government in which the emergency
10 forces are performing emergency services. Emergency forces
11 shall continue under the command and control of their regular
12 leaders, but the organizational units shall come under the
13 operational control of the emergency services authorities of
14 the participating government receiving assistance. These
15 conditions may be activated, as needed, only subsequent to a
16 declaration of a state of emergency or disaster by the
17 governor or by competent authority of the participating
18 government that is to receive assistance or commencement of
19 exercises or training for mutual aid and shall continue so
20 long as the exercises or training for mutual aid are in
21 progress, the state of emergency or disaster remains in
22 effect, or loaned resources remain in the receiving
23 jurisdiction, whichever is longer.

24 ARTICLE V

25 LICENSES AND PERMITS

26 If a person holds a license, certificate, or other permit
27 issued by any participating government to this compact
28 evidencing the meeting of qualifications for professional,
29 mechanical, or other skills, and when the assistance is
30 requested by another participating government, the person
31 shall be deemed licensed, certified, or permitted by the
32 participating government requesting assistance to render aid
33 involving the skill to meet a declared emergency or disaster,
34 subject to the limitations and conditions as the governor may
35 prescribe by executive order or otherwise.

ARTICLE VI

LIABILITY

1
2
3 Officers or employees of a participating government
4 rendering aid in another participating government jurisdiction
5 pursuant to this compact shall be considered agents of the
6 requesting participating government for tort liability and
7 immunity purposes and a participating government or its
8 officers or employees rendering aid in another jurisdiction
9 pursuant to this compact shall not be liable on account of any
10 act or omission in good faith on the part of the forces while
11 so engaged or on account of the maintenance or use of any
12 equipment or supplies in connection with the aid. Good faith
13 in this article shall not include willful misconduct, gross
14 negligence, or recklessness.

ARTICLE VII

SUPPLEMENTARY AGREEMENTS

15
16
17 Because it is probable that the pattern and detail of the
18 machinery for mutual aid among two or more participating
19 governments may differ from that among other participating
20 governments, this compact contains elements of a broad base
21 common to all political subdivisions, and this compact shall
22 not preclude any political subdivision from entering into
23 supplementary agreements with another political subdivision or
24 affect any other agreements already in force between political
25 subdivisions. Supplementary agreements may include, but shall
26 not be limited to, provisions for evacuation and reception of
27 injured and other persons and the exchange of medical, fire,
28 police, public utility, reconnaissance, welfare,
29 transportation and communications personnel, and equipment and
30 supplies.

ARTICLE VIII

WORKERS' COMPENSATION

31
32
33 Each participating government shall provide for the payment
34 of workers' compensation and death benefits to injured members
35 of the emergency forces of that participating government and

1 representatives of deceased members of the emergency forces in
2 case the members sustain injuries or are killed while
3 rendering aid pursuant to this compact, in the same manner and
4 on the same terms as if the injury or death were sustained
5 within their own jurisdiction.

6 ARTICLE IX

7 REIMBURSEMENT

8 Any participating government rendering aid in another
9 jurisdiction pursuant to this compact shall be reimbursed by
10 the participating government receiving the emergency aid for
11 any loss or damage to or expense incurred in the operation of
12 any equipment and the provision of any service in answering a
13 request for aid and for the costs incurred in connection with
14 the requests. However, an aiding political subdivision may
15 assume in whole or in part the loss, damage, expense, or other
16 cost, or may loan the equipment or donate the services to the
17 receiving participating government without charge or cost, and
18 any two or more participating governments may enter into
19 supplementary agreements establishing a different allocation
20 of costs among the participating governments. Article VIII
21 expenses shall not be reimbursable under this provision.

22 ARTICLE X

23 EVACUATION AND SHELTERING

24 Plans for the orderly evacuation and reception of portions
25 of the civilian population as the result of any emergency or
26 disaster shall be worked out and maintained between the
27 participating governments and the emergency management or
28 services directors of the various jurisdictions where any type
29 of incident requiring evacuations might occur. The plans
30 shall be put into effect by request of the participating
31 government from which evacuees come and shall include the
32 manner of transporting the evacuees, the number of evacuees to
33 be received in different areas, the manner in which food,
34 clothing, housing, and medical care will be provided, the
35 registration of the evacuees, the providing of facilities for

1 the notification of relatives or friends, and the forwarding
 2 of the evacuees to other areas or the bringing in of
 3 additional materials, supplies, and all other relevant
 4 factors. The plans shall provide that the participating
 5 government receiving evacuees and the participating government
 6 from which the evacuees come shall mutually agree as to
 7 reimbursement of out-of-pocket expenses incurred in receiving
 8 and caring for the evacuees, for expenditures for
 9 transportation, food, clothing, medicines and medical care,
 10 and like items. The expenditures shall be reimbursed as
 11 agreed by the participating government from which the evacuees
 12 come. After the termination of the emergency or disaster, the
 13 participating government from which the evacuees come shall
 14 assume the responsibility for the ultimate support of
 15 repatriation of such evacuees.

16 ARTICLE XI
 17 IMPLEMENTATION

18 1. This compact shall become operative immediately upon
 19 its adoption by ordinance or resolution by the governing
 20 bodies of any two political subdivisions. Thereafter, this
 21 compact shall become effective as to any other political
 22 subdivision upon its adoption by ordinance or resolution of
 23 the governing body of the political subdivision.

24 2. Any participating government may withdraw from this
 25 compact by adopting an ordinance or resolution repealing the
 26 same, but a withdrawal shall not take effect until thirty days
 27 after the governing body of the withdrawing participating
 28 government has given notice in writing of the withdrawal to
 29 the administrator of the emergency management division who
 30 shall notify all other participating governments. The action
 31 shall not relieve the withdrawing political subdivision from
 32 obligations assumed under this compact prior to the effective
 33 date of withdrawal.

34 3. Duly authenticated copies of this compact and any
 35 supplementary agreements as may be entered into shall be

1 deposited, at the time of their approval, with the
2 administrator of the emergency management division who shall
3 notify all participating governments and other appropriate
4 agencies of state government.

5 ARTICLE XII

6 VALIDITY

7 This compact shall be construed to effectuate the purposes
8 stated in article I. If any provision of this compact is
9 declared unconstitutional, or the applicability of the compact
10 to any person or circumstances is held invalid, the
11 constitutionality of the remainder of this compact and the
12 applicability of this compact to other persons and
13 circumstances shall not be affected.

14 Sec. 56. EFFECTIVE DATE. This division of this Act, being
15 deemed of immediate importance, takes effect upon enactment.

16 DIVISION V

17 IOWA TECHNOLOGY CENTER

18 Sec. 57. Section 18.6, Code 2001, is amended by adding the
19 following new subsection:

20 NEW SUBSECTION. 17. This section does not apply to Iowa
21 technology center contracts in support of activities performed
22 for another governmental entity, either state or federal. The
23 Iowa technology center is an entity created by a chapter 28E
24 agreement entered into by the department of public defense.

25 Sec. 58. Section 23A.2, subsection 10, Code Supplement
26 2001, is amended by adding the following new paragraph:

27 NEW PARAGRAPH. p. The provision of goods or services by
28 the Iowa technology center as a part of an intergovernmental
29 solution involving the federal government or a state agency.
30 The Iowa technology center is an entity created by a chapter
31 28E agreement entered into by the department of public
32 defense.

33 EXPLANATION

34 This bill relates to the department of public defense,
35 including the military division, the emergency management

1 division, and the Iowa technology center.

2 Division I of the bill amends the state military code, Code
3 chapter 29A. In addition to several nonsubstantive changes to
4 modernize certain statutory provisions relating to the
5 national guard, division I does the following:

6 1. Code section 8.47 is amended to exempt the department
7 of public defense from the requirement that the department
8 follow general services rules for service contracts or other
9 agreements for services, where federal funds make up 75
10 percent or more of the funding for the contract or agreement.

11 2. Code section 29A.8A is amended to require a state
12 employee to take a full day's leave or compensatory time on
13 any day in which the employee receives a full day's pay from
14 federal sources for national guard duty. This provision is
15 currently located in Code section 29A.9.

16 3. The definition of "on duty" is amended to provide that
17 a member of the national guard is considered on duty when
18 called to testify about an event that occurred while the
19 member was on duty with the national guard. This provision is
20 currently found in Code section 29A.9.

21 4. The provisions in Code section 29A.7, relating to the
22 exercise of the governor's powers as commander in chief of the
23 state military forces, are amended to combine several existing
24 provisions under the term of assistance to civil authorities.
25 The requirement for providing for the participation of the
26 national guard in training currently found in Code section
27 29A.9 is added to the section. The requirement that the
28 general assembly be convened prior to the establishment of a
29 military district, currently found in Code section 29A.8
30 regarding state active duty, is added to the Code section as
31 well.

32 5. Code section 29A.8 regarding state active duty is
33 reorganized and certain language is conformed to the
34 provisions of Code section 29A.7. The definition of "state
35 active duty" is amended by adding language regarding training,

1 recruiting, escort duty, and duty at schools currently found
2 in Code section 29A.9.

3 6. Code section 29A.25 is amended to provide that
4 discharges from the national guard shall be in accordance with
5 federal law and regulations.

6 7. Code section 29A.26, regarding the state headquarters,
7 is amended by striking the requirements that all officers in
8 the state headquarters have prior military experience and that
9 they be retained in the state headquarters until retirement.

10 8. Code section 29A.40 restricts the use or wearing of a
11 national guard uniform except while on duty.

12 9. The provisions regarding discharge from the national
13 guard currently found in Code section 29A.41 are stricken.

14 10. Code section 29A.43 is amended to specify that
15 temporary duty includes temporary duty in active state
16 service, federal service, or state active duty.

17 11. Code section 29A.50 is amended to provide that members
18 of the national guard providing assistance to civil
19 authorities or performing homeland defense or security duties
20 have the same immunity as peace officers. Currently this
21 immunity is limited to circumstances where the national guard
22 is involved in suppression of an insurrection or the dispersal
23 of a mob.

24 12. Code section 29A.51 is amended to provide that a judge
25 advocate may represent a member of the national guard in a
26 suit or proceeding brought against the member for an official
27 act. Currently, only the state judge advocate is authorized
28 to defend a member of the national guard.

29 13. The senior commander allowances are increased from
30 \$450 per general officer to \$750 per general officer, a total
31 of \$1,800.

32 14. Code section 29A.9 is repealed. As noted earlier,
33 various provisions of Code section 29A.9 are added to other
34 Code sections.

35 Division II creates the Iowa national guard civil relief

1 Act. The civil relief Act replaces temporary language adopted
 2 during the second special session in 2001 Iowa Acts, House
 3 File 762, which sunsets on January 31, 2002. The civil relief
 4 Act applies to members of the Iowa national guard, serving on
 5 active state service or state active duty for a period of 90
 6 consecutive days or more beginning on or after the effective
 7 date of the bill, and their dependents in certain cases.

8 The civil relief Act provides that default judgments
 9 against service members may be set aside in certain
 10 circumstances. It provides that a service member may obtain a
 11 stay of any action or proceeding where the military service of
 12 the service member materially affects the member's ability to
 13 conduct the action or proceeding.

14 The civil relief Act prohibits fines or penalties for
 15 nonperformance of a contract that is the subject of a judicial
 16 stay and allows for fines or penalties to be set aside by a
 17 court where the service member's ability to pay or perform was
 18 materially affected by military service. The exercise of
 19 rights under the civil relief Act shall not be used by a
 20 lender or other person as the basis for an adverse action
 21 against a service member.

22 The civil relief Act also provides that the execution of a
 23 judgment against a service member may be stayed by a court
 24 where the ability of the member to comply with the judgment is
 25 materially affected by military service. The stay may be for
 26 the duration of military service plus 30 days. The civil
 27 relief Act also provides that the period of military service
 28 is not included in calculating any statute of limitations
 29 regarding an action or proceeding by or against a service
 30 member or the member's heirs, executors, administrator's and
 31 assignees.

32 The civil relief Act sets the maximum rate of interest for
 33 preservice obligations at 6 percent, unless a court finds that
 34 the ability of the service member to pay the obligation is not
 35 materially impaired by the military service.

1 The civil relief Act prohibits the termination of a lease
2 or rental agreement of a service member or the member's
3 dependents during the period of military service, where the
4 rent does not exceed \$1,200 per month, except pursuant to a
5 court order. The court may also enter a stay of a recovery or
6 forcible entry and detainer proceeding for up to three months.
7 The owner of the rental premises may also obtain similar
8 relief to that which may be granted to service members in the
9 event a stay of termination or other order is granted by the
10 court. A person violating this section commits a simple
11 misdemeanor. The governor may direct that an allotment of the
12 service member's pay be set up in favor of the landlord.

13 The civil relief Act also prohibits the termination of
14 installment contracts or mortgages for real or personal
15 property for nonpayment or breach during the period of
16 military service, except by court order. A person who
17 violates either of these provisions commits a simple
18 misdemeanor.

19 A service member may apply for relief under the civil
20 relief Act anytime during military service or within 30 days
21 thereafter for an obligation arising prior to military
22 service. The court will stay the enforcement of the
23 obligation unless the court finds that military service has
24 not materially affected the service member's ability to meet
25 the obligation.

26 Division III amends Code chapter 29B, the Iowa code of
27 military justice (ICMJ), as follows:

- 28 1. The definition of persons subject to the ICMJ is
29 amended to conform to Code chapter 29A.
- 30 2. The requirements for serving as a judge advocate in the
31 Iowa national guard are amended to require that a judge
32 advocate be admitted to practice law in Iowa. A current judge
33 advocate who is not a member of the bar does not have to
34 become a member of the bar to maintain military membership.
35 Also, the adjutant general shall appoint a staff judge

1 advocate for the air national guard and the army national
 2 guard. The adjutant general may also appoint additional judge
 3 advocates in the state military forces as necessary to
 4 supplement or replace national guard judge advocates in times
 5 of emergency. The position of state judge advocate is
 6 eliminated in favor of the army and air staff judge advocates.
 7 Conforming changes are made as appropriate in the ICMJ to
 8 implement this change.

9 3. Military judges must be certified as qualified for duty
 10 by the appropriate staff judge advocate for the air or army
 11 national guard. Military judges may be drawn from national
 12 guard, the active military forces, or from retirees possessing
 13 the requisite qualifications.

14 4. Trial and defense counsel must be admitted before the
 15 highest court in the state. The alternative requirement that
 16 they be a member of the federal bar is eliminated.

17 5. In Code section 29B.116, the general punitive article
 18 is amended to strike sodomy from the list of crimes that may
 19 not be tried by court-martial. The inclusion of sodomy in the
 20 list is duplicative, since sexual abuse is already included.

21 Division IV relates to the emergency management division of
 22 the department of public defense.

23 Code section 29C.8, regarding the powers and duties of the
 24 emergency management division administrator, is amended to
 25 require the development of a critical asset protection plan.
 26 This amendment defines the minimum content of the plan to
 27 include an inventory of critical assets, an assessment of the
 28 criticality and vulnerability of these assets, and an
 29 assessment of the level of terrorist threat related to these
 30 identified assets.

