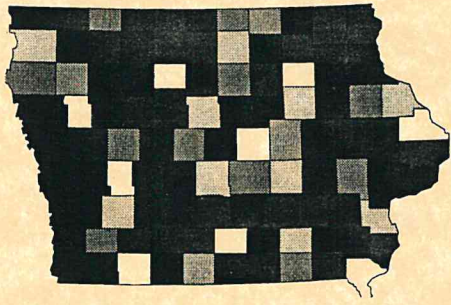


**Policy Statements  
and  
Legislative Objectives  
for the  
77th General Assembly  
Second Session  
1998**



**99 Ways to Grow**



**As Passed by the Iowa State Association of  
Counties Membership at the Fall School of  
Instruction - November 20, 1997.**







701 E. Court Ave., Suite A · Des Moines, IA 50309-4901 · (515) 244-7181 · FAX (515) 244-6397

January 1, 1998

Legislative Leadership  
Seventy-seventh General Assembly  
The Statehouse  
Des Moines, IA 50319

Dear Legislative Leadership:

1998 holds promise for the people of Iowa. Through the hard work in recent years of the state and county officials, numerous tough issues have become things of the past. The state is now operating on a revenue surplus; it has joined with counties in the financing and management of mental health; property tax credits are now fully funded; and the property tax limitation is gone. County officials greatly appreciate these good things.

As we look to the future, we can turn our attention toward new public policy strategies to serve all our constituents. Such things as new tax cuts and economic development programs will help each county to plan for growth and a better quality of life for the people who live and work here. In fact, as Iowa grows as a state, we learn the importance at each county level for *99 ways to grow*.

In keeping with these thoughts, we are pleased to present ISAC's "1998 Policy Statements and Legislative Priorities" to you. This booklet contains the work of our seven policy steering committees and the top priorities as established by the ISAC Board. All are presented with the recognition of the many challenges you as legislators have facing you in 1998.

If you have any questions about any of these proposals, please contact either of us, or our lobbying staff, John Easter and Bob Mulqueen, to help you. We look forward to building on the excellent working relationship that county officials have established with state policymakers in recent years.

Sincerely,

A handwritten signature in cursive script, reading "Marvin D. Johnson".

Marvin Johnson  
ISAC President

A handwritten signature in cursive script, reading "William R. Peterson".

William R. Peterson  
Executive Director









## **MISSION STATEMENT**

**To promote efficient and economically sound  
county government for the citizens of Iowa.**

### **Thank You!**

The ISAC staff would like to take this opportunity to give special thanks to the various Steering Committee Members. Their hard work has given the Association direction for the upcoming Legislative Session. We certainly appreciate the effort of the members to complete this task.





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## INTRODUCTION

The ISAC policy process begins when ISAC's seven steering committees meet twice beginning in the late summer of each year. The following are the steering committees that deal with the areas of interest to and responsibilities of county government: Agriculture and Rural Affairs, County Administration and Organization, County Corrections and Law Enforcement, Environment and Land Use, Health and Human Services, Taxation and Finance, and Transportation.

Each committee is made up of a cross-section of county officials named by their respective affiliate groups. The primary goal of the steering committees is to formulate the policy direction for ISAC, as the representative of Iowa's 99 counties, through the use of policy statements and legislative objectives.

The policies and objectives adopted by each committee reflect proposals raised by the various county affiliate groups, unmet objectives from the previous year, and any other items brought to them by other organizations. Accordingly, the 1998 ISAC Policy Statements and Legislative Objectives report is based on the work of the seven steering committees.

The committee **policy statements** express long-term or continuing statements of principles important for local control, local government authority, and efficient county operation. These statements are designed to guide the Association in responding to public policy issues affecting county government.

Committee policy statements are followed by specific **legislative objectives** identified by each committee. The legislative objectives are a final compilation of problem/solution statements on specific issues of concern to each committee. ISAC will initiate each objective as a legislative bill or as an amendment to another piece of legislation. The objectives are listed in priority order in each committee section.

After the steering committees meet, each committee report is reviewed and approved by the ISAC Board of Directors. The Board then identifies a special list of "Top Priorities" from among the proposals raised by the committees.

A special section at the beginning of this book highlights the ISAC "Top Priorities" identified by the Board for 1998. While the ISAC staff will work to achieve all of the legislative objectives established by the steering committees, special attention will be given to these priorities.

Finally, the complete package (including the "Top Priorities") is ratified at the Fall School by the entire ISAC membership.

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## 1998 TOP LEGISLATIVE PRIORITIES

All 99 counties of Iowa are dedicated to the best service at the lowest possible cost for the citizens and taxpayers they serve. The counties, through ISAC, support the concept of representative government and encourage the preservation of flexibility for elected officials to best represent the people who elect them.

In order to fulfill this proposition, Iowa's state and local governments must appropriately fund programs and services deemed necessary by policy makers at all levels. A fair and equitable balance between state and local revenue sources for programs and services would best serve Iowa's citizens.

In keeping with these principles, the county officials of Iowa are proud to present their "Top Legislative Priorities" for 1998. With the best interest of the citizens and taxpayers in mind, we respectfully urge that these legislative objectives be adopted by the 77th General Assembly of Iowa and approved by Governor Branstad.

### Animal Confinement Facilities

The animal feeding/production industry in Iowa is rapidly changing. While this rapid change has provided many benefits for the consumer and producer alike, potential impacts from animal feeding operations affect all Iowans in general. Issues that the state must address include:

- impacts on nearby property owners, including land values and quality of life;
- environmental impacts on surface water, groundwater and air quality;
- economic trade-offs stemming from the structure of the industry itself (i.e., "large vs. small" or "corporate vs. traditional" operations); and
- the ability of local governments to control local siting, land use and development decisions.

Legislation should be enacted that would require notification of the local government by the DNR of any application for a construction or operation permit for an animal feeding operation within the local government's jurisdiction. Local participation in the final decision is essential, even if combined with state control over certain aspects of the approval process. The constitutional rights and remedies of nearby property owners and residents must not be circumscribed by special legislation. Financial assurances for development and post closure cleanup should also be updated.

### Utility Tax Replacement

The electric utility industry is being restructured at the federal and state levels from one that is highly regulated to one in which there is significant competition. Current efforts to restructure the electric power utility industry, from a monopoly system to a more competitive one, are pressuring local governments to re-evaluate on how they generate tax revenue from the power industry.

Restructuring the delivery of electricity will affect counties in many areas including the cost of electricity to facilities; residences and businesses; tax revenue generation authority; rights-of-way issues; energy conservation practices; and a variety of other impacts. In light of the impending power utility restructuring, deregulation, and competition, the Iowa investor-owned utilities are looking for ways to be an active player in the competitive arena by proposing to substitute the property tax with a tax that would apply to all power utilities (in-state and out-of-state) that serve consumers in Iowa. The replacement tax would be based on kilowatts of electricity generated, transmitted and distributed and on therms of gas distributed. Whereas the property tax only applies to power utilities with a nexus in Iowa, the replacement tax would be applied to all utilities doing business in Iowa.



ISAC's goal is to preserve county tax revenue in this period of transition. The following objectives have been identified in the review of the power utility replacement tax plan:

- Due to the complexities of the proposed changes to the local tax system, it is first necessary to have legislative and regulatory review of the replacement tax plan and also a fiscal impact study prepared by the Legislative Fiscal Bureau prior to any legislative action.
- Prevent or minimize the loss of county taxing authority.
- Allow for reasonable and satisfactory future growth of the replacement tax.
- Prevent or minimize any potential shift in tax burden to other classes of property in cases when new property taxes are levied, such as debt service.
- Preserve bonding capacity.

### **Property Tax Relief**

Much progress has been made in recent years toward state participation in funding of services in the MH/DD system. System reforms have resulted in a state-county partnership in system management and funding for services. Ultimately, this direction has resulted in improved efficiencies and property tax relief. No system is perfect, however, and as a result of continued system changes, a few critical funding issues need to be addressed. The following issues must be resolved in order to maintain the integrity of these reforms and to best provide needed property tax relief as contemplated by the system changes.

**Base Year and State Funding:** Initially the MH/DD system reforms enacted in 1994 and 1995 established a three-year, phased-in funding plan to bring the state to a 50% funding share of county MH/DD costs. 1994 served as the base year for the plan, and the total county cost that year was \$190 million. The state share is passed through to taxpayers in the form of direct, dollar-for-dollar property tax relief. Since that time, however, legislative adjustments in the system have resulted in a new MH/DD base of \$214.2 million. Current state funding is only at \$95 million, or about 44%.

In order for the state to fulfill its promise to property taxpayers to fund 50% of the county base year MH/DD system costs, an additional \$12.1 million must be added to the current \$95 million, which would bring the state share to \$107.1 million. Each dollar added would result in direct, dollar-for-dollar property tax relief.

**Funding for Children's Services:** In 1994, the General Assembly enacted legislation to obligate the state to fully fund the nonfederal share of ICF/MR and HCBS Waiver services for children. This commitment was necessary to forge the emerging partnership between the state and counties in the MH/DD system. The amount was determined to be \$6.6 million.

The state funded this item from the general fund in 1995, but it has since been paid for out of the property tax relief fund. Legislation was passed in 1996 to make this practice permanent, and to that extent, property tax relief is lost. Therefore, in order to guarantee property tax relief, the state should fund the children's services from its general fund and discontinue the practice of funding these services from off the top of the property tax relief fund.

### **Implements of Husbandry**

The size and weight of implements of husbandry, primarily farm trailers and wagons, have grown at an alarming rate in recent years. Even larger models are planned for the future. While most manufacturers state that these devices are for "off the road use" only, no existing law prevents their use upon Iowa's road and bridge network. The unchecked gross axle weights are causing severe damage to gravel roads, paved highways and bridges. These large overweight wagons, trailers and vehicles, when mixed with normal traffic are a safety hazard to not only themselves, but to other unsuspecting road users.



Legislation is needed to limit the gross axle weights of implements of husbandry when traveling upon the roads and bridges of Iowa. Requirements are needed for sufficient braking capacity to stop a loaded vehicle either by brakes on the trailers and wagons, or sufficient weight and braking capacity of the towing vehicle.

### **County Issuance of Drivers' Licenses**

County treasurers have been issuing motor vehicle license plates and vehicle titles for more than 70 years. This has been a very successful program because it provides efficient and convenient service to meet citizen needs. In January of 1994, six counties in southwest Iowa (Adams, Cass, Fremont, Mills, Montgomery, and Page) began issuing drivers' licenses in the office of the county treasurer on a pilot basis. This program has had full support of the public. Because of the strong success of this service, these six counties were made permanent by the 1995 legislature and Governor Branstad.

The residents of the six permanent county stations are the only people in rural Iowa to have this daily service available to them. The remaining rural counties continue to be served only once every week or two. The opportunity for this daily service should be made available to the remaining citizens in rural Iowa. While no county should be mandated to provide this service, any county that desires to provide it should be able to.

### **Mental Health Funding Issues**

**System Growth:** In the 1996 legislative session, SF 2030 was enacted to provide a way to measure and pay for growth in the MH/DD system. The State County Management Committee is charged to study and recommend a growth factor adjustment allowing for inflation, new consumers, and investments for economy and efficiency. The recommendation must be made to the Governor by November 15. In 1997, the legislature established a 2.8% growth factor for FY98 and FY99. The State County Management had recommended a 10.2% growth factor for FY98 as the appropriate level to address the three factors. The State County Management Committee must recommend a growth factor for FY00 that addresses these issues.

In the coming year, the state should adopt a growth factor adjustment for FY 2000 that adequately meets the funding demands in each county. The State County Management Committee is considering a methodology that sets a per capita spending benchmark, establishes an incentive fund that counties can access if they meet established outcome goals, and that establishes a risk pool or stop loss fund to aid counties experiencing unusually high expenditures.

**Removal of County Responsibility for Funding MH Treatment Services for Medicaid Eligible Children and Adults:** In the Request for Proposals for the Medicaid Managed Care Program, the IA Plan, the state continues to relieve the contractor of responsibility for Medicaid-eligible individuals under court commitment, or served at an MHI. Because current state law requires counties to pay at MHIs and for certain commitment costs, when there is no other funds, this shifts the risk and the cost to the counties. In effect, counties are being required to "reinsure" the for-profit managed care contractor for these individuals.

Legislation is needed to amend the relevant sections of the Iowa Code to remove any county financial responsibility at MHI, or other treatment providers, for any individuals enrolled in the IA Plan or eligible for Medicaid Fee-for-Service Program.



### **Public Health Nursing Funding**

State funding for public health nursing has increased only slightly in the past 17 years (from \$1.6 million to \$2.5 million). Service demands of an increasingly older population, shortened hospital stays, high technology in the homes, increasing numbers of MI/MR/DD/BI children and adults requiring community-based services have increased. Because of such increases, level state funding of the Home Care Aide and Chore grant allocation since 1990 has decreased the service hours funded by the grant. Today, agencies are forced to severely limit the services of environmental tasks and social services, and concentrate on personal care for the more seriously ill. Therefore, state appropriations for both the Public Health Nursing and Home Care Aide programs should be significantly increased in FY97 and a funding increase should continue in the following year to achieve a 50% or greater share in appropriations by FY00.



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**AGRICULTURE AND RURAL AFFAIRS STEERING COMMITTEE**

**Policy Statements**

**Housing**

ISAC was a co-sponsor of the 1995 housing summit conference called for by the 76th Iowa General Assembly. ISAC has supported legislation in 1996 and 1997 encouraging new and rehabilitated affordable housing in rural areas and continues to support such efforts. The 1995 housing summit conference submitted findings that still exist today; 1) that there is, in Iowa, a decided shortage of affordable housing stock, 2) there is a of new and rehabilitated housing to promote and allow economic growth, and 3) public funding must be part of the mix with private investment as a means of planning and making available housing development.

**Livestock Confinement Facilities**

WHEREAS the increase in the number and size of livestock confinement facilities (chiefly pork operations) has been significant in several regions of the nation within the last five years, and

WHEREAS oversight of large livestock confinement has been held by state governments to the exclusion of counties:

THEREFORE BE IT RESOLVED that the Iowa State Association of Counties supports the efforts of county government to share the oversight authority over large livestock confinement facilities to enable local officials, along with state agencies, to assure **groundwater and surface water protection**.

**Grant Programs**

We support continuation of the DNR grants to counties program used for funding well testing, closing and well head protection.





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## **Legislative Objectives**

### **1. Animal Feeding Operations**

**PROBLEM:** At least since the beginning of this decade, hog confinement operations of significant size have been established in Iowa. These include both existing operations which have enlarged and out-of-state operations which produce significant numbers of hogs by design. The controversy over such livestock operations has included questions involving the home rule authority of counties regarding the siting of such facilities and the county oversight authority regarding environmental quality. Actions by the Iowa General Assembly and state agencies have precluded county government from exerting any significant role regarding either issue. County officials continue to seek acknowledgment by the state of county home rule authority in relation to this issue. Counties certainly wish to work with and not against those state agencies, such as the Iowa Department of Natural Resources, which have been given the authority to regulate the siting and operation of such livestock facilities.

