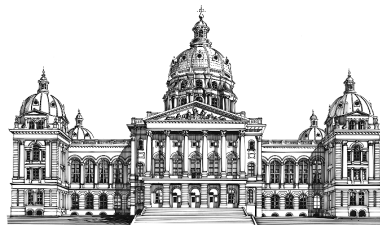

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Section 8.39 Appropriation Transfers

(Updated November 2001)

ISSUE

This *Issue Review* provides an update on Chapter 8.39, Code of Iowa, transfers made by State Agencies from FY 1996 - FY 2001, and details the transfers made during FY 2001.

AFFECTED AGENCIES

All State Agencies

CODE AUTHORITY

Chapter 8.39, Code of Iowa

BACKGROUND

There are two types of Chapter 8.39 transfers – intradepartmental transfers and interdepartmental transfers.

Intradepartmental Transfers

Chapter 8.39, Code of Iowa, authorizes the governing board or director of any State department to transfer a department's unexpended appropriation to another budget unit within the department. The requirements for this type of transfer include:

- Prior written consent of the Governor and the Director of the Department of Management must be obtained.
- The Director of the Department of Management must notify the Chairpersons of the House and Senate Appropriations Committees and appropriate subcommittees.
- The purpose of the transfer must be within the scope of the department making the transfer.

Interdepartmental Transfers

Chapter 8.39, Code of Iowa, authorizes the Director of the Department of Management to transfer funds from a department with excess appropriations to a department with insufficient appropriations. The requirements for this type of transfer include:

- Approval from the Governor must be obtained.
- The Director of the Department of Management must notify Chairpersons of the House and Senate Appropriations Committees and appropriate subcommittees.
- The budget unit receiving the transfer must be an entitlement appropriation (i.e., Indigent Defense, Foster Care, State Supplementary Assistance, Medical Assistance, and Family Investment Program appropriations). If the budget unit receiving the transfer is not an entitlement appropriation, the transfer cannot be authorized when the General Assembly is in regular session and the transfer amount cannot exceed 50.0% of the amount of the appropriation as enacted by the General Assembly.

Notification Requirements

The following requirements must be met prior to the approval of a transfer:

- The Department of Management is required to notify the Chairpersons of the House and Senate Appropriations Committees and the appropriate subcommittees prior to making transfers.
- Chairpersons must have at least two weeks to review and comment on proposed transfers.
- The Department must also notify the Legislative Fiscal Committee on a monthly basis of all transfers made.
- Notices are required to include the following information:
 - The amount of each transfer
 - The departments affected by each transfer
 - The reason for each transfer

Other States

Attachment A provides an overview of the authority of the Executive Branch in each state to transfer appropriations between departments (interdepartmental transfers) and within departments (intradepartmental transfers), and the role of each state's legislature.

Iowa, Indiana, and South Dakota are the only states that allow unlimited authority of the Executive Branch to make both interdepartmental and intradepartmental transfers. South Dakota is different than Iowa in that transfers require approval of an interim appropriations committee. Indiana law does not provide any requirements for legislative approval.

Transfers Since FY 1996

Table 1 provides a breakdown of transfers by type since FY 1996. The total transfer amount has ranged from a high of \$9.4 million in FY 1996 to a low of \$2.1 million in FY 1998.

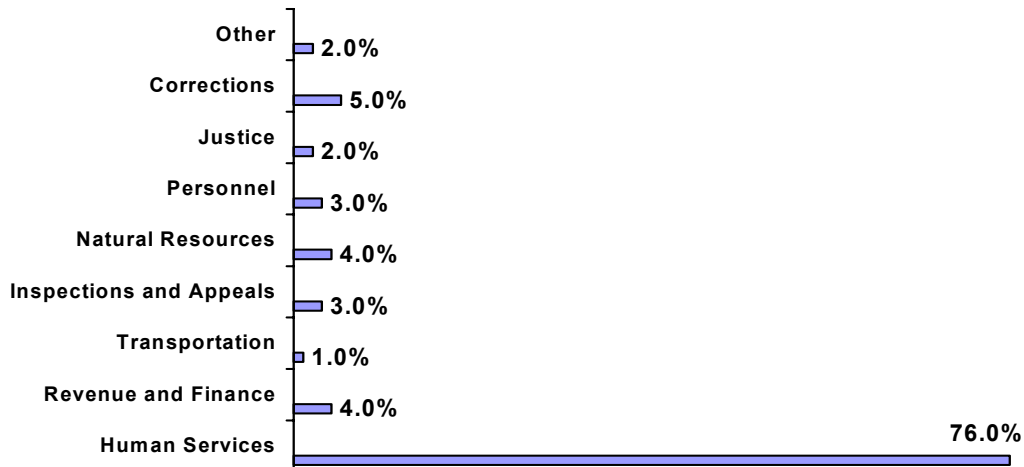
**Table 1
Transfers Since FY 1996**

| Fiscal Year | Intra- departmental | Inter- departmental | Total |
|--------------------|--------------------------------|--------------------------------|----------------------|
| 1996 | \$ 9,300,195 | \$ 61,600 | \$ 9,361,795 |
| 1997 | 5,174,082 | 40,000 | 5,214,082 |
| 1998* | 2,060,000 | N/A | 2,060,000 |
| 1999 | 2,959,500 | 72,500 | 3,032,000 |
| 2000 | 4,919,510 | 4,416,078 | 9,335,588 |
| 2001 | 3,717,871 | 513,900 | 4,231,771 |
| | <u>\$ 28,131,158</u> | <u>\$ 5,104,078</u> | <u>\$ 33,235,236</u> |

* The FY 1998 figure does not include intradepartmental transfers of \$41.6 million necessary to comply with federal funding requirements.