31 The proposed language requires the administrator to keep
 32 confidential any information received from public and private
 33 agencies used in the development of the plan. Public
 34 information would remain open to the public upon request to
 35 the lawful custodian of the record but would not be obtainable

1 through the emergency management division.

2 In addition, information regarding policies, procedures,
3 tactics, or other measures developed by the division or by any
4 other governmental body for purposes of implementing the plan,
5 shall be kept confidential.

6 The administrator may release to governmental agencies
7 information in the plan when the administrator is satisfied
8 that the need to know and intended use of the information are
9 reasonable. Agencies receiving the information are prohibited
10 from further redissemination without the approval of the
11 administrator.

12 Division IV also authorizes an intrastate compact for
13 mutual aid between participating governments, allowing
14 participating political subdivisions to request and share
15 resources during times of emergency or disaster. This
16 language is not unlike the language contained in Code section
17 29C.21 that provides for an interstate compact for mutual aid
18 between the participating states and territories.

19 Iowa political subdivisions would participate in the
20 compact by adopting the uniform language by resolution or
21 ordinance. The language of the compact would be uniform in
22 nature eliminating some of the need for party-to-party
23 negotiations. Any party adopting the compact would be
24 agreeing with any other party adopting the compact.

25 Participation in the compact is voluntary. Adoption of the
26 compact does not preclude or void the adoption and negotiation
27 of separate or supplementary mutual aid agreements as
28 authorized in Code chapter 28E or in other code.

29 Division V does the following:

30 1. Code section 18.6, regarding competitive bidding, is
31 amended to exempt Iowa technology center contracts made in
32 support of activities performed for another governmental
33 entity, either state or federal.

34 2. Code section 23A.2 is amended to exempt the Iowa
35 technology center from the provisions in Code chapter 23A,

1 regarding competition by state agencies.

2 The Iowa technology center is an entity created by a Code
3 chapter 28E agreement between the department of public defense
4 and interactive simulation and training systems, L.L.C.

5 Divisions I through IV take effect upon enactment.

6 Division V takes effect on July 1, 2002.

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2/15/02 Referred from Colorado
to apply.

S- 3/7/02 Do Pass

FILED FEB 6 2002

H. 3/11/02 State Gov

2124

H. 3/13/02 Do Pass

SENATE FILE
BY COMMITTEE ON STATE
GOVERNMENT

(SUCCESSOR TO SSB 3067)

Passed Senate, Date ^(P. 547) 3-7-02 Passed House, Date ^(P. 1140) 4/3/02
Vote: Ayes 45 Nays 0 Vote: Ayes 93 Nays 0
Approved April 22, 2002

A BILL FOR

1 An Act relating to the department of public defense by amending
2 the state military code and the Iowa code of military justice,
3 creating a statewide mutual aid compact, providing for the
4 confidentiality of certain records, exempting the department
5 of public defense from certain state service contract
6 requirements and state competitive bidding requirements,
7 exempting the Iowa technology center from anticompetition
8 provisions, increasing a standing appropriation, providing
9 criminal penalties for violations, and providing effective
10 dates.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 2124

DIVISION I

MILITARY DIVISION

1
2
3 Section 1. Section 8.47, Code Supplement 2001, is amended
4 by adding the following new subsection:

5 NEW SUBSECTION. 4. This section does not apply to service
6 contracts or other agreements for services by the department
7 of public defense that are funded with at least seventy-five
8 percent federal moneys. The department of public defense
9 shall establish terms and conditions for service contracts and
10 other agreements for services that comply with this section to
11 the greatest extent possible.

12 Sec. 2. Section 29A.1, subsection 9, Code Supplement 2001,
13 is amended to read as follows:

14 9. "On duty" means training, including unit training
15 assemblies, and other training, operational duty, and other
16 service which may be required under state or federal law,
17 regulations, or orders, and the necessary travel of an officer
18 or enlisted person to the place of performance and return home
19 after performance of that duty, but does not include federal
20 service. A member of the national guard shall be considered
21 to be on duty when called to testify about an incident which
22 the member observed or was involved in while that member was
23 on duty.

24 Sec. 3. Section 29A.1, subsection 11, Code Supplement
25 2001, is amended to read as follows:

26 11. "State active duty" means duty authorized and
27 performed under section 29A.8 ~~or~~ 29A-9 and paid for with state
28 funds. "State active duty" also includes serving as the
29 adjutant general, a deputy adjutant general, or the state
30 quartermaster.

31 Sec. 4. Section 29A.7, Code Supplement 2001, is amended to
32 read as follows:

33 29A.7 COMMANDER IN CHIEF.

34 1. The governor is the commander in chief of the military
35 forces, except when they are in federal service. The governor

1 may employ the military forces of the state for the defense or
2 relief of the state, ~~the-enforcement-of-its-laws, the~~
3 ~~protection-of-life-and-property,~~ to provide assistance to
4 civil authorities in emergencies resulting from disasters or
5 public disorders as defined in section 29C.2, including
6 homeland security and defense duties, and for parades and
7 ceremonies of a civic nature.

8 2. The governor shall provide for the participation of the
9 national guard in training at the times and places as
10 necessary to ensure readiness for public defense or federal
11 service.

12 3. If circumstances necessitate the establishment of a
13 military district under martial law and the general assembly
14 is not convened, the district shall be established only after
15 the governor has issued a proclamation convening an
16 extraordinary session of the general assembly.

17 Sec. 5. Section 29A.8, subsection 1, unnumbered paragraph
18 1, Code Supplement 2001, is amended to read as follows:

19 The governor may order into state active duty the military
20 forces of the state, including retired members of the national
21 guard, ~~both-army-and-air,~~ as the governor deems proper, under
22 ~~command-of-an-officer-as-the-governor-may-designate-under~~ one
23 or more of the following circumstances:

24 Sec. 6. Section 29A.8, subsection 1, paragraphs b and c,
25 Code Supplement 2001, are amended to read as follows:

26 b. For the purpose of ~~aiding~~ assisting the civil
27 authorities of any political subdivision of the state in
28 maintaining law and order in the subdivision in cases of
29 breaches of the peace or imminent danger of breaches of the
30 peace, if the law enforcement officers of the subdivision are
31 unable to maintain law and order, and the civil authorities of
32 the subdivision request the assistance.

33 c. For the purposes of providing support to civil
34 authorities during emergencies resulting from disasters or
35 public disorders and for performing homeland defense or

1 homeland security duties.

2 Sec. 7. Section 29A.8, subsection 1, Code Supplement 2001,
3 is amended by adding the following new paragraphs:

4 NEW PARAGRAPH. d. For training, recruiting, escort duty,
5 and duty at schools of instruction, as a student or
6 instructor, including at the Iowa military academy.

7 NEW PARAGRAPH. e. To participate in parades and
8 ceremonies of a civic nature.

9 NEW PARAGRAPH. f. For other purposes as the governor may
10 deem necessary.

11 Sec. 8. Section 29A.8, subsection 2, Code Supplement 2001,
12 is amended by striking the subsection and inserting in lieu
13 thereof the following:

14 2. The governor may prescribe regulations and requirements
15 for duties performed under this section.

16 Sec. 9. Section 29A.8A, Code Supplement 2001, is amended
17 to read as follows:

18 29A.8A ACTIVE STATE SERVICE.

19 If federal funding and authorization exist for this
20 purpose, the governor may order to active state service the
21 military forces of the Iowa army national guard or Iowa air
22 national guard as the governor may deem appropriate for the
23 purposes of homeland security, homeland defense, or other
24 duty. A state employee shall take either a full day's leave
25 or eight hours of compensatory time on a day in which the
26 state employee receives a full day's pay from federal funds
27 for national guard duty.

28 Sec. 10. Section 29A.19, Code 2001, is amended to read as
29 follows:

30 29A.19 QUARTERMASTER.

31 A present or retired commissioned officer of the national
32 guard who has ten years' service in the Iowa army national
33 guard or the Iowa air national guard and has attained the
34 grade of a field officer, shall be detailed to be the
35 quartermaster and property officer of the state, who shall

1 have charge of and be accountable for, under the adjutant
2 general, all state military property. The quartermaster shall
3 keep property returns and reports and give bond to the state
4 of Iowa as the governor may direct.

5 Sec. 11. Section 29A.25, Code 2001, is amended to read as
6 follows:

7 29A.25 ENLISTMENTS AND DISCHARGES.

8 All enlistments and discharges in the national guard shall
9 be as prescribed by federal law and regulations.

10 Sec. 12. Section 29A.26, unnumbered paragraph 1, Code
11 2001, is amended to read as follows:

12 The number and grade of officers and enlisted personnel in
13 the state headquarters and headquarters detachment shall be as
14 prescribed by federal law and regulations~~7-but.~~ However, in
15 case of war, invasion, insurrection, ~~riot~~ emergency, or
16 imminent danger thereof, the governor may temporarily increase
17 such the force to meet ~~such-emergency~~ the circumstance.

18 Sec. 13. Section 29A.26, unnumbered paragraph 2, Code
19 2001, is amended by striking the unnumbered paragraph.

20 Sec. 14. Section 29A.31, Code 2001, is amended to read as
21 follows:

22 29A.31 UNLAWFUL ORGANIZATIONS.

23 It shall be unlawful for any ~~body-of-persons7-other-than~~
24 ~~the-national-guard-and-the-troops-of-the-United-States7-to~~
25 ~~associate-themselves-together-as~~ person to form a military
26 organization within the limits of this state without the
27 written permission of the governor, which the governor may at
28 any time revoke, but this provision shall not prevent civic,
29 social, or benevolent organizations from wearing uniforms and
30 ~~swords~~ equipment not in conflict with the other provisions of
31 this chapter.

32 Sec. 15. Section 29A.40, unnumbered paragraph 1, Code
33 2001, is amended to read as follows:

34 No A member of the national guard shall not wear the
35 uniform ~~thereof~~ of the national guard while not on duty

1 ~~without permission from competent authority, except in~~
2 accordance with state or federal regulations. No A person,
3 firm, or corporation, other than a civic, social, or
4 benevolent military organization or the members of such
5 organizations organizing for the benefit of all its members,
6 shall not incorporate under the name of, or adopt any trade
7 name which embodies the name or designation, officially or
8 generally recognized as the name of a military organization
9 now or heretofore formerly in existence, or any distinctive
10 part of such name. ~~Any person found guilty of a violation of~~
11 ~~any of the provisions of this section shall be guilty of a~~
12 ~~simple misdemeanor.~~

13 Sec. 16. Section 29A.41, Code 2001, is amended to read as
14 follows:

15 29A.41 EXEMPTIONS ---HONORABLE DISCHARGE.

16 A member of the national guard shall not be arrested, or
17 served with a summons, order, warrant or other civil process
18 after having been ordered to any duty, or while going to,
19 attending, or returning from, any place to which the officer
20 ~~or enlisted person~~ national guard member is required to go for
21 military duty. This section does not prevent the officer's or
22 ~~enlisted person's~~ national guard member's arrest by order of a
23 military officer or for a felony or breach of the peace
24 committed while not in the actual performance of the officer's
25 ~~or enlisted person's~~ national guard member's duty. The
26 articles of equipment personally owned by such members are
27 exempt from seizure or sale for debt. ~~Every member of the~~
28 ~~national guard who has faithfully served the full term of the~~
29 ~~member's commission, warrant or enlistment is entitled, upon~~
30 ~~application, to an honorable discharge, exempting the member~~
31 ~~from military duty except in time of war or public danger.~~

32 Sec. 17. Section 29A.43, Code Supplement 2001, is amended
33 to read as follows:

34 29A.43 DISCRIMINATION PROHIBITION -- LEAVE OF ABSENCE.

35 A person shall not discriminate against any officer or

1 enlisted person of the national guard or organized reserves of
2 the armed forces of the United States because of that
3 membership. An employer, or agent of an employer, shall not
4 discharge a person from employment because of being an officer
5 or enlisted person of the military forces of the state, or
6 hinder or prevent the officer or enlisted person from
7 performing any military service the person is called upon to
8 perform by proper authority. A member of the national guard
9 or organized reserves of the armed forces of the United States
10 ordered to temporary duty, as defined in section 29A.1,
11 subsection 1, 3, or 11, for any purpose is entitled to a leave
12 of absence during the period of the duty or service, from the
13 member's private employment, other than employment of a
14 temporary nature, and upon completion of the duty or service
15 the employer shall restore the person to the position held
16 prior to the leave of absence, or employ the person in a
17 similar position. However, the person shall give evidence to
18 the employer of satisfactory completion of the training or
19 duty, and that the person is still qualified to perform the
20 duties of the position. The period of absence shall be
21 construed as an absence with leave, and shall in no way affect
22 the employee's rights to vacation, sick leave, bonus, or other
23 employment benefits relating to the employee's particular
24 employment. A person violating a provision of this section is
25 guilty of a simple misdemeanor.

26 Sec. 18. Section 29A.50, Code 2001, is amended to read as
27 follows:

28 29A.50 IMMUNITY.

29 The commanding officer and members of any of the military
30 forces engaged in the suppression of an insurrection, the
31 dispersion-of-a-mob assistance to civil authorities in
32 emergencies, homeland defense, or security duties, or the
33 enforcement of the laws, shall have the same immunity as peace
34 officers.

35 Sec. 19. Section 29A.51, Code 2001, is amended to read as

1 follows:

2 29A.51 SUIT OR PROCEEDING -- DEFENSE.

3 If a suit or proceeding is commenced in any court by any
4 person against ~~an-officer~~ a member of the military forces of
5 the state for an act done by ~~that-officer~~ the member in the
6 ~~officer's~~ member's official capacity in the discharge of a
7 duty under this chapter or chapter 29B, ~~or-against-an-enlisted~~
8 ~~person-acting-under-the-authority-or-order-of-an-officer, or~~
9 ~~by-virtue-of-a-warrant-issued-by-the-officer-pursuant-to-law,~~
10 the attorney general or state staff judge advocate, upon the
11 request of the adjutant general, shall defend the member of
12 ~~the-military-forces-of-the-state~~ against whom the suit or
13 proceeding has been instituted. The costs of the defense
14 shall be paid out of any funds in the state treasury not
15 otherwise appropriated. Before the suit or proceeding is
16 filed or maintained against the ~~officer-or-enlisted-person~~
17 member, the plaintiff must give security, to be approved by
18 the court in a sum not less than one hundred dollars to secure
19 the costs. If the plaintiff fails to recover judgment, the
20 costs shall be taxed and judgment rendered against the
21 plaintiff and the plaintiff's sureties. When ~~troops~~ members
22 of the military forces of the state are called into active
23 state service active duty by the governor under martial law or
24 ~~as-aid to the~~ assist civil authorities, in addition to the
25 judge advocate's other duties, any judge advocate on duty with
26 those troops may be appointed by the attorney general as an
27 assistant attorney general, without pay for the judge
28 advocate's services for acting in that capacity.

29 Sec. 20. Section 29A.54, Code 2001, is amended to read as
30 follows:

31 29A.54 SENIOR COMMANDER ALLOWANCES.