**SOLUTION:** The Agriculture and Rural Affairs Steering Committee recommends the following:

- 1) A monitoring well system should be installed around each livestock confinement operation that requires a DNR permit. The appropriate number of monitoring wells should be determined by the DNR.
- 2) Monitoring well-testing should be completed by one agency. (It has been suggested that the Iowa Hygienic Laboratory could be the appropriate provider of this test.) Because of the broad-based interest and concern, funding for the testing should be funneled through either the DNR or the DPH. Local employees could be used to complete the testing procedures if necessary, with reimbursement through state agencies.
- 3) The DNR shall inspect every confinement site that requires a DNR permit for regulatory compliance during the construction process.

A final inspection should be completed before the site becomes operational. The inspection process should include the initial core sampling of the site, the lagoon construction and the building construction. To facilitate the inspection process, the DNR should be allowed additional funding for appropriately trained inspectors.

- 4) All drainage tile lines entering or leaving a confinement construction site must be cut and permanently capped (according to DNR requirements) at least 50 ft. from the outside bottom of the manure storage structure or lagoon brim and from each building on the construction site. Tile lines which have been cut must be re-routed to provide sufficient drainage relief to neighboring landowners.
- 5) To help prevent further manure spills, applicable administrative rules written for HF 519 should be retroactive to include currently operating confinement operations that required DNR permits.
- 6) Gun manure spreading from single stage pits or manure structures or from the first stage of a two-stage lagoon system should be banned. No surface application of manure should be allowed on land containing unplugged agriculture drainage wells.
- 7) ISAC supports the efforts of county government to share the oversight authority over large livestock facilities to enable local officials, along with state agencies, to assure groundwater and surface water protection.

## 2. Open or Covered Drains

**PROBLEM:** Iowa Code §468.621 should be changed. It reads: "Owners of land may drain their land in the general course of natural drainage by constructing or reconstructing open or covered drains, discharging the drains in any natural watercourse or depression so the water will be carried into some other natural watercourse and if the drainage is wholly upon the owner's land the owner is not liable in damages for the drainage (unless it increases the quantity of water or changes the manner of discharge on the land of another). An owner, in constructing a replacement drain wholly on the owner's land and in the exercise of due care, is not liable in damages to another if a previously constructed drain on the owner's land is rendered inoperative or less efficient by the new drain, unless in violation of the terms of a written contract. This section does not affect the rights or liabilities of proprietors in respect to running streams."

**SOLUTION:** This section has been part of the drainage code for many years without the words in parenthesis. These words were added a few years ago. The Iowa Supreme Court has interpreted this Code section in a great number of cases over the years, but it is not known if the Court has construed any cases with the words in parenthesis. The original intent of this was to allow landowners to more fully utilize their lands by draining them more effectively. The words in parenthesis then nullify the intent of the Code. HF 2425, introduced during the 1996 legislative session, sought to remedy this problem. Differences of opinion about the wording of this proposal delayed action on this bill, and it was not debated.

We recommend deleting the following language: "unless it increases the quantity of water or changes the manner of discharge on the land of another."

## 3. New Drainage Assessment - Installment Payments

**PROBLEM:** The increased cost of repairs and improvements to existing drainage districts can exceed the costs of establishing a new district. Iowa Code §468.127 allows for 10 years of installments for payment of the cost of drainage repairs and improvements. §468.51 allows these payments to be made over a 20-year period for newly established.

**SOLUTION:** Amend §468 to allow a 20-year installment payment plan to apply to newly established or existing drainage districts.

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## 4. Wetlands Regulations

**PROBLEM:** There is some confusion in current federal and state administrative rules concerning upgrading drainage district structures and the landowner's liability for violating regulations involving wetlands.

**SOLUTION:** We recommend immediate modification of state and federal regulations to clearly state that drainage districts that have maintained drainage structures be allowed to upgrade those structures--especially ones at or near the end of their life expectancy--without subjecting the landowners to wetland violations.

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**COUNTY ADMINISTRATION AND ORGANIZATION STEERING COMMITTEE**

**Policy Statements**

**County Home Rule**

In 1978, the citizens of Iowa voted by a large majority to approve the County Home Rule Amendment to the Iowa Constitution, giving counties home rule power and authority to determine their local affairs and government. The passage of the County Home Rule Amendment was a clear message that citizens believed that they should have the authority to determine the level of local services.

Counties have struggled over the past two decades to maintain local control. County officials have sought to preserve their local decision making authority by opposing tax limitations, unfunded state mandates, and other initiatives that would limit a county's ability to make local spending and service decisions. Furthermore, counties' ability to make decisions relating to the health, welfare, and safety of their citizens and environment must be preserved and any attempts to broadly preempt county home rule authority would violate the spirit of the voter-approved amendment to the Iowa Constitution. ISAC hereby reaffirms its commitment to the County Home Rule Amendment and to the concept of local control.





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## **Legislative Objectives**

### **1. Iowa Communications Network Access**

**PROBLEM:** While the fiber optics network may technically be in place in all 99 counties, counties themselves are prohibited by law from using the fiber optics network. Iowa Code §18.134(2) prohibits counties from receiving communications services from the state. This statute prevents counties from using the fiber optics network to reduce the cost of county government to property taxpayers. One use for the fiber optics network is holding long distance hearings, thus reducing the need for transporting prisoners around the state.

**SOLUTION:** Eliminate Iowa Code §18.134(2).

### **2. State Court Administrator's Offices**

**PROBLEM:** The state is divided by statute into eight judicial districts, with each district having a district court administrator. But even though the district court administrators are state employees who run the state's court systems at locations determined by the chief judge of the district, the cost of housing the district court administrators is paid entirely by the counties. Under Iowa Code §602.1303(1)(b), all of the counties in the judicial district are required to pro-rate the cost of providing the district court administrator's office. The counties already provide free courtroom space for state judges and free courtroom security. Providing offices for state court administrators is just one more unfunded mandate. The counties should not be footing this bill for the state at a time when the state has a surplus of \$430 million.

**SOLUTION:** Amend §602.1303(1)(b) as follows: ~~The counties within the judicial districts~~ state shall provide suitable offices and other physical facilities for the district court and staff at locations within the judicial districts determined by the chief judge of the respective judicial districts. ~~The county auditor of the host county shall apportion the costs of providing the offices and other physical facilities among the counties within the judicial district in the proportion that the population of each county in the judicial district is to the total population of all counties in the district.~~

### **3. School Budget Filing Date**

**PROBLEM:** County and municipal budgets are due March 15. Currently, school budgets are not due until April 15. With removal of the tax freeze, the Department of Management is required to certify tax levies to the auditor by June 15. It will be nearly impossible for DOM to meet the June deadline if school budgets are not due until April 15. Schools are not the only jurisdiction under a deadline to complete labor negotiations in order to complete their budgets.

**SOLUTION:** Require school budgets to be filed by March 15. Amend §24.17 and all other appropriate Code sections.

### **4. Auditors' Election Reform**

(The following 12 proposals would probably all be folded into one bill. Issues have been separated here for clarity.)

#### **4a. Certification of Voting Machine Testing**

**PROBLEM:** Iowa Code §§52.9 and 52.35 require the election commissioner to notify county party chairpersons of the date, time and location of the certification of voting machine testing. This includes non-partisan elections as well as the primary and general. Non-partisan elections should not be subject to a partisan requirement.

**SOLUTION:** Change §52.9 to read: “....not less than twelve hours before the opening of the polls on the morning of the election. In partisan elections ~~the~~ county chairperson of each political party referred to in §49.13 shall be notified in writing of the time said machines shall be examined and tested so that they may be present, or to have a representative present. Those present....”

and

Change §52.35 to read: “...The procedure for conducting the test shall be as follows: 1. In partisan elections ~~the~~ county chairperson of each political party shall be notified in writing of the time the test will be conducted....”

#### **4b. Special Elections - Dates**

**PROBLEM:** The law prohibits special elections from being scheduled the two weeks on either side of a primary or general election. This time period can be too short for setting machines if the special election is a large one, since some machines have to be sealed for 10 days following an election. Also, having elections so close together means that the casting of absentee ballots for different elections will overlap, which can cause considerable confusion to the voters and to county officials.

**SOLUTION:** Amend §39.2(1) to read: “.... A special election shall not be held on the first, ~~and~~ second and third Tuesdays preceding and following the primary and the general elections.”

#### **4c. Polling Place Hours of Operation**

**PROBLEM:** Primary and general elections in Iowa run from 7:00 a.m. - 9:00 p.m., one of the longest election days in the country. Most states close their polls at 8:00 p.m. Aside from getting results from other states while the polls are still open in Iowa, this makes a very long and arduous day for our precinct workers, many of whom are elderly. Absentee voting and early voting at satellite locations are gaining in popularity, making longer hours less of a necessity.

**SOLUTION:** Amend §49.73(2) as follows: “....The polling places shall be closed at eight o'clock p.m. for all elections.”

#### **4d. Benefited Fire Districts - Board of Trustees**

**PROBLEM:** Those counties with Boards of Trustees for Benefited Fire Districts are required to hold an annual election to elect a trustee to serve on this board. Election board members are required to serve without pay. It is not possible to get election board members to serve without pay. Candidates for these offices are hard to find.

**SOLUTION:** Change §357B.2 to read: “... The members of the board of trustees shall be .... appointed by the board of supervisors from among the qualified electors of the district.... Any vacancy on the Board shall be filled by appointment of the board of supervisors for the unexpired term....”



**4e. Municipal Elections By Mail**

**PROBLEM:** It is becoming harder to find appropriate locations in some small municipalities in which to hold municipal elections. In some instances, election officials must be imported from outside the municipality to be able to conduct the election. An analysis of costs for municipalities in several counties showed that in most cases the election cost to a municipality of 200 or less population would be less with a mail ballot election than with a regularly conducted election.

**SOLUTION:** Allow municipal elections in municipalities with a population of 200 or less, to be conducted by mail ballot. The decision as to how the election would be conducted would be at the discretion of the Commissioner of Elections, with consultation from the City Council and Clerk.

The population designation is taken from chapter 362.3 which allows for posting of publications in municipalities of 200 or less.

**4f. Early Voting Petitions**

**PROBLEM:** The Auditor's office can receive petitions requesting early voting sites. A concerted effort by an organization to petition for early voting sites could impair the Auditor's office offering other early voting sites, or even conduction the election.

**SOLUTION:** Allow a petitioner to sign only one petition for an early voting site.

**4g. Franchise Elections**

**PROBLEM:** The franchise election process is expensive. Voter turnout for these elections is minimal.

**SOLUTION:** City Councils shall hold public hearings to give the public an opportunity to object to the issuance of a franchise with two or three readings. If there are objections, a valid petition as defined in §§362.4 and 362.2(4b) could be filed asking for an election. Companies seeking approval for a franchise at which an election is requested shall reimburse the county for the administrative costs.

**4h. Maps at Voting Sites**

**PROBLEM:** A map of an annexation area or school reorganization area is not currently allowed to be posted in the voting booth.

**SOLUTION:** Allow maps of the annexation or reorganization area to be included as part of the ballot question. Amend §368.19, and all other appropriate code sessions.

**4i. Election Boards**

**PROBLEM:** Iowa Code §49.12 requires a five-member election board. Use of a three-member board is limited to precincts with a limited number of voters and only paper ballots. This section also requires a fourth member be added to the paper ballot count board at the close of the polls. All of these provisions add to the cost of conducting an election. The local commissioner can tell from projected turnout, etc., the number of officials required, and should have the local control to make those decisions, which may also help contain costs.

**SOLUTION:** Amend the section to require an election board of "three or more." Also delete the requirement to add a fourth person to the count board for paper ballots.

**4j. Rotation of Non-Partisan Offices**

**PROBLEM:** The requirement to rotate names of non-partisan offices in which there are more candidates than there are seats to be filled: Due to the number of seats being filled in Ag Extension, Soil & Water Conservation, and other non-partisan offices, rotating the names on ballots adds considerably to the cost of the ballots. (49.31(2)).

**SOLUTION:** Remove the requirement of rotating names on the ballot for non-partisan offices.

## **5. Retaining the Recorders' Surcharges**

**PROBLEM:** In an attempt to balance the state's budget, the Iowa legislature enacted a user's surcharge on UCC filings and boat titles and liens. This surcharge, which became effective July 1, 1991, was an "add-on fee" to the fees already being collected by the county recorders on behalf of the counties to cover their administrative costs. In most cases, the fees doubled with the add-on surcharge. Fees collected for the state in FY96 were \$195,795.

**SOLUTION:** Since all administrative responsibilities lie with the counties, the state's financial condition is much improved, and the property tax freeze has limited the counties' revenues, it is the desire of counties to retain all fees collected by the recorder for UCC filings and boat titles and liens. (Currently, fees collected by the recorder for boat titles go into the County Conservation fund. It is the intent of this legislation to continue this practice in full.)

## **6. Annexation Issues**

### **6a. Notice of Annexations**

**PROBLEM:** Under Iowa Code §368.7, supervisors must receive 10-day advance notice of an application for annexation of territory within an "urbanized area," defined as a metropolitan statistical area as determined by the U.S. census. Notice of the application must also be published in an official newspaper in each affected county at least 10 days prior to any action by the city council on the application.

But if the territory to be annexed is not within an "urbanized area," an application for annexation can be approved immediately by a resolution of the city council, and the annexation is complete when a copy of the resolution is received by the secretary of state. The law requires only that the city clerk file a copy of the resolution with the county recorder.

When there is no advance notice of a proposed annexation, the public has no opportunity to comment on the annexation. Likewise, the county has no opportunity to comment on the annexation, when by its very nature an annexation has a fiscal impact on the county. A matter as serious as this should only be undertaken after appropriate opportunity for notice and comment. There is no logical reason why different procedures should apply, depending on whether the land to be annexed is located within an "urbanized area."

**SOLUTION:** Amend Iowa Code §368.7 to provide that supervisors must receive 10-day advance notice of an application for any voluntary annexation, whether within an "urbanized area" or not. Provide that notice of the application must also be published in an official newspaper in each affected county at least 10 days prior to any action by the city council on the application.



**6b. Annexation File Date**

**PROBLEM:** The Code does not give a specific date as to when annexations must be filed or recorded. It is necessary that annexations be processed up until the time budgets have to be filed with the Department of Management. These can greatly affect a taxing entity's valuation and therefore the dollars that they have available to them.

**SOLUTION:** It should be required that annexations be recorded by December 1 in order to be effective for taxes due the following July. If annexations are recorded by December 1, they can be reflected on the valuation report. Then it can be assured that there won't be any major changes to the figures for each entity when preparing the budget.

**7. Food Inspection**

**PROBLEM:** The Iowa Department of Inspections and Appeals is responsible for insuring food safety in restaurants and grocery stores. Recently, counties have begun taking responsibility for administration of the food inspection programs. Cutbacks at DIA have resulted in county environmental health offices contracting with the Department to conduct inspections of restaurants and grocery stores. Environmental health offices perform food inspection in 75% of the counties.

Food inspections have been performed according to the 1976 federal food code, which Iowa adopted in 1979. In 1993, a new federal food code was adopted. The new federal food code addresses problems and issues that did not exist in the original code or were inadequately covered. While new federal standards have been adopted, Iowa is still observing the food code adopted in 1979. The current state food code contains license and inspection fees established in 1979, which have not been updated since. The current food code and fee structure are outdated and should be brought into line with the new federal standards.

**SOLUTION:** Adopt legislation to bring the state food code into line with the new 1993 federal food code and establish a fee structure based upon restaurant or grocery store's annual revenue. The new fee structure would generate sufficient revenue to maintain an effective inspection program.

**8. Marriage License Waiting Period**

**PROBLEM:** Currently, there is a three-day waiting period between applying for a marriage license and receiving it. This delay requires the public to come back to the courthouse and uses the time to retrieve the license application and issue the license.

**SOLUTION:** Amend Iowa Code §595.4 to allow the license and certificate to be issued at the time of application, with a three-day waiting period indicated by a validation date on the license.

**9. Property Transfers: Life Estates, Divorces**

**PROBLEM:** In the cases of a life estate or a divorce, frequently no document is recorded which removes the name of one of the owners at the termination of the life estate or in the case of a divorce. Subsequent transfers are processed which have those owners omitted as a grantor and the platting officer has no official reference to remove the original names from ownership.

**SOLUTION:** Require an affidavit (possibly with death certificate, if applicable) to be recorded when terminating life estates so that taxation records can be changed and a recorded document can be referenced in the transfer books. Require a quit claim deed to be recorded or change of title to extinguish



ownership rights from a divorce decree. This would again allow the transfer books to reference a recorded document. In all cases the recorded document must reference the legal description.

#### **10. County Checking Accounts**

**PROBLEM:** Several counties currently use checking accounts instead of warrant accounts. Under current Code, these checking accounts are not legal.

**SOLUTION:** Amend appropriate Code sections to legalize the use of checking accounts by counties.

#### **11. Sheriff's Retirement**

**PROBLEM:** Currently Iowa sheriffs and deputies who are members of the protected class receive retirement benefits less than other protected class members. A sheriff or deputy must be 55 years of age and have 22 years of service to receive 60% of the high three years. There is extra credit of five years for a maximum of 65%.

**SOLUTION:** Allow sheriffs and deputies to retire at 52 years of age and have 20 years of service to receive the 60% of the high three years. Also allow extra credit of 1.5% for each year after 20 years, for a maximum of eight years. This would establish the maximum pension at 72%.

#### **12. Initiatives and Referenda**

**PROBLEM:** House File 636, passed in 1997, was a 44-page election law bill. Included in the bill as an amendment were two lines of obscure text which, according to some, authorized counties to proceed via initiative and referendum. There was no legislative debate on this amendment, despite the fact it overturns 151 years of Iowa history, allowing for the first time the widespread use of initiatives and referenda. The only reason there was no debate is because few, if any, legislators recognized the potential impact of HF636. Nor did they have any reason to, since the amendment did not even use the words "initiative" or "referendum."

At a minimum, this issue should be fully debated on its merits. But ultimately the offending amendment should be struck from the bill because experience in other states proves that the fate of these ballot measures depends more on money, shallow imagery and organization than on the merits of the issue. Furthermore, there is no way to limit the number of measures on the ballot, meaning that voters may be forced to consider six or seven different important ballot measures at one time. Finally, these issues should be decided by the elected city and county officials themselves, rather than resorting to an expensive public vote.

**SOLUTION:** Amend Iowa Code §39.1A as follows: Only those public measures which are specifically authorized or required by state law to be put before the voters as a public measure shall be submitted to the voters at an official election. Only those offices which are specifically authorized or required by state law to be filled by the voters at an election shall be placed on the ballot at an official election.

~~This section does not prohibit the governing body of a city or county from adopting an ordinance provided for elections on matters under the jurisdiction of the governing body.~~

**COUNTY CORRECTIONS AND LAW ENFORCEMENT STEERING COMMITTEE****Policy Statements****Inmates in County Care Facilities**

SF 267, passed in the 1993 General Assembly, ordered the Department of Corrections and other state agencies to study developing community-based placements for elderly and infirm inmates who are deemed to be low risk for committing future public offenses. These community-based placements may include, but are not limited to, county care facilities.

County care facilities are not equipped to hold state prisoners, nor should they be. If these people are not a threat to the community, they should be set free. If they are still a threat to the community, they belong in a penal setting, not a county care facility.

ISAC opposes any attempt to put DOC inmates in county care facilities.

**Drivers' Licenses & Sheriffs**

ISAC supports giving the authority to county treasurers to issue drivers' licenses and to conduct related drivers' license activities. As part of this added responsibility, someone from the county will have to conduct the necessary driving tests. County sheriffs want to cooperate with the treasurers, but at the same time, they should not be required to conduct these tests if they choose not to do so. And that is not the treasurers' intention. The solution on this should be worked out locally. Some sheriffs may want to do the testing. Where they don't, the treasurers will simply make some alternative arrangement. ISAC opposes any legislation requiring that sheriffs conduct the driving tests.

**County Jails**

**Sentencing Options:** Several proposals regarding increased use of county jail facilities have been introduced during the last several legislative sessions. Serious problems (overcrowding, increased liability exposure and increased demands on the property tax base) could result if the county jails are relied on to solve the state's prison overcrowding problem. In light of these considerations, ISAC opposes any legislation introduced which would expand the class of offenders sentenced to the county jails. ISAC does support the expansion of state residential and correctional facilities to house state prisoners.

**Privatization:** There is a natural tendency to dump a county's jail problems on a private entrepreneur who promises to make those problems go away. But county officials need to remember that the county is ultimately liable for what happens in the jail, whether it is run by an elected sheriff or a private business.

Privatization of jails will not work, because any private contractor must make a profit in order to survive. The most logical approach would be to reduce personnel costs, since these comprise the largest part of the jail budget. But the best defense against a lawsuit is a well-trained, properly supervised staff. Any jail that is understaffed or staffed with inadequately trained individuals is just a lawsuit waiting to happen.

Since private contractors would most likely be paid a fixed amount for each prisoner held, there is a built-in incentive to keep prisoners in jail and keep the jail full. Sheriffs, who must stand for election, must run their jails in a manner that is satisfactory to the citizens of the county. Private contractors are not as subject to community pressure, since they do not stand for elections. The contract they have with the county insulates them. Therefore they may not attempt to solve problems in the jail, especially



problems that will be costly to solve. Experiences in other states have demonstrated that privatization, instead of saving money, can prove very costly for counties.

The county jails should not be taken away from the sheriffs and turned over to private contractors. Instead, the counties and the sheriffs should devote more effort to professionalizing county jail operations in this state.

**Regional Jails:** Any regional jail, if constructed, should be under the control of the sheriff of the county in which the facility is located.

### **Juveniles and Law Enforcement**

Sheriffs and deputies are spending more time than ever before dealing with juveniles. There are more requests than ever for transportation. In some departments, there are deputies that do nothing except transport juveniles.

There is also a greater frequency of calls to service provider centers. Many of these calls result because juveniles often have greater behavioral problems than the facilities they are placed in were designed to handle. Juveniles who are now being placed in shelters used to be in detention facilities. These situations cause problems such as runaways. And now, runaway situations are more likely to involve criminal activity, such as burglary and stolen cars. Also, if running away from home is determined to be a delinquent act, money should be allocated not only for space to hold the runaways, but also for additional juvenile court and law enforcement officers.

State funding limitations and caps on out-of-home placements of juveniles in children-in-need-of-assistance and juvenile delinquency cases have resulted in denial of timely placement and needed treatment and remedial programming for children, which has resulted in increased or higher costs to counties for detention placements and increased risk of harm to children and public safety. Funding was reduced and the number of placements were capped at an artificially low level primarily due to fiscal considerations, not what was in the best interest of the children or public safety and welfare.

The only real solution is to place juveniles based on their needs, not based on what is convenient or cheaper. Part of the answer is to examine what level of control should be available at juvenile shelters, for the good of both the juveniles and the community.

Part of the solution has to include increasing the number of Eldora training school, Toledo, and foster care beds, and providing for at least 500 more juvenile out-of-home treatment placements.

### **Sheriff as an Elective Office**

The sheriff's jurisdiction is co-extensive within the county, including all municipalities and townships. As the executive law enforcement officer of the county, the sheriff's duty is to make sure that those who violate the rights of others are arrested, availed of a fair trial, and if convicted, to see that the punishment that has been ordered is carried out.

The sheriff is charged by the people to determine what the public safety and tranquillity demand, and to act accordingly within the law. The sheriff is the only peace officer in the state whose allegiance and accountability is directly to the people and not to a government entity, a political group, or a body of non-elected government officials.

To remove the sheriff's office from the elective arena would be to deprive the citizenry of important rights, most notably the right to select a person to preserve the peace and protect them against vice and crime.



### **Retaining the Compensation Board**

After years of unfair and discriminatory methods of setting the compensation for elected county officials, the legislature has finally enacted a law which is scrupulously fair to the elected officers and to the public whom they serve.

The present law, which allows seven county taxpayers to review and set the compensation for their elected officials, with a built-in veto remedy by county supervisors to prevent rash or unwarranted adjustments, provides the proper checks and balances system for the protection of the public and for fair and equitable treatment of elected officials.

The legislators should not abandon the balanced system they have set in place simply to placate special interest groups who would sacrifice fairness to caprice and to selfish personal interests.

### **Lack of Bed Space**

Under Iowa Code chapter 125, the Iowa Department of Public Health is charged with providing a comprehensive and coordinated program for substance abusers and intoxicated persons. Nonetheless, there is a lack of secure facilities in this state for detoxification and evaluation purposes. ISAC urges the state to abide by chapter 125 and see to it that this state has adequate facilities offering detoxification and evaluation.

### **Additional Corrections Beds**

The state of Iowa has recently approved 750-bed state prisons at Clarinda, Newton and Fort Dodge. But even when all of these facilities are up and running, prison, jail and community corrections facilities will still be pushed beyond their capacity. For instance, there are currently 400 women prisoners in a system designed to handle only 180. The most acute need is in the area of medium security beds for men. If we are going to get tough on crime, we have to have adequate correctional beds to hold those who need to be separated from the community at large. ISAC supports the Board of Corrections recommendation for 750 more corrections beds.

### **Drugs**

Substance abuse continues to be a leading health and public safety concern, particularly in light of increased use and trafficking of methamphetamine and use of other controlled substances by youth. Prosecution alone is not the answer to this problem. The state and local governments must enhance enforcement, prevention and treatment efforts concerning the use of controlled substances.

### **Prosecuting Attorneys Training Coordinator**

The Office of the Prosecuting Attorneys Training Coordinator provides essential training, support, materials, and technical assistance for the offices of county attorneys, which is beneficial for law enforcement and county agencies. It is appropriate that adequate funding for these services should be provided through state appropriations or an adequate alternative state funding source. For FY99 the appropriation should be \$285,895 adjusted for normal growth. In addition, a prosecutor training fund should be maintained at current funding levels from property forfeited pursuant to §809A.17.

### **Correctional Facility Fallout**

Counties with state correctional facilities have substantial costs involving prosecution, law enforcement and general relief. County attorneys are required to prosecute cases that develop inside the institution as well as cases involving significant others who come to the community to be near inmates and who are involved in criminal activity. Local law enforcement is called on to assist correctional officers in regard to investigations of crimes connected to the institution with suspects and victims outside the institution, such as escapes, attempted escapes, and smuggling contraband into the institution. The county general relief office may be called on to provide assistance to relatives and significant others of inmates as they come to the community. The Iowa legislature should provide state funding on a per inmate population basis to counties to assist in prosecution, law enforcement and general relief.

### **Video Link to Prisons**

In counties with prisons located in them, state prison officials need to work with the county to establish a video link to the courthouse. This would save on transport costs and result in reduced need for security in the court. Prisons already have an ICN link that is used for education and will be used for parole. The ICN link is also in at least some of the clerk of court offices. This link could be used for any matter the court judges the system adequate for. The system could also be used to produce witnesses from other parts of the state without the costs and difficulties that may arise. It has also been suggested, and is in use in some counties, that a similar or the same network be set up between the courthouses, county jails and juvenile facilities. While this communication system is efficient, there are costs associated its usage.

The state and the counties should develop a partnership to guarantee that in every county with a state prison, there is a video connection between the Department of Corrections facility and the district court, with the cost paid for by the State of Iowa.



**Legislative Objectives****(Tie)1. Hiring Illegal Aliens**

**PROBLEM:** The problem of illegal immigration is not going to improve as long as American employers see illegal aliens as an inexpensive source of labor that can be freely exploited. If any employer hires someone in good faith, and that person turns out to be an illegal immigrant, the employer should not be penalized. But if an employer knowingly hires illegal aliens, the employer should be penalized, and the penalty should be stiff enough to discourage other employers from attempting the same thing. The Iowa legislature made a move in the right direction in 1996 when it passed legislation providing civil penalties for employers who knowingly hire illegal aliens. But the civil penalties in that legislation were not tough enough to do any real good.

**SOLUTION:** Amend Iowa Code §715A.2A(3) as follows:

“An employer who violates this section shall cease and desist from further violations and shall pay the following civil penalty:

- a. For a first violation, not less than ~~two hundred and fifty~~ five thousand dollars and not more than ~~two ten~~ thousand dollars for each unauthorized alien hired or employed.
- b. For a second violation, not less than ~~two ten~~ thousand dollars and not more than ~~five~~ twenty five thousand dollars for each unauthorized alien hired or employed.
- c. For a third or subsequent violation, not less than ~~three~~ twenty five thousand dollars and not more than ~~ten fifty~~ thousand dollars for each unauthorized alien hired or employed.”

**(Tie)1. Wireless Phone Surcharge**

**PROBLEM:** In 1996 the Iowa Legislature passed Iowa Code §34A.15, establishing the E911 Communications Council. This council was proposed by a statewide group of E911 administrators who identified numerous challenges relating to the provision of E911 services statewide. These issues included database errors, surcharge collection problems, billings, application of new technology, lack of dispatcher training, and cellular issues. The council's purpose is to coordinate development of systems, mediate disputes, oversee planning, and assist in the implementation and operation of Iowa's E911 systems. But no funding was provided in the establishing legislation. Lack of staff and resources will effectively prohibit the E911 Communications Council from carrying out its functions.

**SOLUTION:** Adopt House File 735, laid over from the 1997 legislative session. Under this bill, a surcharge equivalent to the statewide average of landline surcharges on wireless devices would be remitted to the E911 Communications Council. Cellular phone users are able to use 911 now; however, they do not pay the surcharge as regular telephone users do. This surcharge would be remitted to the E911 Communications Council, who will retain a portion for its operations and give a portion to the Iowa Law Enforcement Academy for telecommunicator training. The balance will be remitted to the joint E911 service boards to be spent in accordance with Iowa Code chapter 34A. HF 735 extends the existing wire line surcharge to wireless subscribers; it addresses the cost recovery requirements required by carriers; it addresses the mandatory training for dispatchers; and it addresses the operational costs of the E911 Communications Council.

### 3. Taking a Peace Officer's Weapon

**PROBLEM:** Nationally, 25 percent of all law officers killed in the line of duty are killed with their own firearms. Yet the Iowa Code contains no provision making it a criminal offense to knowingly remove a firearm or weapon from the person of a law enforcement officer when the officer is acting within the scope of his or her duties.