32 A fund shall be established from an annual appropriation of
33 funds to be used by senior commanders as an expense allowance
34 to defer expenses incurred in conducting command functions or
35 escorting military guests while acting in their official

1 capacity as commander. Appropriations to the fund shall be
2 made at the beginning of each fiscal year in the amount of
3 ~~four~~ seven hundred fifty dollars for each federally recognized
4 general officer of the army national guard and the air
5 national guard. The adjutant general of Iowa shall have
6 custodial and administrative responsibility for the fund and
7 shall prescribe regulations requiring an itemized statement of
8 expenditures from the fund. The fund shall not be used to
9 purchase an alcoholic beverage or beer.

10 Sec. 21. Section 29A.74, unnumbered paragraph 1, Code
11 2001, is amended to read as follows:

12 Except as otherwise provided in this chapter ~~no~~, an agency
13 created by a power of attorney in writing given by a principal
14 who is at the time of execution, or who after executing such
15 power of attorney becomes, ~~either~~ a member of the national
16 guard or the armed forces of the United States, ~~or~~ a person
17 serving as a merchant seaman outside the limits of the United
18 States included within the fifty states and the District of
19 Columbia, or a person outside ~~said~~ those limits by permission,
20 assignment or direction of any department, ~~in-connection-with~~
21 ~~any-activity-pertaining-to-or-connected-with-the-prosecution~~
22 ~~of-any-war-in-which-the-United-States-is-then-engaged~~, shall
23 not be revoked or terminated by the death of the principal, as
24 to the agent or other person who, without actual knowledge or
25 actual notice of the death of the principal, shall have acted
26 or shall act, in good faith, under or in reliance upon such
27 power of attorney or agency, and any action so taken, unless
28 otherwise invalid or unenforceable, shall be binding on the
29 heirs, devisees, legatees, or personal representatives of the
30 principal.

31 Sec. 22. Section 29A.9, Code Supplement 2001, is repealed.

32 Sec. 23. EFFECTIVE DATE. This division of this Act, being
33 deemed of immediate importance, takes effect upon enactment.

34 DIVISION II
35 IOWA NATIONAL GUARD CIVIL RELIEF

1 Sec. 24. NEW SECTION. 29A.90 DEFINITIONS.

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

4 1. "Dependent" means the spouse and children of a service
5 member or any other person dependent upon the service member
6 for support.

7 2. "Interest" includes service charges, renewal charges,
8 fees, or any other charges in respect to any obligation or
9 liability.

10 3. "Military service" means full-time active state service
11 or state active duty, as defined in section 29A.1, for a
12 period of at least ninety consecutive days, commencing on or
13 after the effective date of this Act.

14 4. "Service member" means a member of the military forces
15 of the state performing military service.

16 Sec. 25. NEW SECTION. 29A.91 APPLICABILITY.

17 1. This division shall apply to all service members on
18 military orders who are unable to perform, continue, or
19 complete civil obligations due to military service.

20 2. This division does not apply to military duty performed
21 under orders issued pursuant to 10 U.S.C.

22 3. Proper application of this division shall suspend or
23 postpone actions upon those obligations until thirty days
24 after discharge from military service.

25 Sec. 26. NEW SECTION. 29A.92 REOPENING DEFAULT
26 JUDGMENTS.

27 1. A default judgment rendered in any civil action against
28 a service member during a period of military service or within
29 thirty days after termination of military service may be set
30 aside under the following circumstances:

31 a. It appears that the service member was prejudiced by
32 reason of military service in making a defense to the action.

33 b. Application by the service member or the service
34 member's legal representative is made to the court rendering
35 the judgment not later than thirty days after the termination

1 of military service.

2 c. The application provides enough facts that it appears
3 that the service member has a meritorious or legal defense to
4 the action or some part of the action.

5 2. Vacating, setting aside, or reversing a judgment
6 because of any of the provisions of this chapter shall not
7 impair any right or title acquired by a bona fide purchaser
8 for value under the judgment.

9 Sec. 27. NEW SECTION. 29A.93 STAY OF PROCEEDINGS.

10 1. If at any point during an action or proceeding it
11 appears that a plaintiff or defendant is a service member and
12 may be adversely affected by military service in the conduct
13 of the proceedings, the court may, on its own motion, stay the
14 proceedings.

15 2. The court shall stay the proceedings if the service
16 member or another person on the service member's behalf makes
17 a request in writing to the court, unless the court determines
18 on the record that the ability of the plaintiff to pursue the
19 action or the defendant to conduct a defense, is not
20 materially affected by reason of military service.

21 Sec. 28. NEW SECTION. 29A.94 FINES AND PENALTIES ON
22 CONTRACTS.

23 1. If compliance with the terms of a contract is stayed
24 pursuant to this division, a fine or penalty shall not accrue
25 by reason of failure to comply with the terms of the contract
26 during the period of the stay.

27 2. If a service member has not obtained a stay, and a fine
28 or penalty is imposed for nonperformance of an obligation, a
29 court may relieve enforcement if the service member was in
30 military service when the penalty was incurred and the service
31 member's ability to pay or perform was materially impaired.

32 Sec. 29. NEW SECTION. 29A.95 EXERCISE OF RIGHTS NOT TO
33 AFFECT FUTURE FINANCIAL TRANSACTIONS.

34 An application by a service member in military service for,
35 or receipt of, a stay, postponement, or suspension under the

1 provisions of this division in the payment of any fine,
2 penalty, insurance premium, or other civil obligation or
3 liability shall not be used as the basis for any of the
4 following:

5 1. A determination by any lender or other person that the
6 service member is unable to pay any civil obligation or
7 liability in accordance with its terms.

8 2. With respect to a credit transaction between a creditor
9 and a service member:

10 a. A denial or revocation of credit by the creditor.

11 b. A change by the creditor in the terms of an existing
12 credit arrangement.

13 c. A refusal by the creditor to grant credit to the
14 service member in substantially the amount or on substantially
15 the terms requested.

16 d. An adverse report relating to the creditworthiness of
17 the service member by or to any person or entity engaged in
18 the practice of assembling or evaluating consumer credit
19 information.

20 Sec. 30. NEW SECTION. 29A.96 STAY OF EXECUTION OF
21 JUDGMENT.

22 Unless the court determines on the record that the ability
23 of a service member to comply with a judgment or order entered
24 or sought is not materially affected by reason of military
25 service, the court shall, on its own motion, or upon
26 application to it by the service member or another person on
27 the service member's behalf, do the following:

28 1. Stay the execution of a judgment or order entered
29 against the service member, as provided in this chapter.

30 2. Vacate or stay an attachment or garnishment of
31 property, money, or debts in the hands of another, whether
32 before or after judgment as provided in this chapter.

33 Sec. 31. NEW SECTION. 29A.97 DURATION OF STAYS.

34 1. A stay of an action, proceeding, attachment, or
35 execution, ordered by a court under the provisions of this

1 division, may be ordered for the period of military service
2 plus thirty days after its termination or any part of that
3 time period.

4 2. Where the service member in military service is a
5 codefendant with others, the plaintiff may, with the
6 permission of the court, proceed against the others.

7 Sec. 32. NEW SECTION. 29A.98 STATUTES OF LIMITATIONS
8 AFFECTED BY MILITARY SERVICE.

9 The period of military service shall not be included in
10 computing any period limited by law, rule, or order for the
11 bringing of any action or proceeding in any court, board,
12 bureau, commission, department, or other agency of government
13 by or against any service member or by or against the service
14 member's heirs, executors, administrators, or assigns, whether
15 the cause of action or the right or privilege to institute the
16 action or proceeding has accrued prior to or during the period
17 of military service.

18 Sec. 33. NEW SECTION. 29A.99 MAXIMUM RATE OF INTEREST.

19 An obligation or liability bearing interest at a rate in
20 excess of six percent per year incurred before entry into
21 military service by a service member shall not, during any
22 part of the period of military service, bear interest at a
23 rate in excess of six percent per year unless, in the opinion
24 of the court and upon application to the court by the obligee,
25 the ability of the service member to pay interest upon the
26 obligation or liability at a rate in excess of six percent per
27 year is not materially affected by reason of the member's
28 service. The court may make any order in the action that, in
29 its opinion, is just.

30 Sec. 34. NEW SECTION. 29A.100 DEPENDENT BENEFITS.

31 Dependents of a service member are entitled to the benefits
32 accorded to service members under the provisions of sections
33 29A.101 through 29A.105. Dependents may obtain the benefits
34 upon application to a court, unless, in the opinion of the
35 court, the ability of the dependents to comply with the terms

1 of the obligation, contract, lease, or bailment has not been
2 materially impaired by reason of the military service of the
3 service member of the dependents.

4 Sec. 35. NEW SECTION. 29A.101 TERMINATION OF LEASE OR
5 RENTAL AGREEMENT -- EXCEPTIONS.

6 1. A landlord shall not terminate the lease or rental
7 agreement of a service member or the service member's
8 dependents for nonpayment of rent from any premises used as a
9 dwelling by the service member or dependents during the period
10 of military service if the rent on the premises occupied by
11 the service member or dependents is less than one thousand two
12 hundred dollars per month. However, a court may allow an
13 eviction or the recovery of property pursuant to chapter 646
14 or 648.

15 2. In any action affecting the right of possession, the
16 court may, on its own motion, stay the proceedings for not
17 longer than three months, or make any order the court
18 determines to be reasonable and just under the circumstances,
19 unless the court finds that the ability of the service member
20 to pay the agreed rent is not materially affected by reason of
21 military service.

22 3. When a stay is granted or other order is made by the
23 court, the owner of the premises shall be entitled, upon
24 application, to relief with respect to the premises similar to
25 that granted service members in military service in sections
26 29A.102 through 29A.104 to the extent and for any period as
27 the court determines to be just and reasonable under the
28 circumstances.

29 4. A person who knowingly takes part in any eviction or
30 distress otherwise than as provided in subsection 1, or
31 attempts to do so, commits a simple misdemeanor.

32 5. The governor may order an allotment of the pay of a
33 service member in military service in reasonable proportion to
34 discharge the rent of premises occupied for dwelling purposes
35 by any dependents of the service member.

1 Sec. 36. NEW SECTION. 29A.102 INSTALLMENT CONTRACTS.

2 1. The creditor of a service member who, prior to entry
3 into military service, has entered into an installment
4 contract for the purchase of real or personal property shall
5 not terminate the contract or repossess the property for
6 nonpayment or for any breach occurring during military service
7 without an order from a court of competent jurisdiction.

8 2. The court, upon application to it under this section,
9 shall, unless the court finds on the record that the ability
10 of the service member to comply with the terms of the contract
11 is not materially affected by reason of military service, do
12 one or more of the following:

13 a. Order repayment of any prior installments or deposits
14 as a condition of terminating the contract and resuming
15 possession of the property.

16 b. Order a stay of the proceedings on its own motion, or
17 on motion by the service member or another person on behalf of
18 the service member.

19 c. Make any other disposition of the case it considers to
20 be equitable to conserve the interests of all parties.

21 3. A person who knowingly repossesses property which is
22 the subject of this section, other than as provided in
23 subsection 1, commits a simple misdemeanor.

24 Sec. 37. NEW SECTION. 29A.103 MORTGAGE FORECLOSURES.

25 1. The creditor of a service member who, prior to entry
26 into military service, has entered into a mortgage contract
27 with the service member for the purchase of real or personal
28 property shall not foreclose on the mortgage or repossess the
29 property for nonpayment or for any breach occurring during
30 military service without an order from a court of competent
31 jurisdiction.

32 2. The court, upon application to it under this section,
33 shall, unless the court finds on the record that the ability
34 of the service member to comply with the terms of the mortgage
35 is not materially affected by reason of military service, do

1 one or more of the following:

2 a. Order repayment of any prior installments or deposits
3 as a condition of terminating the contract and resuming
4 possession of the property.

5 b. Order a stay of the proceedings on its own motion, or
6 on motion by the service member or another person on behalf of
7 the service member.

8 c. Make any other disposition of the case as it considers
9 to be equitable to conserve the interests of all parties.

10 3. In order to come within the provisions of this section,
11 the service member must establish all of the following:

12 a. That relief is sought on an obligation secured by a
13 mortgage, trust deed, or other security in the nature of a
14 mortgage on either real or personal property.

15 b. That the obligation originated prior to the service
16 member's entry into military service.

17 c. That the property was owned by the service member prior
18 to the commencement of military service.

19 d. That the property is owned by the service member at the
20 time relief is sought.

21 4. A person who knowingly forecloses on property that is
22 the subject of this section, other than as provided in
23 subsection 1, commits a simple misdemeanor.

24 Sec. 38. NEW SECTION. 29A.104 APPLICATION FOR RELIEF.

25 1. A service member may, at any time during military
26 service or within thirty days after discharge or termination
27 of military service, apply to a court for relief in respect of
28 any obligation or liability incurred by the service member
29 prior to military service.

30 2. The court, after appropriate notice and hearing, unless
31 in its opinion the ability of the service member to comply
32 with the terms of the obligation or liability has not been
33 materially affected by reason of military service, shall grant
34 the following relief:

35 a. In the case of an obligation payable under its terms in

1 installments under a contract for the purchase of real estate,
2 or secured by a mortgage or other instrument in the nature of
3 a mortgage upon real estate, a stay of the enforcement of the
4 obligation during the applicant's period of military service
5 and, from the date of termination of the period of military
6 service or from the date of application if made after
7 termination of military service, for a period equal to the
8 period of the remaining life of the installment contract or
9 other instrument plus a period of time equal to the period of
10 military service of the applicant, or any part of the combined
11 period, subject to payment of the balance of principal and
12 accumulated interest due and unpaid at the date of termination
13 of the period of military service or from the date of
14 application, in equal installments during the combined period
15 at the rate of interest on the unpaid balance as is prescribed
16 in the contract, or other instrument evidencing the
17 obligation, for installments paid when due, and subject to any
18 other terms as the court may consider just.

19 b. In the case of any other obligation or liability, a
20 stay of the enforcement during the applicant's period of
21 military service and, from the date of termination of the
22 period of military service or from the date of application if
23 made after termination of the period of military service, for
24 a period of time equal to the period of military service of
25 the applicant or any part of that period, subject to payment
26 of the balance of principal and accumulated interest due and
27 unpaid at the date of termination of the period of military
28 service or from the date of application, in equal periodic
29 installments during the extended period at the rate of
30 interest prescribed for the obligation or liability, if paid
31 when due, and subject to other terms the court considers to be
32 reasonable and just.

33 3. When any court has granted a stay as provided in this
34 section, a fine or penalty shall not accrue for failure to
35 comply with the terms or conditions of the obligation or

1 liability for which the stay was granted during the period the
2 terms and conditions of the stay are complied with.

3 Sec. 39. NEW SECTION. 29A.105 PROVISIONS APPLY
4 NOTWITHSTANDING CONTRARY CODE PROVISIONS.

5 Sections 29A.90 through 29A.104 apply notwithstanding any
6 contrary provision of state law, which may include but is not
7 limited to Titles XIII, XIV, and XV.

8 Sec. 40. EFFECTIVE DATE. This division of this Act, being
9 deemed of immediate importance, takes effect upon enactment.