**SOLUTION:** Make it a crime to disarm a law enforcement officer, specifically providing as follows:

#### 708.12 Disarming a Peace Officer

- (1) No person shall knowingly remove or attempt to remove a firearm or weapon from the person of a law enforcement officer, or deprive a law enforcement officer of the use of a firearm or weapon, when the officer is acting within the scope of his duties, and the offender has reasonable cause to know or knows that the individual is a law enforcement officer.
- (2) Whoever violates this section is guilty of disarming a law enforcement officer, a class "D" felony.
- (3) When a person knowingly and intentionally discharges the weapon during the commission of this offense, the person is guilty of a class "C" felony.

### 4. Medical Costs of Prisoners

**PROBLEM:** Currently, if a person is injured in the course of an arrest by a Department of Public Safety officer, that person can be dropped off at the jail and the bills for that prisoner's medical treatment automatically becomes a county responsibility. The Department of Public Safety employees are not held accountable for injuries they cause.

**SOLUTION:** Amend Iowa Code §804.28 as follows:

The sheriff of any county shall accept for custody in the county jail of the sheriff's respective county any person handed over to the sheriff for safekeeping and lodging by any member of the department of public safety. The county shall not be liable for medical treatment for injuries caused by a member of the department of public safety to a person handed over to the sheriff. Any expenses payable by the state pursuant to this section shall be paid of any money in the state treasury not otherwise appropriated.

### 5. Escapee Expenses

**PROBLEM:** As a recent Marion County case pointed out, the state does not always pay the financial price when someone escapes from state custody. In that case, a man escaped from Department of Corrections custody, was involved in a car accident, and incurred \$110,000 in medical costs. Because the accident occurred in Marion County, a district court judge determined that "but for" his injuries the escaped prisoner would have gone to Marion County jail, so Marion County was held liable for half of the escaped prisoner's medical costs. If a prisoner escapes from state custody, that prisoner should be a state responsibility.

**SOLUTION:** Add a new Iowa Code section as follows:

#### 904.507A Escapee Expenses

If a person escapes from an institution under the control of the state of Iowa, including but not limited to those listed in section 904.101, all necessary and legal expenses incurred by that person while absent from the institution shall be paid out of any money in the state treasury not otherwise appropriated.



## 6. Presentence Investigations

**PROBLEM:** Once someone enters a guilty plea to a class "B," class "C" or class "D" felony, or is convicted of a class "B," class "C" or class "D" felony, the court routinely requires a presentence investigation, meaning the counties hold the convicted felon in jail for an additional 30 to 50 days prior to sentencing. If presentence investigations are warranted, as these individuals are convicted felons, the cost of holding them should be a state responsibility.

**SOLUTION:** Amend Iowa Code §901.2 to provide that once someone enters a guilty plea to a class "B" class "C" or class "D" felony, or is convicted of a class "B," class "C" or class "D" felony, the state will reimburse the county for the actual cost of holding that person prior to sentencing.

## 7. Post-Conviction Relief

**PROBLEM:** Iowa Code §822.5 states that counties will pay attorneys' fees for post conviction relief and then request reimbursement from the Executive Council. This section applies to any county with a state correctional facility, e.g., Jones, Lee, Page, etc. In one recent six-week period, Jones County claims have exceeded \$7,900. The county expects claims to exceed \$40,000 annually. These costs are clearly state costs and should be paid directly by the state, rather than being passed through county finances.

**SOLUTION:** Amend Iowa Code §822.5 as follows:

### 822.5. Payment of costs

1. If the applicant is unable to pay court costs and expenses of legal representation, including stenographic, printing, or other legal services or consultation, these costs and expenses shall be made available to the applicant in the preparation of the application, in the trial court, and on review. However, nothing in this section shall be interpreted to require payment of expenses of legal representation, including stenographic, printing, or other legal services or consultation, when the applicant is self-represented or is utilizing the services of an inmate.

2. If an applicant confined in a state institution seeks relief under section 822.2, subsection 6, and the court finds in favor of the applicant, or when relief is denied and costs and expenses referred to in subsection 1 cannot be collected from the applicant, these costs and expenses ~~initially~~ shall be paid by the ~~county in which the application was filed. The facts of payment and the proceedings on which it is based, with a statement of the amount of costs and expenses incurred, shall be submitted to the county in a timely manner with approval in writing by the presiding or district judge appended to the statement or endorsed on it, and shall be certified by the clerk of the district court under seal to the state executive council. The executive council shall review the proceedings and authorize payment reimbursement for the costs and expenses or for that part which the executive council finds justified, and shall notify the director of revenue and finance to draw a warrant to the applicant county treasurer on the state general fund for the amount authorized.~~

## 8. Probationary Period for Deputy Sheriffs

**PROBLEM:** Under Iowa Code §341A.11, the probationary period for a deputy sheriff is six months if that deputy sheriff is already certified at the Iowa Law Enforcement Academy when he is hired. But if that same deputy sheriff is not already certified when he is hired, then the probationary period is a flat 12 months. This 12-month limitation in some circumstances frustrates the sheriff's ability to fairly assess the competence of a deputy. For instance, if a deputy goes to work for a county and does not attend the law enforcement academy for 10 months due to lack of space at the academy or other reasons,

then the probationary period would not even run through the end of that deputy sheriff's 12 weeks of academy training. Rarely will any sheriff allow a deputy to patrol on his own unless he is certified. So the true test of a deputy can only come following certification. The better solution is to change the law to give the sheriff six months to evaluate how that deputy is working out after completing the academy.

**SOLUTION:** Amend Iowa Code §341A.11 to guarantee that, in every scenario, the sheriff has six months after a deputy sheriff has been certified to evaluate the deputy's performance. The current statute should be amended as follows:

"The tenure of every deputy sheriff holding an office or position of employment under the provisions of this chapter shall be conditional upon a probationary period. ~~of not more than twelve months, and where such deputy sheriff attends the law enforcement academy or a regional training facility certified by the director of the Iowa law enforcement academy, a period of not more than six months during which time the appointee may be removed or discharged by the sheriff~~ If the employee has successfully completed training at the law enforcement academy or a regional training facility certified by the director of the Iowa law enforcement academy prior to initial appointment as a deputy sheriff, the probationary period shall be for a period of six months and shall commence with the date of initial appointment as a deputy sheriff. If the employee has not successfully completed training at the law enforcement academy or a regional training facility certified by the director of the Iowa law enforcement academy prior to initial appointment as a deputy sheriff, the probationary period shall be for a period of six months following the date of certification as a peace officer as certified by the director of the Iowa Law Enforcement Academy or 18 months from the date of initial appointment as a deputy sheriff, whichever is less.

## 9. Removal Notices

**PROBLEM:** If someone abandons a motor vehicle or other personal property on your property, some courts are construing Iowa Code §556B.1(1) as creating a duty on the sheriff to remove that motor vehicle and store it for 180 days before selling it. Often the sale proceeds will not be sufficient to cover the cost of storage. Especially if the sheriff is going to be responsible for the removal and storage, there is no reason these situations should be drawn out for 180 days.

**SOLUTION:** Amend Iowa Code §556B.1(2) as follows:

The real property owner or possessor shall notify the sheriff of the county where the real property is located of the removal of the motor vehicle or other personal property. If the owner of the motor vehicle or other personal property can be determined, the owner shall be notified of the removal by the sheriff by certified mail, return receipt requested. If the owner cannot be identified, notice by one publication in one newspaper of general circulation in the area where the personal property was parked or placed is sufficient to meet all notice requirements under this section. If the personal property has not been reclaimed by the owner within 10 days ~~six months~~ after notice has been effected, it may be sold by the sheriff at public or private sale. The net proceeds after deducting the cost of the sale shall be applied to the cost of removal and storage of the property, and the remainder, if any, shall be paid to the county treasurer.

## 10. Gun Permits

**PROBLEM:** Currently, the sheriff is required to handle all the paperwork for renewals of non-professional gun permits, but can only charge a \$5 administrative fee. This minimal fee does not fairly reflect the time that is require to handle these renewals, especially since a criminal history check is required for each renewal. And there is a large number of renewals to process, since these gun permits must be renewed annually. Raising the fee makes sense, since the fee for issuing an initial permit is already \$10, and the time and paperwork is virtually identical.



**SOLUTION:** Amend Iowa Code §724.11 to make the fee identical: \$10 for both the initial non-professional gun permit, as well as the renewal.

### 11. Inmate Work Programs

**PROBLEM:** The existing statutes create some confusion regarding liability when state prisoners are being used by counties for things like brush and weed cutting and tree planting. The law should be clear that the state is liable for damages caused to third persons by inmates on work crews, even when they are being supervised by county employees. The lack of clarity on this issue has limited work opportunities for inmates.

**SOLUTION:** Amend Iowa Code §669.2(4) as follows:

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

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

Also amend Iowa Code §904.703 as follows:

#### 904.703. Services of inmates--institutions and public service

Inmates shall work on state account in the maintenance of state institutions, in the erection, repair, authorized demolition, or operation of buildings and works used in connection with the institutions, and in industries established and maintained in connection with the institutions by the director. The director shall encourage the making of agreements with departments and agencies of the state or its political subdivisions to provide products or services under an inmate work program to the departments and agencies. The director may implement an inmate work program for trustworthy inmates of state correctional institutions, under proper supervision, whether at work centers located outside the state correctional institutions or in construction or maintenance work at public or charitable facilities and for other agencies of state, county, or local government. The supervision, security, and transportation of, and allowances paid to inmates used in public service projects shall be provided pursuant to agreements made by the director and the agency for which the work is done. Housing and maintenance shall also be provided pursuant to the agreement unless the inmate is housed and maintained in the correctional facility. All such work, including but not limited to that provided in this section, shall have as its primary purpose the development of attitudes, skills, and habit patterns which are conducive to inmate rehabilitation. The director may adopt rules allowing inmates participating in an inmate work program

to receive educational or vocational training outside the state correctional institutions and away from the work centers or public or charitable facilities used under a program.

However, an inmate shall not work in a public service project if the work of that inmate would replace a person employed by the state agency or political subdivision, which employee is performing the work of the public service project at the time the inmate is being considered for work in the project.

The director may enter into a chapter 28E agreement with a county board of supervisors or county conservation board to provide inmate services for environmental maintenance including but not limited to brush and weed cutting, tree planting, and erosion control. ~~The board of supervisors or conservation board shall reimburse the department of corrections for the allowance paid the inmates by the director. The supervision, security, and transportation of inmates used pursuant to the chapter 28E agreement shall be provided by the department of corrections.~~



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**ENVIRONMENT AND LAND USE STEERING COMMITTEE****Policy Statements****Flow Control**

Should Congress pass the pending flow control legislation, it is recommended the state legislature pass enabling legislation to allow local governments flow control, that is, the power to recover all solid waste generated within a solid waste agency's planning area.

**REAP Funding**

ISAC supports the REAP Congress position on REAP funding, which is as follows:

Appropriations for REAP should be no less than \$10 million per year. With Iowa's economic situation improving, the appropriation should increase to the original commitment of \$30 million per year. REAP's time period should be extended beyond the year 2001 in order to achieve at least the original \$300 million total commitment (\$30 million per year for 10 years). We urge maintaining the current formula for REAP expenditures.

**"Grants to Counties" Program**

We feel that funding for the "Grants to Counties" program should be continued. We feel this allocation is necessary.

**Medical and Infectious Waste**

ISAC would like to see medical and infectious wastes defined and/or delineated. The General Assembly should regulate and permit the handling of each type of waste appropriately and possibly create spin-off industries that could manufacture new products here in Iowa.

**Waste Reduction Management**

Solid waste planning areas need local flexibility to implement programs that will assist the state in achieving its goals of solid waste reduction. They should not be mandated to implement programs that will cause their tipping fees to exceed market competitive rates or be penalized for not implementing programs that would make their rates noncompetitive in their marketplace.

**Habitual Offender Restrictions**

Habitual offenders, such as but not limited to, environmental polluters, shall be prohibited from transferring property to a family member or related corporation, during any period of restriction from building that has been imposed upon the original owner.

**Hazardous Substance Cleanup Fund**

ISAC supports the concept of creating a fund to be used for cleanup of chemical and agricultural waste spills. A fee imposed upon the facility owners or operators should be placed into a special fund which would be distributed to state and local emergency planning committees for planning, training, equipment, and staffing necessary for cleaning up hazardous chemical and agricultural spills within their area.

### **City Annexation**

ISAC supports legislation that would require cities to consider county concerns when a city implements any voluntary or involuntary annexation. When the county invests in infrastructure in an unincorporated area and the city plans to annex that area prior to the county recovering the cost of that investment, the city should be required to obtain county approval prior to implementing that annexation.

### **On-Site Wastewater Treatment and Disposal**

ISAC supports revisions of chapter 69 of the Iowa Administrative Code that would offer increased local control of the “On-site Wastewater Treatment and Disposal Systems” rules. We would like continued technical and regulatory support from the Iowa DNR while maintaining local control of enforcement.

In addition, we support increased state allocations to provide funding for each county to have trained environmental specialists for enforcement of these and other environmental ordinances, regulations and rules.

### **“Takings” Legislation**

ISAC is opposed to “takings” legislation that may harm the public safety, health, or welfare, but support individual case-by-case review of laws and regulations that place an undue burden on landowner’s property values. Over the last two to three years, a proposal in numerous state legislatures has sought to resolve conflicts concerning environmental and natural resources laws and regulations through so-called “takings” legislation. These measures have, typically, called for reimbursement by state and local governments to those who show that administrative rules or statutes comprise a “taking” of their property or the use of their property. Bills have been introduced that would call for payment to a property owner by the state or local government in the event the landowner showed that the actions of the state or local government had an adverse effect affecting 50% of the value of their property. Such actions could have to do with any state or local law, whether having to do with natural resources or environmental protection or not. Part of the issue has to do with who determines whether 50% of the value of that property has been adversely affected. Such claims would present the possibility of breaking the back of state and local treasuries.



## **Legislative Objectives**

### **1. Animal Feeding Operations**

**PROBLEM:** The animal feeding/production industry in Iowa is rapidly changing. New technologies and management practices allow for more efficient production of livestock, especially hogs, and have resulted in a better consumer product.

While this rapid change has provided many benefits for the consumer and producer alike, potential impacts from animal feeding operations affect Iowans as well. Issues that the state must address include: impacts on nearby property owners, including values and quality of life; environmental impacts on surface water, groundwater and air quality; economic trade-offs stemming from the structure of the industry itself (i.e., "large vs. small" or "corporate vs. traditional" operations); and the ability of local governments to control local use and development decisions.

**SOLUTION:**

1. Livestock production is important to local and state economies for many reasons, and it is the state's best interest to maintain/increase its production capacity.
2. Management and technology of the feedlot operation are the keys to environmental quality and compatibility with surrounding land uses. Advances in management and technology should be reflected in standards for site development planning, waste storage facilities, and management plans for the disposal of animal waste.
  - a. Current DNR guidelines for waste management application should have regulatory effect.
  - b. Waste management plans should be required for all land application of waste.
  - c. Separation standards for waste storage facilities from existing water supply wells should be developed.
3. Local input in the final decision is essential, even if combined with state control over certain aspects of the approval process. The constitutional rights and remedies of nearby property owners and residents must not be circumscribed by special legislation.
  - a. Require notification of the local government by the DNR of any application for a construction or operation permit for an animal feeding operation within the local government's jurisdiction.
4. Monitoring and enforcement of regulations and standards must be adequately funded and staffed.
5. Financial assurances for development and post closure clean up should be required.

### **2. Open (Illegal) Dumping of Solid Waste**

**PROBLEM:** New solid waste regulations make it more costly for individuals to dispose of unwanted items such as tires, appliances, and yard waste. As a result of legislative actions to remove these items from the solid waste stream, many of them have found their way, through indiscriminate dumping, into fragile environmental areas such as waterways, isolated wooded areas, and road ditches. As items are regulated out of the solid waste stream and tipping fees go up, additional strain is placed on local environmental health resources to investigate and resolve indiscriminate dumping complaints.

**SOLUTION:** The legislature should implement a deposit and redemption law on waste appliances and tires modeled on Iowa's bottle and can deposit law. Recycling of all solid waste should be encouraged.

We would also have the legislature include a civil penalty by authorizing that existing penalties for illegal dumping be enforced by local health authorities in addition to the DNR.

### **3. Manure Monitoring and Control**

**PROBLEM:** Inadequate guidelines and controls have resulted in leaking and spillage of manure, thereby creating a hazard to our water supplies.

**SOLUTION:** Enact the following system of controls, as advocated by the Wright County Board of Supervisors.

1. A perimeter tile line and monitoring well system shall be installed around each livestock confinement operation that requires a DNR permit. The perimeter tile line shall have an appropriate number of monitoring wells (the number to be determined by the DNR). The tile line shall be located about 50 ft. from the outside lowest point of a lagoon birm or other manure storage structure as well as the confinement buildings.
2. Monitoring well testing shall be completed by state-approved environmental testing laboratories. Because of the broad based interest and concern, funding for the testing should be funneled through either the Department of Natural Resources or the Department of Public Health. Local employees could be used to complete the testing procedures if necessary, with reimbursement through state agencies.
3. The DNR shall inspect every confinement site requiring a DNR permit for regulatory compliance during each stage of the construction process. A final inspection shall be completed before the site becomes operational. The inspection process shall include the initial core sampling of the site, the lagoon construction and the building construction. To facilitate the inspection process, the DNR shall be allowed additional funding for appropriately trained inspectors. In addition, increased state allocations to provide funding for each county to have trained environmental specialists for enforcement of these and other environmental ordinances shall be provided.
4. All drainage tile lines entering or leaving a confinement construction site shall be cut and permanently capped (according to DNR requirements) at least 50 ft. from the outside bottom of the manure storage structure or lagoon birm and from each building on the construction site. Tile lines that have been cut shall be re-routed to provide sufficient drainage relief to neighboring landowners. (Note: This may be resolved by administrative rules.)
5. Irrigation gun manure spreading shall be banned.
6. Any animal confinement or feeding operation shall be subject to environmental rules, regardless of the size or number of animals involved.
7. All animal confinement or feeding operation waste-holding structures shall be above the seasonal water-table level.

### **5. Sunset Clauses for TIF Districts**

**PROBLEM:** Prior to 1995 or 1996, tax increment financing districts or projects do not have a "sunset clause." Taxes cannot be obtained by the county, and TIF gains are continually rolled over into new projects. No taxing authorities except for the city or the area college involved are able to share in the normal valuation increases.

**SOLUTION:** Code §403.19 and/or chapter 404 need to be revised to bring about a fair division between economic development and tax equity. Sunset clauses shall be included in all projects.



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**HEALTH AND HUMAN SERVICES STEERING COMMITTEE****Policy Statements****Drugs**

Substance abuse continues to be a leading health and public safety concern, particularly in light of increased use and trafficking of methamphetamine and use of other controlled substances especially by youth. Prosecution alone is not the answer to this problem. Enforcement, prevention, and treatment efforts concerning the use of controlled substances needs to be enhanced.

**Juvenile Justice**

In implementing and carrying out the assessment-based approach by the Department of Human Services and the programs of the juvenile justice system, the following concerns should be addressed:

1. That child abuse, crimes against children, and child neglect be adequately investigated and reported in a proper and timely manner in full cooperation and assistance with law enforcement agencies.
2. That investigations and assessments be conducted by persons with adequate training, experience, and resources.
3. That county attorneys and the courts be informed about child abuse and neglect and crimes against children and results of the investigations in a timely manner.
4. That adequate resources for needed protective services be developed and funded, with input from consumers, agencies, and officials on a local level.
5. That adequate funding be provided for needed out-of-home and community-based placements and services, case management and supervision, and legal proceedings.

**1998 Child Care Agenda**

1. Create one child care assistance program for low income families. Affordable quality child care is required so that families can work. Iowa's child care assistance programs are fragmented, with different and hard to understand rules and eligibility guidelines making access difficult for families. One seamless child care program in Iowa will: serve as a single point of access for all parents seeking child care assistance; establish consistent eligibility guidelines; help parents locate quality child care and subsidy resources appropriate for them; centralize data to document the subsidy need of low income parents; help parents become informed, educated consumers on accessing subsidy service, choosing and monitoring child care; and make services available to all parents and providers of choice on an equal basis.
2. Increase income eligibility for all child care assistance programs to 150% of federal poverty subject to a co-pay schedule requiring families above 100% of poverty to share in the cost of child care. And, in FY99, increase the DHS budget request by \$18 million to serve up to 14,000 children. This will allow for program eligibility expansion to include families whose wages rise modestly above the poverty level. Low and moderate income families, and those leaving public assistance for employment, find the cut-off for state child care assistance to be a major barrier to getting and maintaining jobs. Families with young children cannot afford to take entry level jobs without help in paying for child care, because: child care is expensive, costing approximately \$4,000 per child per year; even parents with moderate income need some child care assistance to remain in the labor force; and child care subsidy is a key part of the workforce infrastructure needed to expand and maintain the labor pool.
3. Create a task force to develop inter-departmental policies and strategies to ensure children in child care and early education programs receive developmentally appropriate services that promote

healthy brain development. Recent research indicates that the care and stimulation children receive before age three has profound and irreversible impact upon their brain development. Increasing numbers of infants and toddlers spend hours each day in various early childhood programs because their parents work or attend school. This means: parents need information regarding the early years and quality care for their infants and toddlers; a majority of Iowa children are placed in unregulated child care arrangements; and resources needed to ensure quality of care are located in multiple state agencies and are not always coordinated for effective local programs.

4. Increase funding for child care resource and referral services. As a result of welfare reform, demand for services will continue to significantly increase. Many parents lack adequate knowledge about the child care system, how to find accessible, affordable and quality child care and how to select a provider and monitor the care their children receive. Child Care Resource and Referral programs are uniquely positioned to: assess availability of child care and coordinate it with available job opportunities; develop additional resources for child care; provide training and technical assistance to parents and child care providers; work with employers in addressing child care shortages; promote quality in all forms of child care and early education programs; increase supply of child care in response to increased demand of welfare reform and non-traditional work schedules; and to utilize additional funding for family child care home consultants to work in targeted areas to increase the capacity and improve the quality of child care for low income working families.

#### **Mental Health Parity**

Based on the current federal law that went into effect September 18, 1996, health insurance coverage for individuals with mental, nervous, alcohol, or drug diagnosis are covered to a lifetime maximum of \$50,000 for inpatient and outpatient services. Lifetime maximums for other illnesses are typically much higher (\$2 million). This discrepancy in our laws is very discriminatory and needs to be corrected. Iowa needs to amend Iowa Code §71 to adopt an Insurance Parity law similar to laws already passed by other states that requires lifetime maximums be equal for all conditions.

#### **Innovation Zones**

In the 1996, the Iowa General Assembly created the innovation zones board within the council on human investment in section 61 of SF 2470. This legislation is designed to enable counties, cities, and school districts to establish community partnerships and redirect existing public funds to achieve improved outcomes for children and their families by way of participating in local innovation zone plans. Several pilot programs have been authorized by the board. The board is scheduled to sunset on June 30, 1998. ISAC supports an extension of innovation zones for at least two more years so that there will be time to evaluate the potential for extending this opportunity to other Iowa communities.

#### **Community Mental Health Centers**

Counties have experienced difficulty negotiating contracts with mental health centers. Some of the difficulties relate to an unwillingness or inability to provide the detailed kind of information that counties need to determine the appropriate funding level. The Community Mental Health Centers Association of Iowa (CMHCAI) has requested legislative intervention for issues they have identified pertaining to contracting with counties for services. These requests include: establishing uniform eligibility criteria; and establishing a county maintenance of effort for funding CMHCs. The CMHCAI indicated that many of their members are experiencing financial difficulties due in large part to a change in the way that counties are paying for services. A major factor is the unwillingness of many counties to continue the subsidization of other third party payers, such as Medicaid. In addition, the mental health centers are experiencing difficulty obtaining reimbursement from the county of legal settlement, when they do not have a contract with that county.



Counties strongly support the availability of community based mental services and the continuation of local determination of provider agency, eligibility criteria, and funding level. Counties generally oppose continued subsidization of Medicaid. We believe that the state's Medicaid program, and any managed care company with which it contracts, should pay a reasonable rate that adequately covers the cost of services. We also believe that all providers, including mental health centers, need to be accountable to the funding counties and provide sufficient financial and program information to allow for effective contract monitoring. Continuation of quality community mental health services requires that the mental health centers, and other mental health providers, work cooperatively with their public founders, both state and county, to identify the problems contributing to their financial difficulties and work on mutually acceptable solutions. Counties oppose any efforts to impose state mandates that limit the counties ability to contract with their provider network.





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## Legislative Objectives

### **1. Property Tax Relief (Mental Health)**

#### **1a. Base Year and State Funding**

**PROBLEM:** In 1994, the Iowa General Assembly enacted legislation (HF 2430) to restructure the MH/DD services system in Iowa and to create a partnership between the state and counties for funding and implementation of the system. The legislation established county expenditures in FY94 as the base year for this partnership. The FY94 system costs for counties was \$190 million.

In 1995, the Iowa General Assembly enacted legislation (SF 69) to carry out the plans in HF 2430. A three year funding plan was established to bring the state up to a 50% funding share. \$61 million was appropriated for FY96; \$78 million was designated for FY97; and, \$95 million (50% of \$190 million), was designated for FY98 and each year thereafter. This funding stream is called the "Property Tax Relief Fund," and for each dollar a county receives from this fund, there must be a corresponding reduction in property tax askings by that county. ISAC is strongly in support of this concept.

Between FY94 and FY96, counties experienced large cost increases due to growth demands in the MH/DD system. As a result, SF 2030 was enacted early in the 1996 legislative session to allow counties to reestablish the base by choosing 1996 as their base year. In 1997, SF 145 allowed for further county adjustments in the base. As a result, the base has jumped to \$214 million, representing a \$24 million increase. 50% of \$214 million is \$107 million.

**SOLUTION:** In order for the state to fulfill its promise to property taxpayers to fund 50% of the county base year MH/DD system costs, another increment of \$12 million must be added to the \$95 million previously established, which would bring the state 50% share to \$107 million.

#### **1b. Funding for Children's Services**

**PROBLEM:** In 1994, the Iowa General Assembly enacted legislation (HF 2430) to obligate the state to fully fund the nonfederal share of MH/DD services for minors beginning in the following fiscal year. This commitment was necessary to forge the emerging partnership between the state and counties for mental health service system management and funding. To that end, the state appropriated \$6.6 million to cover the FY95 nonfederal share of medical assistance costs of ICF/MR and HCBS waiver services for children in HF 132 in the 1995 session.

Later in the 1995 session, SF 69 was enacted to provide \$61 million in property tax relief to be distributed to Iowa's counties to offset MH/DD service costs. A provision in SF 69 carved out \$6.6 million for children's from the \$61 million, which actually left \$54.4 million for property tax relief. In effect, county property taxpayers did not obtain property tax relief for the state payment of MH/DD costs for children in FY96. In the 1996 legislative session, the legislature made this practice permanent in SF 2470. As a result, the state will always be \$6.6 million short from reaching the anticipated 50% share in funding county mental health costs, and the property taxpayers are left without property tax relief from state payment for these children's services.

**SOLUTION:** Repeal §426B.1, new subsection 3, as enacted in HF 2470 in the 1996 regular session, and fund children's MR services from a source other than the Property Tax Relief Fund.

## 2. MH/DD Funding

### 2a. System Growth

**PROBLEM:** In the 1996 legislative session, SF 2030 was enacted to provide a way to measure and pay for growth in the MH/DD system. The State County Management Committee is charged to study and recommend a growth factor adjustment allowing for inflation, new consumers, and investments for economy and efficiency. The recommendation must be made to the Governor by November 15. In 1997, the legislature established a 2.8% growth factor for FY98 and FY99. The State County Management had recommended a 10.2% growth factor for FY98 as the appropriate level to address the three factors. The State County Management Committee must recommend a growth factor for FY00 that addresses these issues.

**SOLUTION:** In the coming year, the state should adopt a growth factor adjustment for FY00 that adequately meets the funding demands in each county. The State County Management Committee is considering a methodology that sets a per capita spending benchmark, establishes an incentive fund that counties can access if they meet established outcome goals, and establishes a risk pool or stop loss fund to aid counties experiencing unusually high expenditures.

### 2b. Removal of County Responsibility for Funding MH Treatment Services for Medicaid Eligible Children and Adults

**PROBLEM:** In the Request for Proposals for the Medicaid Managed Care Program, the IA Plan, the state continues to relieve the contractor of responsibility for Medicaid eligible individuals under court commitment or served at an MHI. Because current state law requires counties to pay at MHIs and for certain commitment costs when there is no other funder, this shifts the risk and the cost to the counties. In effect, counties are being required to "reinsure" the for-profit managed care contractor for these individuals.

**SOLUTION:** Amend the relevant sections of the Iowa Code to remove any county financial responsibility at MHI or other treatment providers, for any individuals enrolled in the IA Plan or eligible for Medicaid Fee-for-Service Program.

## 3. Costs of Services to Juveniles

### 3a. Cost for Juveniles at State Mental Health Institutes

**PROBLEM:** The foster group care funding cap/limitation has caused an increase in county expenditures for juveniles at the state's Mental Health Institutions. Counties are experiencing this "dumping" effect as a result of disputes between the state Mental Health Institute, MBC of Iowa (the state's contracted managed care agent) and local Department of Human Services workers. Since July 1, 1997, DHS has contracted with the Iowa Foundation for Medical Care (IFMC) to review decertifications by MBC of Iowa. Current information indicates that IFMC reviews have found that 50% of the children decertified for acute care by MBC of Iowa continued to need the MHI level of care. In addition, local DHS workers are limited in their placement options due, in part, to limitations on foster care funding. Therefore, children are housed at the MHI, a more costly and restrictive level of care, while they wait for an alternative placement to become available. DHS has stated that as of July 1, 1997, the state will fund services if a placement is delayed due to a lack of an appropriate alternative placement. However, DHS still has conditions, including delays due to court action, in which the county will continue to be billed for services to these children.

**SOLUTION:** The State of Iowa should assume responsibility for funding all costs for juveniles at the MHIs and for related commitment costs. In addition, the legislature should require that DHS:



- Develop preventive measures that support family unity and prevent highly restrictive institutionalization of children;
- Develop **treatment programs**, following the models of out-of-state facilities such as Gerard of Minnesota and Wyalusing Academy, for children with dual diagnoses of mental retardation and psychiatric or **severe emotional disorders**.
- Require DHS to report all admissions of juveniles into community ICF/MRs, state hospital schools, MHIs, shelter and detention facilities to an ongoing legislative study committee.