10 DIVISION III
11 MILITARY JUSTICE

12 Sec. 41. Section 29B.1, Code 2001, is amended to read as
13 follows:

14 29B.1 PERSONS SUBJECT TO CODE.

15 This chapter applies to all members of the state military
16 forces, while not in federal service. As used in this
17 chapter, unless the context otherwise requires, "state
18 military forces" ~~means the national guard of the state of Iowa~~
19 ~~as defined in 32 U.S.C. § 1017, (3, 4, 6) (1981) and any other~~
20 ~~military force organized under state law when the national~~
21 ~~guard or other military force is not in a status subjecting it~~
22 ~~to jurisdiction under 10 U.S.C. ch. 47 (1981)~~ has the same
23 meaning as in section 29A.6, and "code" means this chapter,
24 which may be cited as the "Iowa Code of Military Justice".

25 Sec. 42. Section 29B.13, unnumbered paragraph 1, Code
26 2001, is amended to read as follows:

27 Under such regulations as may be prescribed under this code
28 a person subject to this code who is on active state service
29 or state active duty who is accused of an offense against
30 civil authority may be delivered, upon request, to the civil
31 authority for trial.

32 Sec. 43. Section 29B.22, unnumbered paragraphs 1 and 2,
33 Code 2001, are amended by striking the paragraphs and
34 inserting in lieu thereof the following:

35 A judge advocate in the state military forces shall be a

1 commissioned officer who is a member of the bar of the state.
2 However, a judge advocate serving in the military forces of
3 the state on the effective date of this division of this Act
4 who is not a member of the bar of the state shall not be
5 required to become a member of the bar of the state to
6 maintain military membership as a judge advocate. A judge
7 advocate shall be either a federally recognized judge advocate
8 or appointed as a judge advocate in the state military forces
9 by the adjutant general.

10 The adjutant general shall designate a staff judge advocate
11 for the army national guard and the air national guard. The
12 adjutant general may appoint the number of judge advocates of
13 the state military forces as the adjutant general considers
14 necessary to perform state active duty to supplement or
15 replace national guard judge advocates in emergencies or when
16 the national guard judge advocates are in federal service.

17 Sec. 44. Section 29B.27, unnumbered paragraph 2, Code
18 2001, is amended to read as follows:

19 A military judge must be a commissioned officer of the
20 state armed forces or a retired officer of the reserve
21 components of the armed forces of the United States, a member
22 of the bar of a federal court or a member of the bar of the
23 highest court of the state, and certified to be qualified for
24 the duty by the ~~judge-advocate-of-the-armed-forces-or-the~~
25 state appropriate staff judge advocate of the state force
26 concerned. The ~~state~~ judge advocate responsible for
27 certifying the military judge may recommend to the adjutant
28 general that the adjutant general order to active duty retired
29 personnel of the national guard or the United States armed
30 forces who are qualified to act as military judges.

31 Sec. 45. Section 29B.28, unnumbered paragraph 2, Code
32 2001, is amended to read as follows:

33 Trial counsel or defense counsel detailed for a general
34 court-martial must be a person who is a member of the bar of
35 the highest court of the state, ~~or a member of the bar of a~~

1 ~~federal~~-court and certified as competent for the duty by the
2 state staff judge advocate.

3 Sec. 46. Section 29B.35, unnumbered paragraph 1, Code
4 2001, is amended to read as follows:

5 Before directing the trial of any charge by general court-
6 martial, the convening authority shall refer ~~it~~ the charge to
7 the state appropriate staff judge advocate of the state force
8 concerned for consideration and advice. The convening
9 authority may not refer a charge to a general court-martial
10 for trial unless the authority has found that the charge
11 alleges an offense under this code and is warranted by
12 evidence indicated in the report of the investigation.

13 Sec. 47. Section 29B.62, Code 2001, is amended to read as
14 follows:

15 29B.62 SAME -- GENERAL COURT-MARTIAL RECORDS.

16 The convening authority shall refer the record of each
17 general court-martial to the state appropriate staff judge
18 advocate of the state force concerned, who shall submit a
19 written opinion thereon to the convening authority. If the
20 final action of the court has resulted in an acquittal of all
21 charges and specifications, the opinion shall be limited to
22 questions of jurisdiction.

23 Sec. 48. Section 29B.65, subsections 2, 4, 5, 6, and 7,
24 Code 2001, are amended to read as follows:

25 2. In all other cases not covered by subsection 1 ~~of this~~
26 ~~section~~, if the sentence of a special court-martial as
27 approved by the convening authority includes a bad-conduct
28 discharge, dishonorable discharge, dismissal, or confinement,
29 whether or not suspended, the entire record shall be sent to
30 the appropriate staff judge advocate of the state force
31 concerned to be reviewed in the same manner as a record of
32 trial by general court-martial. ~~The record and the opinion of~~
33 ~~the staff judge advocate or legal officer shall then be sent~~
34 ~~to the state judge advocate for review.~~

35 4. The state staff judge advocate of the state force

1 concerned shall review the record of trial in each case sent
2 for review as provided under this section. If the final
3 action of the court-martial has resulted in an acquittal of
4 all charges and specifications, the opinion of the state staff
5 judge advocate is limited to questions of jurisdiction.

6 The state staff judge advocate shall take final action in
7 any case reviewable by the state staff judge advocate.

8 5. In a case reviewable by the appropriate state staff
9 judge advocate under this section, the state staff judge
10 advocate may act only with respect to the findings and
11 sentence as approved by the convening authority. The state
12 staff judge advocate may affirm only such findings of guilty,
13 and the sentence or such part or amount of the sentence, as
14 the state staff judge advocate finds correct in law and fact
15 and determines, on the basis of the entire record, should be
16 approved. In consideration of the record, the state staff
17 judge advocate may weigh the evidence, judge the credibility
18 of witnesses, and determine controverted questions of fact,
19 recognizing that the trial court saw and heard the witnesses.
20 If the state staff judge advocate sets aside the findings and
21 sentence, the state staff judge advocate may, except where the
22 setting aside is based on lack of sufficient evidence in the
23 record to support the findings, order a rehearing. If the
24 state staff judge advocate sets aside the findings and
25 sentence and does not order a rehearing, the state staff judge
26 advocate shall order that the charges be dismissed.

27 6. In a case reviewable by the state staff judge advocate
28 under this section, the state staff judge advocate shall
29 instruct the convening authority to act in accordance with the
30 decision on the review. If the state staff judge advocate has
31 ordered a rehearing but the convening authority finds a
32 rehearing impracticable, the state staff judge advocate may
33 dismiss the charges.

34 7. The state staff judge advocate may order one or more
35 boards of review each composed of not less than three

1 commissioned officers of the state military forces, each of
2 whom must be a member of the bar of the highest court of the
3 state. Each board of review shall review the record of any
4 trial by court-martial including a sentence to a dishonorable
5 discharge, dismissal or confinement, referred to it by the
6 state staff judge advocate. Boards of review have the same
7 authority on review as the state staff judge advocate has
8 under this section.

9 Sec. 49. Section 29B.67, Code 2001, is amended to read as
10 follows:

11 29B.67 REVIEW COUNSEL.

12 Upon the final review of a sentence of a general court-
13 martial or of a sentence to a dishonorable discharge,
14 dismissal, or confinement, the accused has the right to be
15 represented by counsel before the reviewing authority, and
16 before the appropriate staff judge advocate, ~~and before the~~
17 ~~appropriate-state-judge-advocate.~~

18 Upon the request of an accused entitled to be so
19 represented, the state appropriate staff judge advocate shall
20 appoint a lawyer who is a member of the state military forces
21 and who has the qualifications prescribed in section 29B.28,
22 if available, to represent the accused before the reviewing
23 authority, and before the appropriate staff judge advocate,
24 ~~and before the appropriate-state-judge-advocate,~~ in the review
25 of cases specified in this section.

26 If provided by the accused, an accused entitled to be so
27 represented may be represented by civilian counsel before the
28 reviewing authority, and before the appropriate staff judge
29 advocate ~~and before the appropriate-state-judge-advocate.~~

30 Sec. 50. Section 29B.116, Code 2001, is amended to read as
31 follows:

32 29B.116 GENERAL ARTICLE.

33 Though not specifically mentioned in this code, all
34 disorders and neglects to the prejudice of good order and
35 discipline in the state military forces, of which persons

1 subject to this code may be guilty, shall be taken cognizance
2 of by a general, special, or summary court-martial, according
3 to the nature and degree of the offense, and shall be punished
4 at the discretion of that court. However, cognizance shall
5 not be taken of, and jurisdiction shall not be extended to,
6 the crimes of murder, manslaughter, sexual abuse, robbery,
7 maiming, sodomy, arson, extortion, assault, burglary, or
8 housebreaking, jurisdiction of which is reserved to civil
9 courts.

10 Sec. 51. Section 29B.129, subsection 1, Code 2001, is
11 amended by striking the subsection.

12 Sec. 52. EFFECTIVE DATE. This division of this Act, being
13 deemed of immediate importance, takes effect upon enactment.

14 DIVISION IV

15 EMERGENCY MANAGEMENT DIVISION

16 Sec. 53. Section 22.7, Code Supplement 2001, is amended by
17 adding the following new subsection:

18 NEW SUBSECTION. 43. The critical asset protection plan or
19 any part of the plan prepared pursuant to section 29C.8 and
20 any information held by the emergency management division that
21 was supplied to the division by a public or private agency or
22 organization and used in the development of the critical asset
23 protection plan to include, but not be limited to, surveys,
24 lists, maps, or photographs. However, the administrator shall
25 make the list of assets available for examination by any
26 person. A person wishing to examine the list of assets shall
27 make a written request to the administrator on a form approved
28 by the administrator. The list of assets may be viewed at the
29 division's offices during normal working hours. The list of
30 assets shall not be copied in any manner. Communications and
31 asset information not required by law, rule, or procedure that
32 are provided to the administrator by persons outside of
33 government and for which the administrator has signed a
34 nondisclosure agreement are exempt from public disclosures.

35 The emergency management division may provide all or part of

1 the critical asset plan to federal, state, or local
2 governmental agencies which have emergency planning or
3 response functions if the administrator is satisfied that the
4 need to know and intended use are reasonable. An agency
5 receiving critical asset protection plan information from the
6 division shall not redisseminate the information without prior
7 approval of the administrator.

8 Sec. 54. Section 29C.8, subsection 3, Code Supplement
9 2001, is amended by adding the following new paragraph:

10 NEW PARAGRAPH. e. Prepare a critical asset protection
11 plan that contains an inventory of infrastructure, facilities,
12 systems, other critical assets, and symbolic landmarks, an
13 assessment of the criticality, vulnerability, and level of
14 threat to the assets, and information pertaining to the
15 mobilization, deployment, and tactical operations involved in
16 responding to or protecting the assets.

17 Sec. 55. NEW SECTION. 29C.22 STATEWIDE MUTUAL AID
18 COMPACT.

19 This statewide mutual aid compact is entered into with all
20 other counties, cities, and other political subdivisions that
21 enter into this compact in substantially the following form:

22 ARTICLE I

23 PURPOSE AND AUTHORITIES

24 This compact is made and entered into by and between the
25 participating counties, cities, and political subdivisions
26 which enact this compact. For the purposes of this agreement,
27 the term "participating governments" means counties, cities,
28 townships, and other political subdivisions of the state which
29 have, through ordinance or resolution of the governing body,
30 acted to adopt this compact.

31 The purpose of this compact is to provide for mutual
32 assistance between the participating governments entering into
33 this compact in managing any emergency or disaster that is
34 declared in accordance with a countywide comprehensive
35 emergency operations plan or by the governor, whether arising

1 from natural disaster, technological hazard, man-made
2 disaster, community disorder, insurgency, terrorism, or enemy
3 attack.

4 This compact shall also provide for mutual cooperation in
5 emergency-related exercises, testing, or other training
6 activities using equipment and personnel simulating
7 performance of any aspect of the giving and receiving of aid
8 by participating governments during emergencies, such actions
9 occurring outside actual declared emergency periods.

10 ARTICLE II

11 GENERAL IMPLEMENTATION

12 Each participating government entering into this compact
13 recognizes many emergencies transcend political jurisdictional
14 boundaries and that intergovernmental coordination is
15 essential in managing these and other emergencies under this
16 compact. Each participating government further recognizes
17 that there will be emergencies which require immediate access
18 and present procedures to apply outside resources to make a
19 prompt and effective response to the emergency. This is
20 because few, if any, individual governments have all the
21 resources they may need in all types of emergencies or the
22 capability of delivering resources to areas where emergencies
23 exist.

24 The prompt, full, and effective use of resources of the
25 participating governments, including any resources on hand or
26 available from any source, that are essential to the safety,
27 care, and welfare of the people in the event of any emergency
28 or disaster declared by the governor or any participating
29 government, shall be the underlying principle on which all
30 articles of this compact shall be understood.

31 On behalf of the participating government in the compact,
32 the legally designated official who is assigned responsibility
33 for emergency management will be responsible for formulation
34 of the appropriate intrastate mutual aid plans and procedures
35 necessary to implement this compact.

1 ARTICLE III

2 PARTICIPATING GOVERNMENT RESPONSIBILITIES

3 1. It shall be the responsibility of each participating
4 government to formulate procedural plans and programs for
5 intrastate cooperation in the performance of the
6 responsibilities listed in this article. In formulating the
7 plans, and in carrying them out, the participating
8 governments, insofar as practical, shall:

9 a. Review individual hazards analyses and, to the extent
10 reasonably possible, determine all those potential emergencies
11 the participating governments might jointly suffer, whether
12 due to natural disaster, technological hazard, man-made
13 disaster, civil disorders, insurgency, terrorism, or enemy
14 attack.

15 b. Review the participating governments' individual
16 emergency plans and develop a plan that will determine the
17 mechanism for the intrastate management and provision of
18 assistance concerning any potential emergency.

19 c. Develop intrastate procedures to fill any identified
20 gaps and to resolve any identified inconsistencies or overlaps
21 in existing or developed plans.

22 d. Assist in warning communities adjacent to or crossing
23 the participating governments' boundaries.

24 e. Protect and ensure uninterrupted delivery of services,
25 medicines, water, food, energy and fuel, search and rescue,
26 and critical lifeline equipment, services, and resources, both
27 human and material.

28 f. Inventory and set procedures for the intrastate loan
29 and delivery of human and material resources, together with
30 procedures for reimbursement or forgiveness.

31 g. Provide, to the extent authorized by law, for temporary
32 suspension of any ordinances that restrict the implementation
33 of the above responsibilities.

34 2. The authorized representative of a participating
35 government may request assistance of another participating

1 government by contacting the authorized representative of that
2 participating government. The provisions of this compact
3 shall only apply to requests for assistance made by and to
4 authorized representatives. Requests may be verbal or in
5 writing. If verbal, the request shall be confirmed in writing
6 within thirty days of the verbal request. Requests shall
7 provide all of the following:

8 a. A description of the emergency service function for
9 which assistance is needed, such as but not limited to fire
10 services, law enforcement, emergency medical, transportation,
11 communications, public works and engineering, building
12 inspection, planning and information assistance, mass care,
13 resource support, health and medical services, and search and
14 rescue.