### 3b. *Juvenile Detention*

**PROBLEM:** Section 232.142 (3) of the Code of Iowa mandates that the state pay at least ten percent and not more than fifty percent of counties cost of juvenile detention. Legislation passed last session (HF 734), which would have been used for this purpose in FY98 does not seem to be generating sufficient dollars to reimburse counties at the ten-percent level. Moneys that historically have been allocated for this purpose as part of the DHS budget package have been removed from their FY99 and FY00 budget proposal. The result is that the total cost of juvenile detention has been shifted back to counties and the property tax system.

**SOLUTION:** The state should honor the mandate of §232.142 (3), by allocating sufficient dollars to insure that counties will be reimbursed a minimum of 10% of the costs of juvenile detention and insure that a mechanism exists to honor this mandate on an ongoing basis.

### 3c. *Shelter Care*

**PROBLEM:** The state has not increased the shelter care per diem allowance for six years, which has resulted in the shifting of more and more of the shelter care cost to counties and the property tax system. The DHS budget for FY99 and FY00, as endorsed by the Iowa Council on Human Services, proposes a \$6.21 per diem increase for shelter care each year for the next two years. This increase would begin to address the trend of the last few years of shifting costs to the counties and property tax.

**SOLUTION:** The state should pay the cost of shelter care.

### 3d. *Juveniles in County Management Plans*

**PROBLEM:** In 1997, the legislature amended Iowa Code §331.439 of the Iowa Code by adding paragraph 8, which states that a county's management plan must allow for the service needs of all ages of persons for whom expenditures may be made from the county's services fund. This language was written with the concern that counties were not providing mental health counseling services through their Community Mental Health Center or the county's contracted alternative service provider. The result of this language makes any service offered within a county's plan open to juveniles. Thus, juveniles can now access any residential or vocational services funded by the county.

**SOLUTION:**

1. Repeal this paragraph; or
2. Amend the paragraph to state that "A county's management plan submitted under this section shall allow for the service needs of all ages of persons who seek out-patient counseling services and other services designed for specific age groups through the county's contracted community mental health center provider or designated contracted "Other Mental Health Services Provider."

#### 4. Legal Settlement

**PROBLEM:** During the 1997 legislative session, legislation was passed, at the request of counties, to address issues raised in the *Washington County v. Tama County* Supreme Court case. It now appears that the language ties change of legal settlement to the location of the provider, rather than changes in the consumer's treatment status.

**SOLUTION:** Amend Iowa Code §252.16(8) as follows:

A person receiving treatment or support services from any provider whether organized for pecuniary profit or not or whether supported by charitable or public or private funds, that provides treatment or services for mental retardation, developmental disabilities, mental health, brain injury, or substance abuse does not acquire legal settlement in a county ~~in which the site of the provider is located~~ unless the person continuously resides in that county for one year from the date of the last treatment or support service received by the person."

#### 5. Billings from the Department of Human Services

**PROBLEM:** The concern over late state billings for the MHI, ICF/MR, HCBS/MR and Targeted Case Management programs has frustrated counties since they are mandated to function under a managed care system, including a fixed budget.

- In the past year, counties have received billings from the state anywhere from 42 to 117 days after the date of service, with an average of 79 days.
- When the state enters the county of legal settlement incorrectly, those services are billed to the wrong county, resulting in further delays to the appropriate county. To compound this problem, the state is extremely slow in correcting the county of legal settlement in their system, and subsequently billing the correct county and notifying the original county of the correction.

**SOLUTION:**

1. Absolve the counties of any payment liability when the bill is received more than 90 days after the date of service; or
2. Allow the provider to bill the county the non-federal share and allow the state to pay the provider on the federal share of the cost.

#### 6. Emergency Medical Services

**PROBLEM:** Emergency Medical Services (EMS) is a key component to the health care system in Iowa, and is especially important to rural health care. In many areas, this important service is provided by persons volunteering their time. The short history of funding EMS in Iowa has dramatically demonstrated that training and equipment funding are needed. New basic care legislation has enabled EMS personnel to use new skills and equipment to provide even higher levels of care to their communities. In order to assure that state regulations that require that equipment (such as defibrillators) are available to EMS personnel, these volunteers and the communities must engage in time consuming fund-raising activities. Since fund-raising efforts are becoming less successful, without state funding, many of these volunteer EMS programs will be forced to close, resulting in a reduced availability of EMS services in parts of Iowa. It is essential that the state appropriate sufficient funds for EMS programs to operate.

**SOLUTION 1:** Reinstate the equipment part of the EMS grant program, or investigate new and innovative funding sources for the purchase of needed essential equipment for services upgrading to the new state standards.

and



**SOLUTION 2:** Continue state EMS funding for training and education, and allow counties to decide how the money should be spent.

## 7. Public Health Nursing

**PROBLEM:** State funding for public health nursing has increased only slightly in the past 17 years (from \$1.6 million to \$2.5 million). Service demands of an increasingly older population, shortened hospital stays, high technology in the homes, increasing numbers of MI/MR/DD/BI children and adults requiring community based services have increased. Level funding of the Public Health Nursing and Home Care Aide and Chore grant allocations since 1990 has decreased the service funded by the grant. Today, agencies are forced to severely limit the services of environmental tasks and social services, and concentrate on personal care for the more seriously ill.

**SOLUTION:** The state appropriation for both the Public Health Nursing and Home Care Aide programs should be significantly increased in FY98 and funding increases should continue in the following years to achieve a 50% or greater increase in appropriations by FY00.

## 8. Medicaid Reimbursement to Community Mental Health Centers and Other Mental Health Services Providers

**PROBLEM:** Managed care companies and third-party payers are not reimbursing community mental health centers and accredited "Other Mental Health Services Providers" the actual cost for providing services. Therefore, cost shifting may occur to the counties in the form of increased rates. Since many of these agencies serve a disproportionate share of persons on Medical Assistance, they do not have other funding sources to shift costs to. Therefore, some publicly funded mental health providers are in jeopardy of closing since some counties are no longer willing, or able, to subsidize Medicaid payments in the form of block grant funding.

**SOLUTION:** Request legislative intervention to require the Department of Human Services to establish appropriate cost-related reimbursements to community mental health centers and the "other community mental health providers" that are accredited by the MH/MR/DD/BI Commission.

## 9. Brain-Injury Funding

**PROBLEM:** Funding for services for persons with a brain injury is very limited. While counties believe that many of these individuals need services that they are unable to obtain, because of the limitations of the fixed budget they do not have the resources available add a new population group for county funding.

**SOLUTION:** The state should establish a fund comprised of state and/or federal dollars to provide services for persons with brain-injury.

## 10. ICF/PMI

**PROBLEM:** There have been no monies available to develop specialized units in long-term care facilities to care for the residents who have behavioral problems that cannot be managed in the traditional nursing home setting. This includes elderly persons with diagnosis of Alzheimer's Dementia or Organic Brain Syndrome. These persons exhibit behaviors such as physical combativeness (to self, other residents and staff), verbal abusiveness and wandering. Assistance is needed to finance the construction and remodeling of areas within long-term care facilities for specialized units. Additional funds are needed for the initial retraining of staff to care for these special residents.

**SOLUTION:** The legislature should direct the Medicaid program to develop a per diem rate for residents based on the type of care required, and appropriate funds to cover 100% of the non-federal share.

### 11. Termination of Adult Service

**PROBLEM:** Prior to July 1, 1996, the federal Social Services Block Grant (SSBG) required DHS to handle purchase of service contracts for providers receiving these funds in payment for serving eligible individuals. In coordination with this activity, DHS social workers were required to perform service coordination activities for these individuals. As the state moves away from contracting for services, it is unclear whether they will continue to provide service coordination services for these individuals. If DHS discontinues this practice, this appears to be a direct cost shift to counties. While the Director of the Department of Human Services has pledged that the role of the DHS social worker will continue in areas that CPCs have requested maintenance of the relationship, DHS has dropped the case weight of adult service cases in ICF/MRs to zero. The net effect of this action is to increase the workload of the worker to a point that it is virtually impossible for them to perform social case work activities. DHS staff should continue to receive case weights for the important service they provide to individuals with disabilities, and their on-going participation in staffings and individual program plan development should be required, if requested by a county. In addition, the state historically revised their financial eligibility requirements to reflect changes in federal guidelines. However, these guidelines have not been updated for several years, resulting in the inappropriate denial of services for persons who should qualify.

**SOLUTION:**

1. Mandate DHS to continue providing adult services and maintain an appropriate case weight to allow them to participate in consumer staffings and in the development of the consumer's individual program plan, if a county requests; or
2. Provide a state allocation to counties to fund the expense of an appropriate number of county case managers.
3. Update the financial eligibility requirements to be consistent with current federal guidelines.

### 12. Individuals With Disabilities On Parole

**PROBLEM:** Counties are being requested to fund individuals on parole from a penal institution. If an individual is unable to work due to a disability, they are not appropriate for a half-way house. For an alternative placement, they are being referred to residential care facilities. From the counties' perspective this brings up two issues:

1. Residential care facilities are not correctional facilities. Staff are not trained to work with individuals just released from prison pertaining the criminal justice system or safety issues.
2. When an individual is paroled to a half-way house, they are the financial responsibility of the Department of Corrections. When admitted to a county care facility, they become the financial responsibility of the county. The Department of Corrections is cost-shifting its responsibility onto the county. In addition, the lack of development of appropriate services for parolees with a disability appears to be a discrimination against people with disabilities, and may be a violation of the federal American with Disabilities Act (ADA).

**SOLUTION:** The Department of Corrections should fund treatment programs for individuals on probation or parole with disabilities.

### 13. Domestic Violence and Homeless Shelters

**PROBLEM:** Rural counties, with widely dispersed populations and limited resources, face a great challenge in the delivery of services to homeless populations. Rural areas do not traditionally have either



“homeless” shelters or transitional housing available to homeless individuals or families. Shelters offer an important safety net and support system for those populations.

The fastest growing population of homeless in the United States are women and children who are homeless as a result of domestic violence. This is true in both urban and rural areas. It is particularly pertinent in rural areas where the home (farm) may also be the base for the husband’s work. While the abused spouse and children can access a protection order, they generally will not be given possession of the home when it is also the site of the husband’s employment. Thus, they find themselves homeless in an area with limited housing and no transitional housing.

Current trends to defund helping programs will impact the “near-homeless” populations. Loss of energy or heating assistance, food stamps, or housing subsidies will negatively impact those who are only marginally surviving. These populations, of which a significant number are children, will become homeless and need assistance as homeless persons.

**SOLUTION:** Funding for shelter programs, including domestic violence programs, must be maintained to serve homeless or near-homeless populations. In rural areas, in particular, shelters fill a need for immediate and short-term housing until more appropriate housing can be identified. To assist in serving homeless populations, funding is necessary in the following areas:

1. Ongoing and consistent funding for shelters;
2. Development of transitional housing;
3. Families who are homeless to be given priority for subsidized housing assistance;
4. Developing local initiatives for both low-income housing and transitional housing; and
5. Community information and education about homelessness and the contributing factors.





**TAXATION AND FINANCE STEERING COMMITTEE****Policy Statements****Replacement Tax on Power Utilities**

The electric utility industry is being restructured at the federal and state levels from one that is highly regulated to one in which there is significant competition. Changes in federal law have brought about wholesale power competition in generation and transmission, whereas now the focus has shifted to retail competition for power generation.

Many states have already passed legislation to give individual consumers the ability to choose among a variety of power sources, and the federal government is considering such legislation. This would allow generating companies to sell directly to retail customers, in what was formerly the exclusive franchise area of regulated utilities, while paying state-regulated rates to use the utilities' transmission and distribution lines.

Current efforts to restructure the electric power utility industry, from a monopoly system to a more competitive one, are pressuring local governments to re-evaluate their policies on how they generate tax revenue from the power industry. County government officials have yet to assume their proper role as partners in plans to reshape the nation's electric industry.

Restructuring the delivery of electricity will affect counties in many areas, including the cost of electricity to facilities, residences and businesses; tax revenue generation authority, rights-of-way issues; energy conservation practices; and a variety of other impacts.

In light of the impending power utility restructuring, deregulation, and competition, the Iowa investor-owned utilities are looking for ways to be an active player in the competitive arena by proposing to replace the property tax with a replacement tax that would apply to all power utilities (in-state and out-of-state) that serve consumers in Iowa. The replacement tax would be based on kilowatts of electricity generated, transmitted and distributed and on therms of gas distributed. Whereas the property tax only applies to power utilities with a nexus in Iowa, the replacement tax would be applied to all utilities doing business in Iowa.

ISAC's goal will be to preserve county tax revenue in this period of transition. The following objectives have been identified in the review of the power utility replacement tax plan:

- 1) Due to the complexities of the proposed changes to the local tax system, it is first necessary to have legislative and regulatory review of the replacement tax plan and also a fiscal impact study prepared by the Legislative Fiscal Bureau prior to any legislative action.
- 2) Prevent or minimize the loss of county taxing authority.
- 3) Allow for reasonable and satisfactory future growth of the replacement tax .
- 4) Prevent or minimize any potential shift in tax burden to other classes of property in cases when new property taxes are levied, such as debt service.
- 5) Preserve bonding capacity

**Assessor's Budgetary Limits**

A joint study is requested, involving the Iowa State Assessors Association in cooperation with the Iowa Department of Management and Iowa Department of Revenue and Finance, to review the prospect of an increase in the assessors' levy limits sufficient to permit all jurisdictions to have adequate funds.

### **Fair and Equitable Funding for Local Government**

ISAC is dedicated to the best service at the lowest possible cost for the citizens and taxpayers of Iowa. ISAC supports the concept of representative government and encourages the preservation of flexibility for elected officials to best represent the people who elect them.

In order to fulfill this proposition, Iowa's state and local governments must appropriately fund programs and services deemed necessary by our policy makers. A fair and equitable balance between state and local revenue sources for programs and services would best serve Iowa's citizens.

In keeping with that philosophy, ISAC supports the termination of the property tax limitation that is due to expire after FY98. ISAC opposes any future tax and spending limits on our state and local governments. Tax and spending limitations create artificial barriers to the representative system of government. Such limitations often reward inefficiency while inhibiting efficiency in governmental service. Limitations also tend to perpetuate imbalances between levels of government in funding of programs and services.

### **Preservation of Revenue Base**

ISAC supports maintaining a broad tax base. The broader the base, the less tax burden for each taxpayer. Various forms of tax base erosion cause property taxes to increase among taxpayers. When state mandated tax credits or tax exemptions are created to benefit a particular group, the tax base narrows and tax burden shifts to remaining property classes. This effect can also occur with placing limitations on county government's ability to tax a particular property class, resulting in a shift in property tax liability to the remaining taxpayers that have no such benefit. Such shifts create an imbalance in the tax system and complicate county government taxing authority.

In order to maintain an equitable tax base, county government needs to have local revenue authority and county officials should be included in decisions involving local revenue base. This concern addresses a variety of issues, such as unfunded state mandates, lack of conformity in budget certification deadlines, and exhaustion of urban revitalization, urban renewal (tax increment financing), and annexation. In addition, tax breaks or exemptions for economic development must be decided at the local level.

Finally, the state should fully allocate any funds, or establish percentages of funds, that belong at the local level. Arbitrary caps on such funds as the Bank Franchise Tax prevent local governments from realizing the full benefit of these revenues. Such caps contribute to the erosion of the local revenue base.