15 b. The amount and type of personnel, equipment, materials
16 and supplies needed, and a reasonable estimate of the length
17 of time that the personnel, equipment, materials, and supplies
18 will be needed.

19 c. The specific place and time for staging of the
20 assisting participating government's response and a point of
21 contact at that location.

22 3. The authorized representative of a participating
23 government may initiate a request by contacting the emergency
24 management division of the state department of public defense.
25 When a request is received by the division, the division shall
26 directly contact other participating governments to coordinate
27 the provision of mutual aid.

28 4. Frequent consultation shall occur between officials who
29 have been assigned emergency management responsibilities and
30 other appropriate representatives of the participating
31 governments with affected jurisdictions and state government,
32 with free exchange of information, plans, and resource records
33 relating to emergency capabilities.

34 ARTICLE IV
35 LIMITATIONS

1 Any participating government requested to render mutual aid
2 or conduct exercises and training for mutual aid shall take
3 the necessary action to provide and make available the
4 resources covered by this compact in accordance with the terms
5 of the compact. However, it is understood that the
6 participating government rendering aid may withhold resources
7 to the extent necessary to provide reasonable protection for
8 the participating government. Each participating government
9 shall afford to the emergency forces of any other
10 participating government, while operating within its
11 jurisdictional limits under the terms and conditions of this
12 compact, the same powers, except that of arrest unless
13 specifically authorized by the receiving participating
14 government, duties, rights, and privileges as are afforded
15 forces of the participating government in which the emergency
16 forces are performing emergency services. Emergency forces
17 shall continue under the command and control of their regular
18 leaders, but the organizational units shall come under the
19 operational control of the emergency services authorities of
20 the participating government receiving assistance. These
21 conditions may be activated, as needed, only subsequent to a
22 declaration of a state of emergency or disaster by the
23 governor or by competent authority of the participating
24 government that is to receive assistance or commencement of
25 exercises or training for mutual aid and shall continue so
26 long as the exercises or training for mutual aid are in
27 progress, the state of emergency or disaster remains in
28 effect, or loaned resources remain in the receiving
29 jurisdiction, whichever is longer.

30 ARTICLE V

31 LICENSES AND PERMITS

32 If a person holds a license, certificate, or other permit
33 issued by any participating government to this compact
34 evidencing the meeting of qualifications for professional,
35 mechanical, or other skills, and when the assistance is

1 supplies.

2

ARTICLE VIII

3

WORKERS' COMPENSATION

4 Each participating government shall provide for the payment
5 of workers' compensation and death benefits to injured members
6 of the emergency forces of that participating government and
7 representatives of deceased members of the emergency forces in
8 case the members sustain injuries or are killed while
9 rendering aid pursuant to this compact, in the same manner and
10 on the same terms as if the injury or death were sustained
11 within their own jurisdiction.

12

ARTICLE IX

13

REIMBURSEMENT

14 Any participating government rendering aid in another
15 jurisdiction pursuant to this compact shall be reimbursed by
16 the participating government receiving the emergency aid for
17 any loss or damage to or expense incurred in the operation of
18 any equipment and the provision of any service in answering a
19 request for aid and for the costs incurred in connection with
20 the requests. However, an aiding political subdivision may
21 assume in whole or in part the loss, damage, expense, or other
22 cost, or may loan the equipment or donate the services to the
23 receiving participating government without charge or cost, and
24 any two or more participating governments may enter into
25 supplementary agreements establishing a different allocation
26 of costs among the participating governments. Article VIII
27 expenses shall not be reimbursable under this provision.

28

ARTICLE X

29

EVACUATION AND SHELTERING

30 Plans for the orderly evacuation and reception of portions
31 of the civilian population as the result of any emergency or
32 disaster shall be worked out and maintained between the
33 participating governments and the emergency management or
34 services directors of the various jurisdictions where any type
35 of incident requiring evacuations might occur. The plans

1 shall be put into effect by request of the participating
2 government from which evacuees come and shall include the
3 manner of transporting the evacuees, the number of evacuees to
4 be received in different areas, the manner in which food,
5 clothing, housing, and medical care will be provided, the
6 registration of the evacuees, the providing of facilities for
7 the notification of relatives or friends, and the forwarding
8 of the evacuees to other areas or the bringing in of
9 additional materials, supplies, and all other relevant
10 factors. The plans shall provide that the participating
11 government receiving evacuees and the participating government
12 from which the evacuees come shall mutually agree as to
13 reimbursement of out-of-pocket expenses incurred in receiving
14 and caring for the evacuees, for expenditures for
15 transportation, food, clothing, medicines and medical care,
16 and like items. The expenditures shall be reimbursed as
17 agreed by the participating government from which the evacuees
18 come. After the termination of the emergency or disaster, the
19 participating government from which the evacuees come shall
20 assume the responsibility for the ultimate support of
21 repatriation of such evacuees.

22 ARTICLE XI
23 IMPLEMENTATION

24 1. This compact shall become operative immediately upon
25 its adoption by ordinance or resolution by the governing
26 bodies of any two political subdivisions. Thereafter, this
27 compact shall become effective as to any other political
28 subdivision upon its adoption by ordinance or resolution of
29 the governing body of the political subdivision.

30 2. Any participating government may withdraw from this
31 compact by adopting an ordinance or resolution repealing the
32 same, but a withdrawal shall not take effect until thirty days
33 after the governing body of the withdrawing participating
34 government has given notice in writing of the withdrawal to
35 the administrator of the emergency management division who

1 shall notify all other participating governments. The action
2 shall not relieve the withdrawing political subdivision from
3 obligations assumed under this compact prior to the effective
4 date of withdrawal.

5 3. Duly authenticated copies of this compact and any
6 supplementary agreements as may be entered into shall be
7 deposited, at the time of their approval, with the
8 administrator of the emergency management division who shall
9 notify all participating governments and other appropriate
10 agencies of state government.

11 ARTICLE XII

12 VALIDITY

13 This compact shall be construed to effectuate the purposes
14 stated in article I. If any provision of this compact is
15 declared unconstitutional, or the applicability of the compact
16 to any person or circumstances is held invalid, the
17 constitutionality of the remainder of this compact and the
18 applicability of this compact to other persons and
19 circumstances shall not be affected.

20 Sec. 56. EFFECTIVE DATE. This division of this Act, being
21 deemed of immediate importance, takes effect upon enactment.

22 DIVISION V

23 IOWA TECHNOLOGY CENTER

24 Sec. 57. Section 18.6, Code 2001, is amended by adding the
25 following new subsection:

26 NEW SUBSECTION. 17. This section does not apply to Iowa
27 technology center contracts in support of activities performed
28 for another governmental entity, either state or federal. The
29 Iowa technology center is an entity created by a chapter 28E
30 agreement entered into by the department of public defense.

31 Sec. 58. Section 23A.2, subsection 10, Code Supplement
32 2001, is amended by adding the following new paragraph:

33 NEW PARAGRAPH. p. The provision of goods or services by
34 the Iowa technology center as a part of an intergovernmental
35 solution involving the federal government or a state agency.

1 The Iowa technology center is an entity created by a chapter
2 28E agreement entered into by the department of public
3 defense.

4 EXPLANATION

5 This bill relates to the department of public defense,
6 including the military division, the emergency management
7 division, and the Iowa technology center.

8 Division I of the bill amends the state military code, Code
9 chapter 29A. In addition to several nonsubstantive changes to
10 modernize certain statutory provisions relating to the
11 national guard, division I does the following:

12 1. Code section 8.47 is amended to exempt the department
13 of public defense from the requirement that the department
14 follow general services rules for service contracts or other
15 agreements for services, where federal funds make up 75
16 percent or more of the funding for the contract or agreement.

17 2. Code section 29A.8A is amended to require a state
18 employee to take a full day's leave or compensatory time on
19 any day in which the employee receives a full day's pay from
20 federal sources for national guard duty. This provision is
21 currently located in Code section 29A.9.

22 3. The definition of "on duty" is amended to provide that
23 a member of the national guard is considered on duty when
24 called to testify about an event that occurred while the
25 member was on duty with the national guard. This provision is
26 currently found in Code section 29A.9.

27 4. The provisions in Code section 29A.7, relating to the
28 exercise of the governor's powers as commander in chief of the
29 state military forces, are amended to combine several existing
30 provisions under the term of assistance to civil authorities.
31 The requirement for providing for the participation of the
32 national guard in training currently found in Code section
33 29A.9 is added to the section. The requirement that the
34 general assembly be convened prior to the establishment of a
35 military district, currently found in Code section 29A.8

1 regarding state active duty, is added to the Code section as
2 well.

3 5. Code section 29A.8 regarding state active duty is
4 reorganized and certain language is conformed to the
5 provisions of Code section 29A.7. The definition of "state
6 active duty" is amended by adding language regarding training,
7 recruiting, escort duty, and duty at schools currently found
8 in Code section 29A.9.

9 6. Code section 29A.25 is amended to provide that
10 discharges from the national guard shall be in accordance with
11 federal law and regulations.

12 7. Code section 29A.26, regarding the state headquarters,
13 is amended by striking the requirements that all officers in
14 the state headquarters have prior military experience and that
15 they be retained in the state headquarters until retirement.

16 8. Code section 29A.40 restricts the use or wearing of a
17 national guard uniform except while on duty.

18 9. The provisions regarding discharge from the national
19 guard currently found in Code section 29A.41 are stricken.

20 10. Code section 29A.43 is amended to specify that
21 temporary duty includes temporary duty in active state
22 service, federal service, or state active duty.

23 11. Code section 29A.50 is amended to provide that members
24 of the national guard providing assistance to civil
25 authorities or performing homeland defense or security duties
26 have the same immunity as peace officers. Currently this
27 immunity is limited to circumstances where the national guard
28 is involved in suppression of an insurrection or the dispersal
29 of a mob.

30 12. Code section 29A.51 is amended to provide that a judge
31 advocate may represent a member of the national guard in a
32 suit or proceeding brought against the member for an official
33 act. Currently, only the state judge advocate is authorized
34 to defend a member of the national guard.

35 13. The senior commander allowances are increased from

1 \$450 per general officer to \$750 per general officer, a total
2 of \$1,800.

3 14. Code section 29A.9 is repealed. As noted earlier,
4 various provisions of Code section 29A.9 are added to other
5 Code sections.

6 Division II creates the Iowa national guard civil relief
7 Act. The civil relief Act replaces temporary language adopted
8 during the second special session in 2001 Iowa Acts, House
9 File 762, which sunsets on January 31, 2002. The civil relief
10 Act applies to members of the Iowa national guard, serving on
11 active state service or state active duty for a period of 90
12 consecutive days or more beginning on or after the effective
13 date of the bill, and their dependents in certain cases.

14 The civil relief Act provides that default judgments
15 against service members may be set aside in certain
16 circumstances. It provides that a service member may obtain a
17 stay of any action or proceeding where the military service of
18 the service member materially affects the member's ability to
19 conduct the action or proceeding.

20 The civil relief Act prohibits fines or penalties for
21 nonperformance of a contract that is the subject of a judicial
22 stay and allows for fines or penalties to be set aside by a
23 court where the service member's ability to pay or perform was
24 materially affected by military service. The exercise of
25 rights under the civil relief Act shall not be used by a
26 lender or other person as the basis for an adverse action
27 against a service member.

28 The civil relief Act also provides that the execution of a
29 judgment against a service member may be stayed by a court
30 where the ability of the member to comply with the judgment is
31 materially affected by military service. The stay may be for
32 the duration of military service plus 30 days. The civil
33 relief Act also provides that the period of military service
34 is not included in calculating any statute of limitations
35 regarding an action or proceeding by or against a service

1 member or the member's heirs, executors, administrators and
2 assignees.

3 The civil relief Act sets the maximum rate of interest for
4 preservice obligations at 6 percent, unless a court finds that
5 the ability of the service member to pay the obligation is not
6 materially impaired by the military service.

7 The civil relief Act prohibits the termination of a lease
8 or rental agreement of a service member or the member's
9 dependents during the period of military service, where the
10 rent does not exceed \$1,200 per month, except pursuant to a
11 court order. The court may also enter a stay of a recovery or
12 forcible entry and detainer proceeding for up to three months.
13 The owner of the rental premises may also obtain similar
14 relief to that which may be granted to service members in the
15 event a stay of termination or other order is granted by the
16 court. A person violating this section commits a simple
17 misdemeanor. The governor may direct that an allotment of the
18 service member's pay be set up in favor of the landlord.

19 The civil relief Act also prohibits the termination of
20 installment contracts or mortgages for real or personal
21 property for nonpayment or breach during the period of
22 military service, except by court order. A person who
23 violates either of these provisions commits a simple
24 misdemeanor.

25 A service member may apply for relief under the civil
26 relief Act anytime during military service or within 30 days
27 thereafter for an obligation arising prior to military
28 service. The court will stay the enforcement of the
29 obligation unless the court finds that military service has
30 not materially affected the service member's ability to meet
31 the obligation.

32 Division III amends Code chapter 29B, the Iowa code of
33 military justice (ICMJ), as follows:

34 1. The definition of persons subject to the ICMJ is
35 amended to conform to Code chapter 29A.

1 2. The requirements for serving as a judge advocate in the
2 Iowa national guard are amended to require that a judge
3 advocate be admitted to practice law in Iowa. A current judge
4 advocate who is not a member of the bar does not have to
5 become a member of the bar to maintain military membership.
6 Also, the adjutant general shall appoint a staff judge
7 advocate for the air national guard and the army national
8 guard. The adjutant general may also appoint additional judge
9 advocates in the state military forces as necessary to
10 supplement or replace national guard judge advocates in times
11 of emergency. The position of state judge advocate is
12 eliminated in favor of the army and air staff judge advocates.
13 Conforming changes are made as appropriate in the ICMJ to
14 implement this change.

15 3. Military judges must be certified as qualified for duty
16 by the appropriate staff judge advocate for the air or army
17 national guard. Military judges may be drawn from the
18 national guard, the active military forces, or from retirees
19 possessing the requisite qualifications.

20 4. Trial and defense counsel must be admitted before the
21 highest court in the state. The alternative requirement that
22 they be a member of the federal bar is eliminated.

23 5. In Code section 29B.116, the general punitive article
24 is amended to strike sodomy from the list of crimes that may
25 not be tried by court-martial. The inclusion of sodomy in the
26 list is duplicative, since sexual abuse is already included.

27 Division IV relates to the emergency management division of
28 the department of public defense.

29 Code section 29C.8, regarding the powers and duties of the
30 emergency management division administrator, is amended to
31 require the development of a critical asset protection plan.

32 This amendment defines the minimum content of the plan to
33 include an inventory of critical assets, an assessment of the
34 criticality and vulnerability of these assets, and an

35 assessment of the level of threat related to these identified

1 assets.

2 Code section 22.7 is amended to require the administrator
3 to keep confidential any information received from public and
4 private agencies used in the development of the plan to
5 include, but not be limited to, surveys, lists, maps, or
6 photographs. However, upon written request, a person may view
7 a list of assets, but the list shall not be copied. The list
8 of assets may be viewed during normal working hours at the
9 division's offices.