### **Funding of State Mandates**

County budgets are becoming increasingly burdened with the cost of current and new state mandates. Depending on how a mandate is defined, one-third to two-thirds of each county's budget deals only with various state-mandated functions.

This continues to force additional spending onto a very regressive form of taxation--the property tax. Any service mandated by state legislation or administrative action should have adequate state funds provided with it.

### **Justifiable Use of Property Taxes and Other Revenue Sources to Fund County Services**

Property tax is the primary source of revenue for counties. Taxes based on the value of property should relate to funding of local services, such as protection and maintenance of property and any other programs determined necessary by county boards of supervisors to meet identified local needs.



A review is needed to determine the appropriate revenue sources for county services provided. This review should at least address the proper use of property taxes and whether adequate state funds are provided for state-mandated county services, such as mental health, criminal justice, and property tax credits and exemptions.

### **Changes in Rollback Provisions**

The classification of property is a key element in the property assessment process. The relationship between classes of property in this process can often adversely affect such calculations. In order to obtain more equitable assessments, classes of property should stand alone. Therefore, ISAC supports the uncoupling of the existing relationship between the agricultural and residential classes of property as this relationship affects the calculation of the "rollback" multiplier on residential property. The four percent growth limit for any class of property should remain in effect.

### **Infrastructure Financing**

In recent years counties have had limited resources available for capital projects, including new construction, renovation, maintenance, improvements, and equipping. As a result, many local needs have been left unmet. Longer delays mean higher costs for taxpayers. ISAC supports the development of a state infrastructure financing program for local capital projects. Use of such mechanisms as the Iowa Finance Authority and revolving loan funds should be considered.

### **Bond Referendum Approval**

ISAC is dedicated to the principle of simple majority rule or "one person, one vote." Currently in Iowa, it takes a super majority (60%) to pass general county purpose bonds. Thus, a 40% minority can control these elections. This super majority concept is so popular with state policy makers it has remained intact for many years. In recognition of this political reality, and the simple majority concept, ISAC would support a 55% majority approval for such bonds.

### **Tax Credits**

Property tax credits and exemptions are mandated by state law and are administered by county governments on behalf of local taxing jurisdictions. The state has fully funded property tax credits until the early 1990s, when it experienced a budget crisis. As a result, the state has under-funded a significant portion of these property tax credits and continues to do so. Local property taxpayers are left with the paradox of funding the unfunded portion of their property tax credits with their property taxes. In order to simplify the property tax system, ISAC supports a change in the method of granting new and existing property tax credits to a state funded tax credit system, such as income tax credits.

After seven years of under-funding mandated property tax credits by the state, the state will begin fully funding property tax credits as of FY98. In addition, late filing of Homestead Credit and Military Service Tax Exemption will no longer be allowed as of FY98. Until the state finds another revenue source for the credits, counties support the continuation of full funding by the state of all state-mandated property tax credits as specified in the Code of Iowa and support maintaining the repeal of late filing for property tax credits.

### **Agricultural Land Tax Credit**

The agricultural land tax credit was originally created to allow Iowa farmers a "tax break" on their real estate taxes for their farm ground. At the time this credit was created, farm size averaged 150 to 200 acres per farm. The farms were owned locally, and operation and ownership was passed from generation to

generation. Farming was the mainstay of Iowa and the original purpose was to extend Iowa farmers a tax credit. But, over the years, things have drastically changed. Farms have greatly increased in size, and a higher percentage of the farm ground is owned by corporations and absentee landowners.

The agricultural land tax credit should benefit landowners who reside on the property and who use the property for the purpose it was intended. Out-of-state landowners should not benefit from such credits as this allows Iowa tax dollars to exit the state of Iowa and be spent in other states.

We, the Iowa State Association of Counties, support the original intent of the agricultural land tax credit for which it was created, and full funding of the Ag Land Credit reimbursement to the counties in Iowa.

### **Agricultural Classification**

A joint study is requested, involving the Iowa State Assessors Association in cooperation with the Iowa Department of Revenue and Finance and the Legislative Service Bureau, to review the prospect of permitting an assessor to assign a site value at market value of up to one acre of agricultural land in the case of assessing a residence on agriculturally classified real estate.

### **Constitutional Tax and Spending Limits**

HJR 14 as passed by the House of Representative during the 1995 legislative session contains a proposal to amend the Iowa Constitution by adding a new Article XIII. The proposal contains 15 separate sections and is a compilation of the various versions that appeared and failed in the legislature over that past decade.

The main provisions of the proposed amendment consist of a formula for defining the permissible level of state and local taxes in Iowa each year. The amendment would substitute this inflexible formula for the judgment and discretion of the General Assembly and elected local officials.

A mounting body of evidence and analysis justifies concern that the proposed amendment provides a solution to a non-existent problem, places highways as a spending priority over every other public service, undermines the principles of majority rule, and promises a future full of litigation in the Iowa courts.

ISAC joins with other members of the Coalition to Protect Iowa's Constitution in opposing passage of HJR 14.



## Legislative Objectives

### 1. Treasurers Clean-Up Legislation

#### 1a. *Installments*

**PROBLEM:** Outdated language (161A.35=Soil & Water Districts) (Watershed & Flood Protection)

**SOLUTION:** Amend §161A.35(2).

To pay such assessments in not less than ten nor more than forty equal installments, the number to be fixed by the governing body of the subdistrict and interest at the rate fixed by the governing body of the subdistrict, not exceeding that permitted by chapter 74A. The first installment of each assessment shall become due and payable at the ~~October~~ September semiannual tax paying date after the date of filing such agreement, unless the agreement is filed with the county ~~auditor~~ treasurer less than ~~thirty~~ ninety days prior to such ~~October~~ September semiannual tax paying date, in that event, the first installment shall become due and payable at the next succeeding ~~October~~ September semiannual tax paying date. The second and each subsequent installment shall become due and payable at the ~~October~~ September semiannual tax paying date each year thereafter. All such installments shall be collected with interest accrued on the unpaid balance to the ~~October~~ September semiannual tax paying date and as other taxes on real estate, with like penalty for delinquency.

#### 1b. *Terminating Interest*

**PROBLEM:** Inconsistent language, between §311.30 (Secondary Road Assessment Districts) and §309.55 (Secondary Road Anticipatory Warrants)

**SOLUTION:** Amend §309.55

When the accruing funds in the hands of the county treasurer, for a year covered by anticipatory certificates, are sufficient to pay the first retireable certificate or certificates, the county treasurer shall, by mail, as shown by the county treasurer's records, promptly notify the holder of such certificate of such fact, and ~~thirty~~ ten days from and after the mailing of such letter all interest on such certificates shall cease.

#### 1c. *Sale for Erroneous Tax*

**PROBLEM:** Unclear language

**SOLUTION:** Amend §445.61:

If a parcel subject to taxation is sold for the payment of such erroneous tax, interest, fees, or cost, the error of irregularity in the tax may be corrected at any time provided in this chapter, but this correction does not affect the validity of the sale or the right or title conveyed by a county treasurer's deed, if the parcel was subject to taxation for any of the purposes for which any portion of the taxes for which the parcel was sold was levied, and the taxes were not paid before the sale, or the parcel was not redeemed from sale.

#### 1d. *Secondary Road Assessments*

**PROBLEM:** Delinquency dates inconsistent. Problem exists in §317.21 *Cost of Such Destruction* and in §311.18 *Assessment Delinquent - Interest*. (Sec. Road Assessments.)

**SOLUTION:** Amend §317.2(1) (Weed Eradication) as follows:

The tax shall be due on March 1 after assessment, and shall be delinquent from April 1 after due ~~unless the last day of March is a Saturday or Sunday, in which case the tax becomes delinquent from the~~

~~following Tuesday. Including those instances when the last day of March is a Saturday or Sunday.~~ When collected, the moneys shall be paid into a fund from which the costs were originally paid.

Amend 311.18 (Assessment delinquent- - interest) as follows:

The assessed taxes shall become delinquent from October 1 after their maturity ~~unless the last day of September is a Saturday or Sunday, in which case the taxes become delinquent from the following Tuesday, including those instances when the last day of September is a Saturday or Sunday,~~ shall bear the same interest, and be attended with the same rights and remedies for collection, as ordinary taxes.

Amend §364.13 and §384.60 in conjunction.

**1e. *What Published***

**PROBLEM:** Publishing a semi-annual report that no one reads or understands.

**SOLUTION:** Amend §349.16 as follows:

There shall be published in each of said official newspapers at the expense of the county during the ensuing year:

1. The proceedings of the board of supervisors, excluding from the publication of said proceedings, its canvas of the various elections, as provided by law; witness fees of witnesses before the grand jury and in the district court in criminal cases.
2. The schedule of bills allowed by the said board.
3. The annual reports of the county treasurer, including a schedule of the receipts and expenditures of the county and the current cash balance in each fund in the treasurer's office together with the total of warrants outstanding against each of said funds as shown by the warrant register in the auditors office.
4. A synopsis of the expenditures of township trustees for road purposes as provided by law.

Amend §331.554 in conjunction.

**1f. *State Certification of County Levies***

**PROBLEM:** The law says the state must have the levies to the counties by June 30th.

**SOLUTION:** Figure some way of penalizing the state if it does not get the levies to the counties on a timely basis.

**2. Rollback Uncoupling of Ag and Residential Valuations**

**PROBLEM:** The classification of property is a key element in the property assessment process. The coupling of agricultural and residential property class valuations can often adversely affect the calculation of the "rollback" multiplier (factor) on residential property, by severely suppressing residential taxable valuation. In order to obtain more equitable assessments, classes of property should stand alone.

**SOLUTION:** Legislation should be enacted to uncouple the existing relationship between agricultural and residential classes of property. The four percent statewide growth limit for any class of property should remain in effect.

In addition, the assessment standard used should be the same in all valuation of property by assessing all property at the fair market value standard.



### 3. Application of Rollback in TIF Districts

**PROBLEM:** Current law requires that all taxable value reduction due to the rollback factor be subtracted only from the base value in a Tax Increment Financing (TIF) district, unless base value is reduced to zero. For example, this requirement means that a \$100,000 residential property value increase in a TIF district is applied to the increment of the TIF district, while the TIF base values (taxable by all taxing authorities) is decreased by the rollback factor. The most serious problem is created by the residential rollback; however, other classes of property could experience a "rollback" in certain years.

**SOLUTION:** Allow rollbacks to be applied proportionately to base and incremental valuations to determine taxable value of each. We recognize that this may jeopardize current bonded indebtedness repayment, and in those cases would recommend that current incremental value be exempted from the rollback provision, until current bonded TIF debt is paid. New bonded TIF debt should have the rollback factor applied to the incremental value as well as the base value.

### 4. Urban Renewal (tax increment financing)

**PROBLEM:** Urban renewal will lose its effectiveness if it is used extensively for a prolonged period of time. Local governments should not be allowed to act independently of other taxing jurisdictions that share a property tax base when establishing TIF districts.

**SOLUTION:** Change the law so that the taxing authority establishing the TIF can only affect its portion of the tax base without the approval of other affected jurisdictions. All TIF districts should be limited to a certain number of years.

### 5. TIF Districts - Removal of Negative Increment Parcels

**PROBLEM:** Nothing prevents a city from removing from a TIF district parcel that is losing value. Therefore, parcels can be added and subtracted to manipulate the highest possible increment value for the district. While this may serve the purposes of the city, it seems unfair to counties, which are denied taxable valuation and must adjust records that are already complicated to keep.

**SOLUTION:** Amend Iowa Code §403.19 to prohibit municipalities from removing parcels from an active tax increment finance district.

### 6. Urban Revitalization (property tax abatement)

**PROBLEM:** Some cities exhaust the use of urban revitalization. More cities are designating the whole city as urban revitalization areas. This is circumventing the intent of the law and affecting the taxing ability of other tax bodies such as counties and schools. It also affects state finances because of the school aid formula. Most of the properties qualifying for the tax breaks are new upper scale properties that are being built in new subdivisions.

**SOLUTION:** Do away with the tax abatement for urban revitalization, or make it more clear that it is to be used as intended for clearing up slum areas, or change the law so that the granting entity can only abate its portion of the taxes without the approval of other affected jurisdictions.

## 7. Voluntary Annexation

**PROBLEM:** Voluntary annexation by a municipality reduces a county's tax base. In many cases municipalities take over newly paved roads and improvements paid by the county without reimbursing the county for the cost.

**SOLUTION:** Set guidelines for reimbursement to counties by municipalities that annex county property improvements.

## 8. Addresses of Tax Statements

**PROBLEM:** At the time real estate is transferred, there is no way to know for sure what address should be used for tax statement purposes. We are not sure of when the new owner will plan to move into the home or if he or she plan to move at all. On deeds that have more than one grantee listed, we must try to find out from an attorney or some other source which person should get the tax statement.

**SOLUTION:** §331.602 General duties of county recorder. Add to the end of paragraph 1: "Any instrument conveying real property shall contain the statement: 'Address tax statement to:' which shall be filled out with the name and complete mailing address. Each instrument conveying real property shall contain this statement unless otherwise authorized by the county recorder."

## 9. Mileage Rate for Election Workers

**PROBLEM:** Currently Iowa Code §49.125 sets the mileage reimbursement rate for election workers according to the provisions of §49.20 and §70A.9. §49.20 states that election workers shall be deemed to be temporary state workers. §70A.0 would allow the county board of supervisors to set the election workers' reimbursement rate except if they are considered temporary state workers. A change is requested to reflect reality; counties are reimbursing at the same rate as for county employees. Since the state does not pay the officials and does not mandate the rate of pay for officials, nor does it pay worker's compensation or liability, then it should not set the mileage reimbursement rate.

**SOLUTION:** Insert in Iowa Code §49.20: "...while engaged in the discharge of their duties and shall be reimbursed for actual and necessary travel expense at a rate determined by the board of supervisors, except that..."; and

Change the Code reference in §49.125: "...and shall be reimbursed for travel to and from the place where the training is given at the rate specified in ~~section 70A.9~~ section 49.20 if the distance..."

## 10. Auditor's Transfer Fees

**PROBLEM:** Currently, the Code sets the county auditor's real estate transfer fees at \$5.00. This rate was established in 1973. The current cost of processing an instrument exceeds this fee, and may actually be as much as \$15.00 or more, depending on the instrument.

**SOLUTION:** Increase the auditor's transfer fee to \$10.00 to cover the actual cost of providing the service, with an increase in the aggregate limit to \$100.00.



## 11. Notices Mailed to Property Owner

**PROBLEM:** The treasurer is required to send several notices to taxpayers and taxpayers move and do not notify the proper authorities. As a result, they do not receive their notice and feel they are not responsible for the delinquent interest.

**SOLUTION:** Change language in §445.36(2), as follows: "A demand of taxes is not necessary, but every person subject to taxation shall attend at the office of the county treasurer and pay the taxes either in full, or one-half of the taxes before September 1 succeeding the levy, and the remaining half before March 1 following. However, if the first installment of taxes is delinquent and not paid as of February 15, the treasurer shall mail a notice to the taxpayer of the delinquency and the due date for the second installment. Failure to receive a mailed notice is not a defense to the payment of the (tax and any interest) TOTAL AMOUNT due."

Add language from §445.36(2), to §§446.2, 446.9(4), and 446.20, as follows:

*§446.2 Notice of sale.*

For each parcel sold, the county treasurer shall notify the party in whose name the parcel was taxed, according to the treasurer's records at the time of the sale, that the parcel was sold at tax sale. The notice of sale shall be sent by regular mail within 15 days from the date of the annual tax sale or any adjourned tax sale. FAILURE TO RECEIVE A MAILED NOTICE IS NOT A DEFENSE TO THE PAYMENT OF THE TOTAL AMOUNT DUE.

*§446.9 Notice of sale - service - publication - costs.*

§446.9(4), "Notice required by subsections 1 and 3 shall be deemed completed when the notice is enclosed in a sealed envelope with the proper postage on the envelope, is addressed to the person entitled to receive it at the person's last known mailing address, and is deposited in a mail receptacle provided by the United States Postal Service. FAILURE TO RECEIVE A MAILED NOTICE IS NOT A DEFENSE TO THE PAYMENT OF THE TOTAL AMOUNT DUE."

*§446.20 Remedies.*

§446.20(2), unnumbered paragraph 2. "Service of the notice shall also be made by mail on any mortgagee having a lien upon the parcel, a vendor of the parcel under a recorded contract of sale, a lessor who has a recorded lease or memorandum of a recorded lease, and any other person who has an interest of record, at the person's last known address, if the mortgagee, vendor, lessor or other person has filed a request for notice, as prescribed in §446.9(3), and on the state of Iowa in case of an old-age assistance lien by service upon the DHS. The notice shall also be served on any city where the parcel is situated. FAILURE TO RECEIVE A MAILED NOTICE IS NOT A DEFENSE TO THE PAYMENT OF THE TOTAL AMOUNT DUE."

## 12. Mobile/Manufactured Home Titles

**PROBLEM:** Current Iowa law requires a title transfer for mobile and manufactured homes upon a change of ownership. A title transfer is required for these homes when the home is located outside of a park and assessed as real estate or when the home is located in a mobile home park and taxed on a square footage basis.

Ownership of real property is transferred by deed, which is filed in the county recorder's office. When the real property contains a mobile/manufactured home located outside of a mobile home park, it is incumbent upon the buyer/seller to have the title transferred through the Vehicle Division of the county treasurer's office and to have ownership of the real property transferred by deed.

The present law requires a Tax Clearance form, certifying taxes for previous and/or the current year are paid, to be completed by the county treasurer when a mobile/manufactured home is moved from a mobile home park. However, a Tax Clearance form is not required to move a mobile/manufactured home that is located outside of a mobile home park and assessed as real estate. This provision is confusing and is not enforceable since one cannot distinguish between a home moving from a mobile home park and one that is moving from outside of a mobile home park.

Real property sold and properly recorded must have a Declaration of Value filed. A mobile/manufactured home that is sold and is not located in a mobile home park has a title that does not reflect the value of the home. Because use tax is only collected once on a mobile/manufactured home, subsequent title documents will not reflect a value that could be used by a county assessor to establish a taxable value.

**SOLUTION:** Repeal the current requirement to title, as motor vehicles, all mobile/manufactured homes; repeal the Tax Clearance requirements and repeal the conversion/reconversion alternatives provided by current Iowa law.

Require all mobile home parks owners/operators to immediately report to the county treasurer all mobile/manufactured homes that have moved into or out of the mobile home park. Increase penalties for non-compliance.

In lieu of a security interest notation on the Iowa certificate of title, security interests should be perfected through the Iowa Secretary of State or the county recorder and expand the effective period of the security interest from five years to an indefinite period or until the security interest is released by the financial institution.

### 13. Taxation of Manufactured Homes

**PROBLEM:** Manufactured homes are now taxed as real estate (except those homes which are located in a mobile home park, which are taxed on a square footage basis.) The county assessor places a value on the manufacture home and it is taxed accordingly. Since manufactured homes can be moved more easily and can be taxed as real estate one year, moved to a mobile home park, and then taxed on a square footage basis, (and possible delinquent tax), it is important to maintain some sort of identification on the tax list. There is much inconsistency between counties on the tax list with regard to maintaining any kind of documented identification of the manufactured home, creating abstracting problems.

**SOLUTION:** When assessing a manufactured home as real estate, the county assessor shall designate the last existing title number and the manufacturer's identification number in the county system to be shown on the real estate tax list.

### 14. Manufactured Buildings

**PROBLEM:** Some buildings are being manufactured and brought to the site on wheels. These buildings, mini-warehouses and hog confinement sheds even have concrete floors installed at the factory. Assessors have reported the manufacturers and purchasers are claiming these buildings are personal property and not real estate for tax purposes. While the units are simply placed upon the ground, in practically every instance the ground would have to be prepared (graded with a level sand or gravel base). Also, at least in the case of hogs or other animals, some services such as water and drainage would be required. Finally, and perhaps most important to the assessor, they are competitive properties with identical facilities constructed on site.



**SOLUTION:** Amend §427.1(1)c by inserting the following:

“Buildings, structures, or improvements, any of which are constructed on or in or placed upon the land, attached to the land, or placed upon a foundation whether or not attached to the foundation. However, property taxed under chapter 435 shall not be assessed and taxed as real property.”

### 15. Charitable Exemptions

**PROBLEM:** Many tax exempt properties are draining resources of local governments who receive no revenue from these properties.

**SOLUTION:** Tighten the laws defining exempt property. Also limit any further growth of charitable/benevolent tax exempt property. Require all applications for exemption to be filed before April 15 for review by the Board of Review.

### 16. Special Tax Court

**PROBLEM:** Currently, there is inconsistency and unpredictability of tax appeals in the district court system due to the complex nature of assessment methodology.

**SOLUTION:** In order to improve consistency and predictability of tax appeals in the district court, the State and Local Task Force is urged to consider establishing a special tax tribunal with expertise in mass appraisal of real property.

### 17. Delinquent Utilities Collection

**PROBLEM:** Cities may certify delinquent utilities against real property pursuant to Iowa Code §364. Some cities are also certifying delinquent utilities against mobile homes in parks within the city limits. The county treasurer currently has no authority to enforce collection of these delinquent utilities under tax sale provisions.

**SOLUTION:** Insert within the appropriate subsection of §364 a statement that delinquent utilities may be certified only against real property.





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**TRANSPORTATION STEERING COMMITTEE****Policy Statements****Roadside Dumping of Solid Waste**

In recent years, due to the enactment of mandatory recycling regulations and increased tipping fees at landfills, illegal dumping of solid wastes along and on all public right of ways has become a major expense to highway authorities.

Road money should be spent on construction and maintenance of our roads and bridges, not garbage collection. ISAC supports the enactment of laws making prosecution of traceable garbage easier. In addition, the problem of discarded tires needs to be further addressed. With the success of the can deposit law, the enactment of a similar tire deposit law is needed.





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## **Legislative Objectives**

### **1. Implements of Husbandry**

**PROBLEM:** The size and weight of implements of husbandry, primarily farm trailers and wagons, have grown at an alarming rate in recent years. Even larger models are being planned. While most manufacturers state these are for "off the road use" only, no existing law prevents their use upon Iowa's road and bridge network. The unchecked gross axle weights are causing severe damage to gravel roads, paved highways and bridges. These large, overweight wagons, trailers and vehicles, when mixed with normal traffic are a safety hazard to not only themselves, but to other unsuspecting road users.

**SOLUTION:** Enact legislation limiting the gross axle weights of implements of husbandry when traveling upon the roads and bridges of Iowa. Require sufficient braking capacity to stop a loaded vehicle either by brakes on the trailers and wagons or sufficient weight and braking capacity of the towing vehicle.

### **2. Drivers' License Issuance by County Treasurers**

**PROBLEM:** Many rural Iowa counties have limited access to drivers' license services. Currently, the service is offered by DOT teams one day a week or bi-monthly. The five-day-a-week service should be extended to Iowa citizens in counties that want them. These counties would work under direct contractual DOT supervision for CDL compliance.

**SOLUTION:** There are currently six counties in southwestern Iowa that issue drivers' licenses in the county treasurer's office. The state should permit county treasurers to issue drivers' licenses in any rural Iowa county that desires to offer this accessible and cost-effective service to its citizens.

The program would be the same for additional counties as it is for the existing six counties. Those additional counties would retain up to \$5.00 per transaction administration fee. The transaction fee shall replace the annual appropriation for the drivers' license teams that formerly served the counties. County treasurers shall issue motor vehicle licenses, nonoperators' identification cards, and the handicapped identification devices. County treasurers would operate under the direct supervision of the DOT for issuance of driving exams and issuance of commercial drivers' licenses for federal compliance. The department shall so certify those designated county treasurers the same as the IDOT itinerant teams.

The DOT shall provide each county treasurer with all supplies, materials, training and equipment necessary to carry out the duty of issuing drivers' licenses.

The six southwest counties have proven this program and service to be highly successful, efficient and cost-effective for the citizens of those counties. It works well.

### **3. Road Usage Ordinance**

**PROBLEM:** Counties have many problems with activities that are taking place in the road right-of-way. Present law is vague on the extent of authority the counties have to control activities within the right-of-way such as burning, brush cleaning and the placement of utilities. Yet the county is often held liable for these activities, vegetation growth and obstructions or hazards found within the right-of-way.

**SOLUTION:** Enact legislation clearly defining the authority of the Board of Supervisors to establish ordinances that control the use of and activities with the public right-of-way. Passage of HF 684 or similar legislation should be accomplished this session.

#### 4. Renewal Notice for Leased Vehicles

**PROBLEM:** A recent *Des Moines Register* article reported a trend that most county treasurers already knew, a growing number of vehicles registered in Iowa are being leased as opposed to purchased nearly one-third of all vehicles, according to the article. Our current motor vehicle registration data does not handle leased vehicles very well. Specifically, the system does not recognize the lessee as the person who should receive the annual registration renewal notice. They currently go to the lessor; often a large, out-of-state corporation that has little reason to care if the registration is renewed or not. Most county treasurers have dealt with more than one upset constituent because they had to pay a registration penalty, or worse, got a ticket for expired plates. It is not uncommon that they have other vehicles that they own and got a renewal notice for, and did not notice that the leased vehicle was not on the notice. The renewal notice always goes to the registered owner and in the case of a leased vehicle, that would be the leasing company, not the driver responsible for registration renewal.

**SOLUTION:** Legislation requiring the DOT's computer system to accommodate a mailing address for vehicle registrations.



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**STEERING COMMITTEES CHAIRPERSONS  
AND STAFF**

**AGRICULTURE AND RURAL AFFAIRS**

Chair - Bob Paulson, Winnebago County Auditor  
Staff - Bob Mulqueen

**COUNTY ADMINISTRATION AND ORGANIZATION**

Chair - Wayne Walter, Winneshiek County Treasurer  
Staff - Bill Peterson

**COUNTY CORRECTIONS AND LAW ENFORCEMENT**

Co-Chairs - Chuck Eddy, Buena Vista County Sheriff and  
Vernon Elston, Wright County Sheriff  
Staff - David Vestal

**ENVIRONMENT AND LAND USE**

Chair - Laura Foell, Sac County Supervisor  
Staff - Bob Mulqueen and Sandy Longfellow

**HEALTH AND HUMAN SERVICES**

Chair - Bob Ermer, Cerro Gordo County Supervisor  
Staff - Deb Westvold and John Easter

**TAXATION AND FINANCE**

Chair - Warren Richart, Benton County Treasurer  
Staff - Cris Plocher

**TRANSPORTATION**

Chair - Royce Fichtner, Marshall County Engineer  
Staff - John Easter

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## **Iowa State Association of Counties**

### **Public Policy Process**

**Affiliates decide what policies and objectives they want for the coming year.**



**Steering committees meet and discuss last year's priorities, input from affiliates, and any new ideas presented at the meeting.**



**A second steering committee meeting is held to finalize the policy statements and legislative objectives and to prioritize their legislative objectives.**



**Each steering committee provides its report to the ISAC Board of Directors for review and approval. The Board also determines "Top Priorities" for the coming year.**



**The full report of policy statements and legislative objectives is put before the general membership for ratification during the Fall School of Instruction and Policy setting Conference.**



**The final report with identified "Top Priorities" is presented to the General Assembly and other interested groups.**



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## Affiliate Legislative Liaisons

### **Assessors:**

Jim Maloney - Des Moines City Assessor ..... (515) 286-3010  
..... Fax # (515) 286-3386  
John Moreland - Clinton City Assessor ..... (319) 243-6210  
..... Fax # (319) 243-9731

### **Attorneys:**

Kevin Parker - Warren County Attorney ..... (515) 961-1014  
..... Fax # (515) 961-1044  
Richard Phillips - Muscatine County Attorney ..... (319) 263-0382  
..... Fax # (319) 263-4944

### **Auditors:**

Jim Dowling - Sac County Auditor ..... (712) 662-7310  
..... Fax # (712) 662-7129  
Phil Meier - Boone County Auditor ..... (515) 433-0502  
..... Fax # (515) 432-8102

### **Care Facility Administrators:**

Karen Smith - Dallas County Care Facility Administrator ..... (515) 993-4721  
..... Fax # (515) 993-5832

### **Community Services Directors:**

Carol Logan - Wapello County CPC Administrator ..... (515) 683-4576  
..... Fax # (515) 683-4634  
Larry Sundall - Emmet County General Assistance ..... (712) 362-5224  
..... Fax # (712) 362-2435

### **Conservation Directors:**

Don Brazelton - IACCB ..... (515) 367-2780

### **Emergency Management:**

Deanna Neldeberg - Marshall County Emergency Mgmt. Director ..... (515) 754-6385  
..... Fax # (515) 754-6389  
Lori Morrissey - Story County Emergency Mgmt. Director ..... (515) 382-6581  
..... Fax # (515) 382-3349

### **Engineers:**

Royce Fichtner - Marshall County Engineer ..... (515) 754-6343  
..... Fax # (515) 754-6384

### **Environmental Health Specialists:**

John Bein - Polk County Physical Planning ..... (515) 286-3376  
..... Fax # (515) 286-3437  
Kevin Anderson - City of Ames ..... (515) 239-5158  
..... Fax # (515) 239-5261

### **Public Health Nurses:**

Jackie Butler - Hamilton County Public Health Nurse ..... (515) 832-9565  
..... Fax # (515) 832-9660

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**Recorders:**

Dick Hagen - Scott County Recorder..... (319) 326-8621  
..... Fax # (319) 326-8601  
Nancy Parrott - Jasper County Recorder..... (515) 792-5442  
..... Fax # (515) 791-3680

**Sheriffs:**

Doug Strike - Chickasaw County Chief Deputy Sheriff ..... (515) 394-3121  
..... Fax # (515) 394-4173  
Ted Kamatchus - Marshall County Sheriff..... (515) 754-6380  
..... Fax # (515) 754-6369

**Supervisors:**

Ralph Kremer..... (319) 634-3315  
Dell Hanson - Benton County Supervisor..... (319) 472-4869  
..... Fax # (319) 472-4869

**Treasurers:**

Peggy Smalley - Audubon County Treasurer ..... (712) 563-2293  
..... Fax # (712) 563-2556  
Warren Richart - Benton County Treasurer..... (319) 472-2439  
..... Fax # (319) 472-2913