10 In addition, information regarding policies, procedures,
11 tactics, or other measures developed by the division or by any
12 other governmental body for purposes of implementing the plan,
13 shall be kept confidential.

14 The administrator may release to governmental agencies
15 information in the plan when the administrator is satisfied
16 that the need to know and intended use of the information are
17 reasonable. Agencies receiving the information are prohibited
18 from further dissemination without the approval of the
19 administrator.

20 Division IV also authorizes an intrastate compact for
21 mutual aid between participating governments, allowing
22 participating political subdivisions to request and share
23 resources during times of emergency or disaster. This
24 language is not unlike the language contained in Code section
25 29C.21 that provides for an interstate compact for mutual aid
26 between the participating states and territories.

27 Iowa political subdivisions would participate in the
28 compact by adopting the uniform language by resolution or
29 ordinance. The language of the compact would be uniform in
30 nature eliminating some of the need for party-to-party
31 negotiations. Any party adopting the compact would be
32 agreeing with any other party adopting the compact.

33 Participation in the compact is voluntary. Adoption of the
34 compact does not preclude or void the adoption and negotiation
35 of separate or supplementary mutual aid agreements as

1 authorized in Code chapter 28E or in other code.

2 Division V does the following:

3 1. Code section 18.6, regarding competitive bidding, is
4 amended to exempt Iowa technology center contracts made in
5 support of activities performed for another governmental
6 entity, either state or federal.

7 2. Code section 23A.2 is amended to exempt the Iowa
8 technology center from the provisions in Code chapter 23A,
9 regarding competition by state agencies.

10 The Iowa technology center is an entity created by a Code
11 chapter 28E agreement between the department of public defense
12 and interactive simulation and training systems, L.L.C.

13 Divisions I through IV take effect upon enactment.

14 Division V takes effect on July 1, 2002.

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SENATE FILE 2124

AN ACT

RELATING TO THE DEPARTMENT OF PUBLIC DEFENSE BY AMENDING THE STATE MILITARY CODE AND THE IOWA CODE OF MILITARY JUSTICE, CREATING A STATEWIDE MUTUAL AID COMPACT, PROVIDING FOR THE CONFIDENTIALITY OF CERTAIN RECORDS, EXEMPTING THE DEPARTMENT OF PUBLIC DEFENSE FROM CERTAIN STATE SERVICE CONTRACT REQUIREMENTS AND STATE COMPETITIVE BIDDING REQUIREMENTS, EXEMPTING THE IOWA TECHNOLOGY CENTER FROM ANTICOMPETITION PROVISIONS, INCREASING A STANDING APPROPRIATION, PROVIDING CRIMINAL PENALTIES FOR VIOLATIONS, AND PROVIDING EFFECTIVE DATES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I
MILITARY DIVISION

Section 1. Section 8.47, Code Supplement 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 4. This section does not apply to service contracts or other agreements for services by the department of public defense that are funded with at least seventy-five percent federal moneys. The department of public defense shall establish terms and conditions for service contracts and other agreements for services that comply with this section to the greatest extent possible.

Sec. 2. Section 29A.1, subsection 9, Code Supplement 2001, is amended to read as follows:

9. "On duty" means training, including unit training assemblies, and other training, operational duty, and other service which may be required under state or federal law, regulations, or orders, and the necessary travel of an officer or enlisted person to the place of performance and return home after performance of that duty, but does not include federal service. A member of the national guard shall be considered to be on duty when called to testify about an incident which the member observed or was involved in while that member was on duty.

Sec. 3. Section 29A.1, subsection 11, Code Supplement 2001, is amended to read as follows:

11. "State active duty" means duty authorized and performed under section 29A.8 or 29A.9 and paid for with state funds. "State active duty" also includes serving as the adjutant general, a deputy adjutant general, or the state quartermaster.

Sec. 4. Section 29A.7, Code Supplement 2001, is amended to read as follows:

29A.7 COMMANDER IN CHIEF.

1. The governor is the commander in chief of the military forces, except when they are in federal service. The governor may employ the military forces of the state for the defense or relief of the state, ~~the enforcement of its laws, the protection of life and property,~~ to provide assistance to civil authorities in emergencies resulting from disasters or public disorders as defined in section 29C.2, including homeland security and defense duties, and for parades and ceremonies of a civic nature.

2. The governor shall provide for the participation of the national guard in training at the times and places as necessary to ensure readiness for public defense or federal service.

3. If circumstances necessitate the establishment of a military district under martial law and the general assembly is not convened, the district shall be established only after the governor has issued a proclamation convening an extraordinary session of the general assembly.

Sec. 5. Section 29A.8, subsection 1, unnumbered paragraph 1, Code Supplement 2001, is amended to read as follows:

The governor may order into state active duty the military forces of the state, including retired members of the national guard, ~~both-army-and-air~~, as the governor deems proper, under ~~command-of-an-officer-as-the-governor-may-designate-under~~ one or more of the following circumstances:

Sec. 6. Section 29A.8, subsection 1, paragraphs b and c, Code Supplement 2001, are amended to read as follows:

b. For the purpose of ~~aiding~~ assisting the civil authorities of any political subdivision of the state in maintaining law and order in the subdivision in cases of breaches of the peace or imminent danger of breaches of the peace, if the law enforcement officers of the subdivision are unable to maintain law and order, and the civil authorities of the subdivision request the assistance.

c. For the purposes of providing support to civil authorities during emergencies resulting from disasters or public disorders and for performing homeland defense or homeland security duties.

Sec. 7. Section 29A.8, subsection 1, Code Supplement 2001, is amended by adding the following new paragraphs:

NEW PARAGRAPH. d. For training, recruiting, escort duty, and duty at schools of instruction, as a student or instructor, including at the Iowa military academy.

NEW PARAGRAPH. e. To participate in parades and ceremonies of a civic nature.

NEW PARAGRAPH. f. For other purposes as the governor may deem necessary.

Sec. 8. Section 29A.8, subsection 2, Code Supplement 2001, is amended by striking the subsection and inserting in lieu thereof the following:

2. The governor may prescribe regulations and requirements for duties performed under this section.

Sec. 9. Section 29A.8A, Code Supplement 2001, is amended to read as follows:

29A.8A ACTIVE STATE SERVICE.

If federal funding and authorization exist for this purpose, the governor may order to active state service the military forces of the Iowa army national guard or Iowa air national guard as the governor may deem appropriate for the purposes of homeland security, homeland defense, or other duty. A state employee shall take either a full day's leave or eight hours of compensatory time on a day in which the state employee receives a full day's pay from federal funds for national guard duty.

Sec. 10. Section 29A.19, Code 2001, is amended to read as follows:

29A.19 QUARTERMASTER.

A present or retired commissioned officer of the national guard who has ten years' service in the Iowa army national guard or the Iowa air national guard and has attained the grade of a field officer, shall be detailed to be the quartermaster and property officer of the state, who shall have charge of and be accountable for, under the adjutant general, all state military property. The quartermaster shall keep property returns and reports and give bond to the state of Iowa as the governor may direct.

Sec. 11. Section 29A.25, Code 2001, is amended to read as follows:

29A.25 ENLISTMENTS AND DISCHARGES.

All enlistments and discharges in the national guard shall be as prescribed by federal law and regulations.

Sec. 12. Section 29A.26, unnumbered paragraph 1, Code 2001, is amended to read as follows:

The number and grade of officers and enlisted personnel in the state headquarters and headquarters detachment shall be as prescribed by federal law and regulations, ~~but.~~ However, in case of war, invasion, insurrection, riot emergency, or imminent danger thereof, the governor may temporarily increase such the force to meet such-emergency the circumstance.

Sec. 13. Section 29A.26, unnumbered paragraph 2, Code 2001, is amended by striking the unnumbered paragraph.

Sec. 14. Section 29A.31, Code 2001, is amended to read as follows:

29A.31 UNLAWFUL ORGANIZATIONS.

It shall be unlawful for any ~~body-of-persons, other than the national guard and the troops of the United States, to associate themselves together as~~ person to form a military organization within the limits of this state without the written permission of the governor, which the governor may at any time revoke, but this provision shall not prevent civic, social, or benevolent organizations from wearing uniforms and swords equipment not in conflict with the other provisions of this chapter.

Sec. 15. Section 29A.40, unnumbered paragraph 1, Code 2001, is amended to read as follows:

No A member of the national guard shall not wear the uniform thereof of the national guard while not on duty ~~without permission from competent authority, except in accordance with state or federal regulations.~~ No A person, firm, or corporation, other than a civic, social, or benevolent military organization or the members of such organizations organizing for the benefit of all its members, shall not incorporate under the name of, or adopt any trade name which embodies the name or designation, officially or generally recognized as the name of a military organization now or heretofore formerly in existence, or any distinctive part of such name. ~~Any person found guilty of a violation of any of the provisions of this section shall be guilty of a simple misdemeanor.~~

Sec. 16. Section 29A.41, Code 2001, is amended to read as follows:

29A.41 EXEMPTIONS ---HONORABLE-DISCHARGE.

A member of the national guard shall not be arrested, or served with a summons, order, warrant or other civil process after having been ordered to any duty, or while going to, attending, or returning from, any place to which the ~~officer or enlisted person~~ national guard member is required to go for military duty. This section does not prevent the ~~officer's or enlisted person's~~ national guard member's arrest by order of a military officer or for a felony or breach of the peace committed while not in the actual performance of the ~~officer's or enlisted person's~~ national guard member's duty. The articles of equipment personally owned by such members are exempt from seizure or sale for debt. ~~Every member of the national guard who has faithfully served the full term of the member's commission, warrant or enlistment is entitled, upon application, to an honorable discharge, exempting the member from military duty except in time of war or public danger.~~

Sec. 17. Section 29A.43, Code Supplement 2001, is amended to read as follows:

29A.43 DISCRIMINATION PROHIBITED -- LEAVE OF ABSENCE.

A person shall not discriminate against any officer or enlisted person of the national guard or organized reserves of the armed forces of the United States because of that membership. An employer, or agent of an employer, shall not discharge a person from employment because of being an officer or enlisted person of the military forces of the state, or hinder or prevent the officer or enlisted person from performing any military service the person is called upon to perform by proper authority. A member of the national guard or organized reserves of the armed forces of the United States ordered to temporary duty, as defined in section 29A.1, subsection 1, 3, or 11, for any purpose is entitled to a leave of absence during the period of the duty or service, from the member's private employment, other than employment of a temporary nature, and upon completion of the duty or service

the employer shall restore the person to the position held prior to the leave of absence, or employ the person in a similar position. However, the person shall give evidence to the employer of satisfactory completion of the training or duty, and that the person is still qualified to perform the duties of the position. The period of absence shall be construed as an absence with leave, and shall in no way affect the employee's rights to vacation, sick leave, bonus, or other employment benefits relating to the employee's particular employment. A person violating a provision of this section is guilty of a simple misdemeanor.

Sec. 18. Section 29A.50, Code 2001, is amended to read as follows:

29A.50 IMMUNITY.

The commanding officer and members of any of the military forces engaged in the suppression of an insurrection, the ~~dispersion-of-a-mob~~ assistance to civil authorities in emergencies, homeland defense, or security duties, or the enforcement of the laws, shall have the same immunity as peace officers.

Sec. 19. Section 29A.51, Code 2001, is amended to read as follows:

29A.51 SUIT OR PROCEEDING -- DEFENSE.

If a suit or proceeding is commenced in any court by any person against ~~an-officer~~ a member of the military forces of ~~the state~~ the state for an act done by ~~that-officer~~ the member in the ~~officer's~~ member's official capacity in the discharge of a duty under this chapter or chapter 29B, ~~or-against-an-enlisted person-acting-under-the-authority-or-order-of-an-officer-or-by-virtue-of-a-warrant-issued-by-the-officer-pursuant-to-law~~ the attorney general or state staff judge advocate, upon the request of the adjutant general, shall defend the member of ~~the-military-forces-of-the-state~~ against whom the suit or proceeding has been instituted. The costs of the defense shall be paid out of any funds in the state treasury not otherwise appropriated. Before the suit or proceeding is filed or maintained against the ~~officer-or-enlisted-person~~

member, the plaintiff must give security, to be approved by the court in a sum not less than one hundred dollars to secure the costs. If the plaintiff fails to recover judgment, the costs shall be taxed and judgment rendered against the plaintiff and the plaintiff's sureties. When troops members of the military forces of the state are called into active state service active duty by the governor under martial law or ~~as-aid~~ to the assist civil authorities, in addition to the judge advocate's other duties, any judge advocate on duty with those troops may be appointed by the attorney general as an assistant attorney general, without pay for the judge advocate's services for acting in that capacity.

Sec. 20. Section 29A.54, Code 2001, is amended to read as follows:

29A.54 SENIOR COMMANDER ALLOWANCES.

A fund shall be established from an annual appropriation of funds to be used by senior commanders as an expense allowance to defer expenses incurred in conducting command functions or escorting military guests while acting in their official capacity as commander. Appropriations to the fund shall be made at the beginning of each fiscal year in the amount of four seven hundred fifty dollars for each federally recognized general officer of the army national guard and the air national guard. The adjutant general of Iowa shall have custodial and administrative responsibility for the fund and shall prescribe regulations requiring an itemized statement of expenditures from the fund. The fund shall not be used to purchase an alcoholic beverage or beer.

Sec. 21. Section 29A.74, unnumbered paragraph 1, Code 2001, is amended to read as follows:

Except as otherwise provided in this chapter ~~no~~ an agency created by a power of attorney in writing given by a principal who is at the time of execution, or who after executing such power of attorney becomes, ~~either~~ a member of the national guard or the armed forces of the United States, or a person serving as a merchant seaman outside the limits of the United States included within the fifty states and the District of

Columbia, or a person outside said those limits by permission, assignment or direction of any department, ~~in connection with any activity pertaining to or connected with the prosecution of any war in which the United States is then engaged,~~ shall not be revoked or terminated by the death of the principal, as to the agent or other person who, without actual knowledge or actual notice of the death of the principal, shall have acted or shall act, in good faith, under or in reliance upon such power of attorney or agency, and any action so taken, unless otherwise invalid or unenforceable, shall be binding on the heirs, devisees, legatees, or personal representatives of the principal.

Sec. 22. Section 29A.9, Code Supplement 2001, is repealed.

Sec. 23. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

DIVISION II

IOWA NATIONAL GUARD CIVIL RELIEF

Sec. 24. NEW SECTION. 29A.90 DEFINITIONS.

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

1. "Dependent" means the spouse and children of a service member or any other person dependent upon the service member for support.

2. "Interest" includes service charges, renewal charges, fees, or any other charges in respect to any obligation or liability.

3. "Military service" means full-time active state service or state active duty, as defined in section 29A.1, for a period of at least ninety consecutive days, commencing on or after the effective date of this Act.

4. "Service member" means a member of the military forces of the state performing military service.

Sec. 25. NEW SECTION. 29A.91 APPLICABILITY.

1. This division shall apply to all service members on military orders who are unable to perform, continue, or complete civil obligations due to military service.

2. This division does not apply to military duty performed under orders issued pursuant to 10 U.S.C.

3. Proper application of this division shall suspend or postpone actions upon those obligations until thirty days after discharge from military service.

Sec. 26. NEW SECTION. 29A.92 REOPENING DEFAULT JUDGMENTS.

1. A default judgment rendered in any civil action against a service member during a period of military service or within thirty days after termination of military service may be set aside under the following circumstances:

a. It appears that the service member was prejudiced by reason of military service in making a defense to the action.

b. Application by the service member or the service member's legal representative is made to the court rendering the judgment not later than thirty days after the termination of military service.

c. The application provides enough facts that it appears that the service member has a meritorious or legal defense to the action or some part of the action.

2. Vacating, setting aside, or reversing a judgment because of any of the provisions of this chapter shall not impair any right or title acquired by a bona fide purchaser for value under the judgment.

Sec. 27. NEW SECTION. 29A.93 STAY OF PROCEEDINGS.

1. If at any point during an action or proceeding it appears that a plaintiff or defendant is a service member and may be adversely affected by military service in the conduct of the proceedings, the court may, on its own motion, stay the proceedings.

2. The court shall stay the proceedings if the service member or another person on the service member's behalf makes a request in writing to the court, unless the court determines on the record that the ability of the plaintiff to pursue the action or the defendant to conduct a defense, is not materially affected by reason of military service.

Sec. 28. NEW SECTION. 29A.94 FINES AND PENALTIES ON CONTRACTS.

1. If compliance with the terms of a contract is stayed pursuant to this division, a fine or penalty shall not accrue by reason of failure to comply with the terms of the contract during the period of the stay.

2. If a service member has not obtained a stay, and a fine or penalty is imposed for nonperformance of an obligation, a court may relieve enforcement if the service member was in military service when the penalty was incurred and the service member's ability to pay or perform was materially impaired.

Sec. 29. NEW SECTION. 29A.95 EXERCISE OF RIGHTS NOT TO AFFECT FUTURE FINANCIAL TRANSACTIONS.

An application by a service member in military service for, or receipt of, a stay, postponement, or suspension under the provisions of this division in the payment of any fine, penalty, insurance premium, or other civil obligation or liability shall not be used as the basis for any of the following:

1. A determination by any lender or other person that the service member is unable to pay any civil obligation or liability in accordance with its terms.
2. With respect to a credit transaction between a creditor and a service member:
 - a. A denial or revocation of credit by the creditor.
 - b. A change by the creditor in the terms of an existing credit arrangement.
 - c. A refusal by the creditor to grant credit to the service member in substantially the amount or on substantially the terms requested.
 - d. An adverse report relating to the creditworthiness of the service member by or to any person or entity engaged in the practice of assembling or evaluating consumer credit information.

Sec. 30. NEW SECTION. 29A.96 STAY OF EXECUTION OF JUDGMENT.

Unless the court determines on the record that the ability of a service member to comply with a judgment or order entered or sought is not materially affected by reason of military service, the court shall, on its own motion, or upon application to it by the service member or another person on the service member's behalf, do the following:

1. Stay the execution of a judgment or order entered against the service member, as provided in this chapter.
2. Vacate or stay an attachment or garnishment of property, money, or debts in the hands of another, whether before or after judgment as provided in this chapter.

Sec. 31. NEW SECTION. 29A.97 DURATION OF STAYS.

1. A stay of an action, proceeding, attachment, or execution, ordered by a court under the provisions of this division, may be ordered for the period of military service plus thirty days after its termination or any part of that time period.
2. Where the service member in military service is a codefendant with others, the plaintiff may, with the permission of the court, proceed against the others.

Sec. 32. NEW SECTION. 29A.98 STATUTES OF LIMITATIONS AFFECTED BY MILITARY SERVICE.

The period of military service shall not be included in computing any period limited by law, rule, or order for the bringing of any action or proceeding in any court, board, bureau, commission, department, or other agency of government by or against any service member or by or against the service member's heirs, executors, administrators, or assigns, whether the cause of action or the right or privilege to institute the action or proceeding has accrued prior to or during the period of military service.

Sec. 33. NEW SECTION. 29A.99 MAXIMUM RATE OF INTEREST.

An obligation or liability bearing interest at a rate in excess of six percent per year incurred before entry into military service by a service member shall not, during any part of the period of military service, bear interest at a rate in excess of six percent per year unless, in the opinion

of the court and upon application to the court by the obligee, the ability of the service member to pay interest upon the obligation or liability at a rate in excess of six percent per year is not materially affected by reason of the member's service. The court may make any order in the action that, in its opinion, is just.

Sec. 34. NEW SECTION. 29A.100 DEPENDENT BENEFITS.

Dependents of a service member are entitled to the benefits accorded to service members under the provisions of sections 29A.101 through 29A.105. Dependents may obtain the benefits upon application to a court, unless, in the opinion of the court, the ability of the dependents to comply with the terms of the obligation, contract, lease, or bailment has not been materially impaired by reason of the military service of the service member of the dependents.

Sec. 35. NEW SECTION. 29A.101 TERMINATION OF LEASE OR RENTAL AGREEMENT -- EXCEPTIONS.

1. A landlord shall not terminate the lease or rental agreement of a service member or the service member's dependents for nonpayment of rent from any premises used as a dwelling by the service member or dependents during the period of military service if the rent on the premises occupied by the service member or dependents is less than one thousand two hundred dollars per month. However, a court may allow an eviction or the recovery of property pursuant to chapter 646 or 648.

2. In any action affecting the right of possession, the court may, on its own motion, stay the proceedings for not longer than three months, or make any order the court determines to be reasonable and just under the circumstances, unless the court finds that the ability of the service member to pay the agreed rent is not materially affected by reason of military service.

3. When a stay is granted or other order is made by the court, the owner of the premises shall be entitled, upon application, to relief with respect to the premises similar to that granted service members in military service in sections

29A.102 through 29A.104 to the extent and for any period as the court determines to be just and reasonable under the circumstances.

4. A person who knowingly takes part in any eviction or distress otherwise than as provided in subsection 1, or attempts to do so, commits a simple misdemeanor.

5. The governor may order an allotment of the pay of a service member in military service in reasonable proportion to discharge the rent of premises occupied for dwelling purposes by any dependents of the service member.

Sec. 36. NEW SECTION. 29A.102 INSTALLMENT CONTRACTS.

1. The creditor of a service member who, prior to entry into military service, has entered into an installment contract for the purchase of real or personal property shall not terminate the contract or repossess the property for nonpayment or for any breach occurring during military service without an order from a court of competent jurisdiction.

2. The court, upon application to it under this section, shall, unless the court finds on the record that the ability of the service member to comply with the terms of the contract is not materially affected by reason of military service, do one or more of the following:

a. Order repayment of any prior installments or deposits as a condition of terminating the contract and resuming possession of the property.

b. Order a stay of the proceedings on its own motion, or on motion by the service member or another person on behalf of the service member.

c. Make any other disposition of the case it considers to be equitable to conserve the interests of all parties.

3. A person who knowingly repossesses property which is the subject of this section, other than as provided in subsection 1, commits a simple misdemeanor.

Sec. 37. NEW SECTION. 29A.103 MORTGAGE FORECLOSURES.

1. The creditor of a service member who, prior to entry into military service, has entered into a mortgage contract with the service member for the purchase of real or personal

property shall not foreclose on the mortgage or repossess the property for nonpayment or for any breach occurring during military service without an order from a court of competent jurisdiction.

2. The court, upon application to it under this section, shall, unless the court finds on the record that the ability of the service member to comply with the terms of the mortgage is not materially affected by reason of military service, do one or more of the following:

a. Order repayment of any prior installments or deposits as a condition of terminating the contract and resuming possession of the property.

b. Order a stay of the proceedings on its own motion, or on motion by the service member or another person on behalf of the service member.

c. Make any other disposition of the case as it considers to be equitable to conserve the interests of all parties.

3. In order to come within the provisions of this section, the service member must establish all of the following:

a. That relief is sought on an obligation secured by a mortgage, trust deed, or other security in the nature of a mortgage on either real or personal property.

b. That the obligation originated prior to the service member's entry into military service.

c. That the property was owned by the service member prior to the commencement of military service.

d. That the property is owned by the service member at the time relief is sought.

4. A person who knowingly forecloses on property that is the subject of this section, other than as provided in subsection 1, commits a simple misdemeanor.

Sec. 38. NEW SECTION. 29A.104 APPLICATION FOR RELIEF.

1. A service member may, at any time during military service or within thirty days after discharge or termination of military service, apply to a court for relief in respect of any obligation or liability incurred by the service member prior to military service.

2. The court, after appropriate notice and hearing, unless in its opinion the ability of the service member to comply with the terms of the obligation or liability has not been materially affected by reason of military service, shall grant the following relief:

a. In the case of an obligation payable under its terms in installments under a contract for the purchase of real estate, or secured by a mortgage or other instrument in the nature of a mortgage upon real estate, a stay of the enforcement of the obligation during the applicant's period of military service and, from the date of termination of the period of military service or from the date of application if made after termination of military service, for a period equal to the period of the remaining life of the installment contract or other instrument plus a period of time equal to the period of military service of the applicant, or any part of the combined period, subject to payment of the balance of principal and accumulated interest due and unpaid at the date of termination of the period of military service or from the date of application, in equal installments during the combined period at the rate of interest on the unpaid balance as is prescribed in the contract, or other instrument evidencing the obligation, for installments paid when due, and subject to any other terms as the court may consider just.

b. In the case of any other obligation or liability, a stay of the enforcement during the applicant's period of military service and, from the date of termination of the period of military service or from the date of application if made after termination of the period of military service, for a period of time equal to the period of military service of the applicant or any part of that period, subject to payment of the balance of principal and accumulated interest due and unpaid at the date of termination of the period of military service or from the date of application, in equal periodic installments during the extended period at the rate of interest prescribed for the obligation or liability, if paid when due, and subject to other terms the court considers to be reasonable and just.

3. When any court has granted a stay as provided in this section, a fine or penalty shall not accrue for failure to comply with the terms or conditions of the obligation or liability for which the stay was granted during the period the terms and conditions of the stay are complied with.

Sec. 39. NEW SECTION. 29A.105 PROVISIONS APPLY NOTWITHSTANDING CONTRARY CODE PROVISIONS.

Sections 29A.90 through 29A.104 apply notwithstanding any contrary provision of state law, which may include but is not limited to Titles XIII, XIV, and XV.

Sec. 40. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

DIVISION III
MILITARY JUSTICE

Sec. 41. Section 29B.1, Code 2001, is amended to read as follows:

29B.1 PERSONS SUBJECT TO CODE.

This chapter applies to all members of the state military forces, while not in federal service. As used in this chapter, unless the context otherwise requires, "state military forces" ~~means the national guard of the state of Iowa as defined in 32-U.S.C. § 1017-(37-47-6)-(1981) and any other military force organized under state law when the national guard or other military force is not in a status subjecting it to jurisdiction under 10-U.S.C. ch. 47-(1981)~~ has the same meaning as in section 29A.6, and "code" means this chapter, which may be cited as the "Iowa Code of Military Justice".

Sec. 42. Section 29B.13, unnumbered paragraph 1, Code 2001, is amended to read as follows:

Under such regulations as may be prescribed under this code a person subject to this code who is on active state service or state active duty who is accused of an offense against civil authority may be delivered, upon request, to the civil authority for trial.

Sec. 43. Section 29B.22, unnumbered paragraphs 1 and 2, Code 2001, are amended by striking the paragraphs and inserting in lieu thereof the following:

A judge advocate in the state military forces shall be a commissioned officer who is a member of the bar of the state. However, a judge advocate serving in the military forces of the state on the effective date of this division of this Act who is not a member of the bar of the state shall not be required to become a member of the bar of the state to maintain military membership as a judge advocate. A judge advocate shall be either a federally recognized judge advocate or appointed as a judge advocate in the state military forces by the adjutant general.

The adjutant general shall designate a staff judge advocate for the army national guard and the air national guard. The adjutant general may appoint the number of judge advocates of the state military forces as the adjutant general considers necessary to perform state active duty to supplement or replace national guard judge advocates in emergencies or when the national guard judge advocates are in federal service.

Sec. 44. Section 29B.27, unnumbered paragraph 2, Code 2001, is amended to read as follows:

A military judge must be a commissioned officer of the state armed forces or a retired officer of the reserve components of the armed forces of the United States, a member of the bar of a federal court or a member of the bar of the highest court of the state, and certified to be qualified for the duty by the ~~judge advocate of the armed forces or the state~~ appropriate staff judge advocate of the state force concerned. The state judge advocate responsible for certifying the military judge may recommend to the adjutant general that the adjutant general order to active duty retired personnel of the national guard or the United States armed forces who are qualified to act as military judges.

Sec. 45. Section 29B.28, unnumbered paragraph 2, Code 2001, is amended to read as follows:

Trial counsel or defense counsel detailed for a general court-martial must be a person who is a member of the bar of the highest court of the state, ~~or a member of the bar of a federal court~~ and certified as competent for the duty by the state staff judge advocate.

Sec. 46. Section 29B.35, unnumbered paragraph 1, Code 2001, is amended to read as follows:

Before directing the trial of any charge by general court-martial, the convening authority shall refer ~~to the charge~~ to the state appropriate staff judge advocate of the state force concerned for consideration and advice. The convening authority may not refer a charge to a general court-martial for trial unless the authority has found that the charge alleges an offense under this code and is warranted by evidence indicated in the report of the investigation.

Sec. 47. Section 29B.62, Code 2001, is amended to read as follows:

29B.62 SAME -- GENERAL COURT-MARTIAL RECORDS.

The convening authority shall refer the record of each general court-martial to the state appropriate staff judge advocate of the state force concerned, who shall submit a written opinion thereon to the convening authority. If the final action of the court has resulted in an acquittal of all charges and specifications, the opinion shall be limited to questions of jurisdiction.

Sec. 48. Section 29B.65, subsections 2, 4, 5, 6, and 7, Code 2001, are amended to read as follows:

2. In all other cases not covered by subsection 1 ~~of this section~~, if the sentence of a special court-martial as approved by the convening authority includes a bad-conduct discharge, dishonorable discharge, dismissal, or confinement, whether or not suspended, the entire record shall be sent to the appropriate staff judge advocate of the state force concerned to be reviewed in the same manner as a record of trial by general court-martial. ~~The record and the opinion of the staff judge advocate or legal officer shall then be sent to the state judge advocate for review.~~

4. The state staff judge advocate of the state force concerned shall review the record of trial in each case sent for review as provided under this section. If the final action of the court-martial has resulted in an acquittal of all charges and specifications, the opinion of the state staff judge advocate is limited to questions of jurisdiction.

The state staff judge advocate shall take final action in any case reviewable by the state staff judge advocate.

5. In a case reviewable by the appropriate state staff judge advocate under this section, the state staff judge advocate may act only with respect to the findings and sentence as approved by the convening authority. The state staff judge advocate may affirm only such findings of guilty, and the sentence or such part or amount of the sentence, as the state staff judge advocate finds correct in law and fact and determines, on the basis of the entire record, should be approved. In consideration of the record, the state staff judge advocate may weigh the evidence, judge the credibility of witnesses, and determine controverted questions of fact, recognizing that the trial court saw and heard the witnesses. If the state staff judge advocate sets aside the findings and sentence, the state staff judge advocate may, except where the setting aside is based on lack of sufficient evidence in the record to support the findings, order a rehearing. If the state staff judge advocate sets aside the findings and sentence and does not order a rehearing, the state staff judge advocate shall order that the charges be dismissed.

6. In a case reviewable by the state staff judge advocate under this section, the state staff judge advocate shall instruct the convening authority to act in accordance with the decision on the review. If the state staff judge advocate has ordered a rehearing but the convening authority finds a rehearing impracticable, the state staff judge advocate may dismiss the charges.

7. The state staff judge advocate may order one or more boards of review each composed of not less than three commissioned officers of the state military forces, each of whom must be a member of the bar of the highest court of the state. Each board of review shall review the record of any trial by court-martial including a sentence to a dishonorable discharge, dismissal or confinement, referred to it by the state staff judge advocate. Boards of review have the same authority on review as the state staff judge advocate has under this section.

Sec. 49. Section 29B.67, Code 2001, is amended to read as follows:

29B.67 REVIEW COUNSEL.

Upon the final review of a sentence of a general court-martial or of a sentence to a dishonorable discharge, dismissal, or confinement, the accused has the right to be represented by counsel before the reviewing authority, and before the appropriate staff judge advocate, ~~and before the appropriate-state-judge-advocate.~~

Upon the request of an accused entitled to be so represented, the state appropriate staff judge advocate shall appoint a lawyer who is a member of the state military forces and who has the qualifications prescribed in section 29B.28, if available, to represent the accused before the reviewing authority, and before the appropriate staff judge advocate, ~~and before the appropriate-state-judge-advocate,~~ in the review of cases specified in this section.

If provided by the accused, an accused entitled to be so represented may be represented by civilian counsel before the reviewing authority, and before the appropriate staff judge advocate ~~and before the appropriate-state-judge-advocate.~~

Sec. 50. Section 29B.116, Code 2001, is amended to read as follows:

29B.116 GENERAL ARTICLE.

Though not specifically mentioned in this code, all disorders and neglects to the prejudice of good order and discipline in the state military forces, of which persons subject to this code may be guilty, shall be taken cognizance of by a general, special, or summary court-martial, according to the nature and degree of the offense, and shall be punished at the discretion of that court. However, cognizance shall not be taken of, and jurisdiction shall not be extended to, the crimes of murder, manslaughter, sexual abuse, robbery, maiming, ~~sodomy~~, arson, extortion, assault, burglary, or housebreaking, jurisdiction of which is reserved to civil courts.

Sec. 51. Section 29B.129, subsection 1, Code 2001, is amended by striking the subsection.

Sec. 52. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

DIVISION IV

EMERGENCY MANAGEMENT DIVISION

Sec. 53. Section 22.7, Code Supplement 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 43. The critical asset protection plan or any part of the plan prepared pursuant to section 29C.8 and any information held by the emergency management division that was supplied to the division by a public or private agency or organization and used in the development of the critical asset protection plan to include, but not be limited to, surveys, lists, maps, or photographs. However, the administrator shall make the list of assets available for examination by any person. A person wishing to examine the list of assets shall make a written request to the administrator on a form approved by the administrator. The list of assets may be viewed at the division's offices during normal working hours. The list of assets shall not be copied in any manner. Communications and asset information not required by law, rule, or procedure that are provided to the administrator by persons outside of government and for which the administrator has signed a nondisclosure agreement are exempt from public disclosures. The emergency management division may provide all or part of the critical asset plan to federal, state, or local governmental agencies which have emergency planning or response functions if the administrator is satisfied that the need to know and intended use are reasonable. An agency receiving critical asset protection plan information from the division shall not disseminate the information without prior approval of the administrator.

Sec. 54. Section 29C.8, subsection 3, Code Supplement 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. Prepare a critical asset protection plan that contains an inventory of infrastructure, facilities,

systems, other critical assets, and symbolic landmarks, an assessment of the criticality, vulnerability, and level of threat to the assets, and information pertaining to the mobilization, deployment, and tactical operations involved in responding to or protecting the assets.

Sec. 55. NEW SECTION. 29C.22 STATEWIDE MUTUAL AID COMPACT.

This statewide mutual aid compact is entered into with all other counties, cities, and other political subdivisions that enter into this compact in substantially the following form:

ARTICLE I

PURPOSE AND AUTHORITIES

This compact is made and entered into by and between the participating counties, cities, and political subdivisions which enact this compact. For the purposes of this agreement, the term "participating governments" means counties, cities, townships, and other political subdivisions of the state which have, through ordinance or resolution of the governing body, acted to adopt this compact.

The purpose of this compact is to provide for mutual assistance between the participating governments entering into this compact in managing any emergency or disaster that is declared in accordance with a countywide comprehensive emergency operations plan or by the governor, whether arising from natural disaster, technological hazard, man-made disaster, community disorder, insurgency, terrorism, or enemy attack.

This compact shall also provide for mutual cooperation in emergency-related exercises, testing, or other training activities using equipment and personnel simulating performance of any aspect of the giving and receiving of aid by participating governments during emergencies, such actions occurring outside actual declared emergency periods.

ARTICLE II

GENERAL IMPLEMENTATION

Each participating government entering into this compact recognizes many emergencies transcend political jurisdictional

boundaries and that intergovernmental coordination is essential in managing these and other emergencies under this compact. Each participating government further recognizes that there will be emergencies which require immediate access and present procedures to apply outside resources to make a prompt and effective response to the emergency. This is because few, if any, individual governments have all the resources they may need in all types of emergencies or the capability of delivering resources to areas where emergencies exist.

The prompt, full, and effective use of resources of the participating governments, including any resources on hand or available from any source, that are essential to the safety, care, and welfare of the people in the event of any emergency or disaster declared by the governor or any participating government, shall be the underlying principle on which all articles of this compact shall be understood.

On behalf of the participating government in the compact, the legally designated official who is assigned responsibility for emergency management will be responsible for formulation of the appropriate intrastate mutual aid plans and procedures necessary to implement this compact.

ARTICLE III

PARTICIPATING GOVERNMENT RESPONSIBILITIES

1. It shall be the responsibility of each participating government to formulate procedural plans and programs for intrastate cooperation in the performance of the responsibilities listed in this article. In formulating the plans, and in carrying them out, the participating governments, insofar as practical, shall:

a. Review individual hazards analyses and, to the extent reasonably possible, determine all those potential emergencies the participating governments might jointly suffer, whether due to natural disaster, technological hazard, man-made disaster, civil disorders, insurgency, terrorism, or enemy attack.

b. Review the participating governments' individual emergency plans and develop a plan that will determine the mechanism for the intrastate management and provision of assistance concerning any potential emergency.

c. Develop intrastate procedures to fill any identified gaps and to resolve any identified inconsistencies or overlaps in existing or developed plans.

d. Assist in warning communities adjacent to or crossing the participating governments' boundaries.

e. Protect and ensure uninterrupted delivery of services, medicines, water, food, energy and fuel, search and rescue, and critical lifeline equipment, services, and resources, both human and material.

f. Inventory and set procedures for the intrastate loan and delivery of human and material resources, together with procedures for reimbursement or forgiveness.

g. Provide, to the extent authorized by law, for temporary suspension of any ordinances that restrict the implementation of the above responsibilities.

2. The authorized representative of a participating government may request assistance of another participating government by contacting the authorized representative of that participating government. The provisions of this compact shall only apply to requests for assistance made by and to authorized representatives. Requests may be verbal or in writing. If verbal, the request shall be confirmed in writing within thirty days of the verbal request. Requests shall provide all of the following:

a. A description of the emergency service function for which assistance is needed, such as but not limited to fire services, law enforcement, emergency medical, transportation, communications, public works and engineering, building inspection, planning and information assistance, mass care, resource support, health and medical services, and search and rescue.

b. The amount and type of personnel, equipment, materials and supplies needed, and a reasonable estimate of the length

of time that the personnel, equipment, materials, and supplies will be needed.

c. The specific place and time for staging of the assisting participating government's response and a point of contact at that location.

3. The authorized representative of a participating government may initiate a request by contacting the emergency management division of the state department of public defense. When a request is received by the division, the division shall directly contact other participating governments to coordinate the provision of mutual aid.

4. Frequent consultation shall occur between officials who have been assigned emergency management responsibilities and other appropriate representatives of the participating governments with affected jurisdictions and state government, with free exchange of information, plans, and resource records relating to emergency capabilities.

ARTICLE IV LIMITATIONS

Any participating government requested to render mutual aid or conduct exercises and training for mutual aid shall take the necessary action to provide and make available the resources covered by this compact in accordance with the terms of the compact. However, it is understood that the participating government rendering aid may withhold resources to the extent necessary to provide reasonable protection for the participating government. Each participating government shall afford to the emergency forces of any other participating government, while operating within its jurisdictional limits under the terms and conditions of this compact, the same powers, except that of arrest unless specifically authorized by the receiving participating government, duties, rights, and privileges as are afforded forces of the participating government in which the emergency forces are performing emergency services. Emergency forces shall continue under the command and control of their regular leaders, but the organizational units shall come under the

operational control of the emergency services authorities of the participating government receiving assistance. These conditions may be activated, as needed, only subsequent to a declaration of a state of emergency or disaster by the governor or by competent authority of the participating government that is to receive assistance or commencement of exercises or training for mutual aid and shall continue so long as the exercises or training for mutual aid are in progress, the state of emergency or disaster remains in effect, or loaned resources remain in the receiving jurisdiction, whichever is longer.

ARTICLE V

LICENSES AND PERMITS

If a person holds a license, certificate, or other permit issued by any participating government to this compact evidencing the meeting of qualifications for professional, mechanical, or other skills, and when the assistance is requested by another participating government, the person shall be deemed licensed, certified, or permitted by the participating government requesting assistance to render aid involving the skill to meet a declared emergency or disaster, subject to the limitations and conditions as the governor may prescribe by executive order or otherwise.

ARTICLE VI

LIABILITY

Officers or employees of a participating government rendering aid in another participating government jurisdiction pursuant to this compact shall be considered agents of the requesting participating government for tort liability and immunity purposes and a participating government or its officers or employees rendering aid in another jurisdiction pursuant to this compact shall not be liable on account of any act or omission in good faith on the part of the forces while so engaged or on account of the maintenance or use of any equipment or supplies in connection with the aid. Good faith in this article shall not include willful misconduct, gross negligence, or recklessness.

ARTICLE VII

SUPPLEMENTARY AGREEMENTS

Because it is probable that the pattern and detail of the machinery for mutual aid among two or more participating governments may differ from that among other participating governments, this compact contains elements of a broad base common to all political subdivisions, and this compact shall not preclude any political subdivision from entering into supplementary agreements with another political subdivision or affect any other agreements already in force between political subdivisions. Supplementary agreements may include, but shall not be limited to, provisions for evacuation and reception of injured and other persons and the exchange of medical, fire, police, public utility, reconnaissance, welfare, transportation and communications personnel, and equipment and supplies.

ARTICLE VIII

WORKERS' COMPENSATION

Each participating government shall provide for the payment of workers' compensation and death benefits to injured members of the emergency forces of that participating government and representatives of deceased members of the emergency forces in case the members sustain injuries or are killed while rendering aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within their own jurisdiction.

ARTICLE IX

REIMBURSEMENT

Any participating government rendering aid in another jurisdiction pursuant to this compact shall be reimbursed by the participating government receiving the emergency aid for any loss or damage to or expense incurred in the operation of any equipment and the provision of any service in answering a request for aid and for the costs incurred in connection with the requests. However, an aiding political subdivision may assume in whole or in part the loss, damage, expense, or other cost, or may loan the equipment or donate the services to the

receiving participating government without charge or cost, and any two or more participating governments may enter into supplementary agreements establishing a different allocation of costs among the participating governments. Article VIII expenses shall not be reimbursable under this provision.

ARTICLE X

EVACUATION AND SHELTERING

Plans for the orderly evacuation and reception of portions of the civilian population as the result of any emergency or disaster shall be worked out and maintained between the participating governments and the emergency management or services directors of the various jurisdictions where any type of incident requiring evacuations might occur. The plans shall be put into effect by request of the participating government from which evacuees come and shall include the manner of transporting the evacuees, the number of evacuees to be received in different areas, the manner in which food, clothing, housing, and medical care will be provided, the registration of the evacuees, the providing of facilities for the notification of relatives or friends, and the forwarding of the evacuees to other areas or the bringing in of additional materials, supplies, and all other relevant factors. The plans shall provide that the participating government receiving evacuees and the participating government from which the evacuees come shall mutually agree as to reimbursement of out-of-pocket expenses incurred in receiving and caring for the evacuees, for expenditures for transportation, food, clothing, medicines and medical care, and like items. The expenditures shall be reimbursed as agreed by the participating government from which the evacuees come. After the termination of the emergency or disaster, the participating government from which the evacuees come shall assume the responsibility for the ultimate support of repatriation of such evacuees.

ARTICLE XI
IMPLEMENTATION

1. This compact shall become operative immediately upon its adoption by ordinance or resolution by the governing bodies of any two political subdivisions. Thereafter, this compact shall become effective as to any other political subdivision upon its adoption by ordinance or resolution of the governing body of the political subdivision.

2. Any participating government may withdraw from this compact by adopting an ordinance or resolution repealing the same, but a withdrawal shall not take effect until thirty days after the governing body of the withdrawing participating government has given notice in writing of the withdrawal to the administrator of the emergency management division who shall notify all other participating governments. The action shall not relieve the withdrawing political subdivision from obligations assumed under this compact prior to the effective date of withdrawal.

3. Duly authenticated copies of this compact and any supplementary agreements as may be entered into shall be deposited, at the time of their approval, with the administrator of the emergency management division who shall notify all participating governments and other appropriate agencies of state government.

ARTICLE XII
VALIDITY

This compact shall be construed to effectuate the purposes stated in article I. If any provision of this compact is declared unconstitutional, or the applicability of the compact to any person or circumstances is held invalid, the constitutionality of the remainder of this compact and the applicability of this compact to other persons and circumstances shall not be affected.

Sec. 56. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

DIVISION V

IOWA TECHNOLOGY CENTER

Sec. 57. Section 18.6, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 17. This section does not apply to Iowa technology center contracts in support of activities performed for another governmental entity, either state or federal. The Iowa technology center is an entity created by a chapter 28E agreement entered into by the department of public defense.

Sec. 58. Section 23A.2, subsection 10, Code Supplement 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. p. The provision of goods or services by the Iowa technology center as a part of an intergovernmental solution involving the federal government or a state agency. The Iowa technology center is an entity created by a chapter 28E agreement entered into by the department of public defense.

MARY E. KRAMER
President of the Senate

BRENT SIEGRIST
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2124, Seventy-ninth General Assembly.

MICHAEL E. MARSHALL
Secretary of the Senate

Approved 4/22, 2002

THOMAS J. VILSACK
Governor