Since FY 1996, intradepartmental transfers have totaled approximately \$28.1 million. **Table 2** shows the percentage of the total amount that has been transferred by each department since FY 1996.

**Table 2
FY 1996-2001 Intradepartmental Transfers – Percentage of the Total
Amount Transferred by Department**



The Department of Human Services (DHS) had accounted for approximately 76.0% of the intradepartmental transfers since FY 1996.

CURRENT SITUATION**FY 2001 Intradepartmental Transfers**

Table 3 shows intradepartmental transfers by department for FY 2001.

Table 3
FY 2001 Intradepartmental Transfers

| <u>Department</u> | <u>Transfer From</u> | <u>Transfer To</u> | <u>Amount</u> |
|-------------------------|---|--|---------------------------------------|
| Dept. of Human Services | Dept. of Human Services Dept. of Human Services | Dept. of Human Services Medical Assistance | 2,793,300 |
| Office of the Governor | State-Federal Relations | General Office | 22,800 |
| General Services | Operations | Utilities | 31,000 |
| Revenue & Finance | Resource Management Resource Management | Compliance, Financial Cigarette Stamp Print | 200,000 9,700 |
| Dept. of Corrections | CBC District 5 | Fort Madison | 50,000 |
| Dept. of Nat. Resources | Administration Division Energy & Geological Res. Education, General Admin. Forestry Division | Parks Division Parks Division Parks Division Environmental Div. | 150,000 75,000 86,071 30,000 |
| Total | | | \$ 3,447,871 |

The DHS had transfers of approximately \$2.8 million to Medical Assistance. Expenditures for Medical Assistance exceeded the appropriated amount and intradepartmental transfers were made from several divisions including \$700,000 from General Administration, \$1.0 million from Child Support, and \$300,000 from State Cases to Medical Assistance.

The Department of Natural Resources transferred funds from the divisions of Forestry, Energy & Geological Resources, and Education to the Parks and Environmental Protection Divisions. The \$386,000 the Parks Division received in additional funding was used to cover higher costs for vehicle use, including fuel and increased maintenance activities. Camping receipts were also lower than budgeted due to rainy weather in the spring. The Environmental Protection Division received transfers totaling \$150,000 because federal funds for the Water Quality Planning Program were less than anticipated, and there were additional expenses associated with livestock regulation activities.

FY 2001 Interdepartmental Transfers

Table 4 shows interdepartmental transfers by department for FY 2001.

Table 4
FY 2001 Interdepartmental Transfers

| <u>Transfer From</u> | <u>Transfer To</u> | <u>Amount</u> |
|-------------------------------|-----------------------------------|--------------------------|
| Dept. of Economic Development | Public Employment Relations Board | \$ 38,900 |
| Dept. of Corrections | Dept. of Inspections & Appeals | 475,000 |
| Total | | <u>\$ 513,900</u> |

Two transfers from the Department of Economic Development to the Public Employment Relations Board totaled \$38,900, which were used by the Board to supplement printing costs and microfilming of records required by law.

An interdepartmental transfer of \$475,000 from the prison at Fort Dodge to the Indigent Defense Fund was used to cover attorney fees and case-related expenses that were under funded.

Non-General Fund Transfers

Other Non-General Fund transfers include \$15.9 million from the Senior Living Trust Fund appropriation for nursing facility conversion grants transferred from the DHS to cover shortages in the Medical Assistance Program. It is estimated that the Senior Living Trust Fund may have an ending value of \$135.8 million by FY 2005; however, federal payments into the Fund will decline over time and eventually cease. In addition, the amounts appropriated from the Fund will impact its ending value.

The Department of Transportation transferred \$4.3 million of the Primary Road Fund from the Divisions of Operations, Administrative Services, and Planning into the newly created Highway Division. Since this was due to merging the three Divisions, the transfer was done only to move the Primary Road Fund dollars into the correct budget unit.

The DHS transferred \$5.2 million of the FY 2001 Tobacco Settlement Fund from Home Health/Habilitative Care, Respite Care Critical Access Hospitals, and other provider increases to supplement the FY 2001 Medical Assistance Tobacco Settlement Fund appropriation. Of the dollars transferred in FY 2001, the General Assembly carried forward \$4.0 million of the same FY 2001 Tobacco Funds to supplement the FY 2002 Medical Assistance appropriation in FY 2002.

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Section 8.39 Appropriation Transfers
(Updated November 2001)

<http://staffweb.legis.state.ia.us/lfb/IRVIEW/irview.htm>

LFB: IRRNRR001.Doc/12/10/01/11:10 am/all

Overview of Other State Appropriation Transfers

| State | Authority of Executive Branch to Transfer Appropriations by Type | | Role of the Legislature in Transfers |
|---------------|--|-----------------|---|
| | Interdepartment | Intradepartment | |
| Alabama | Not allowed | Unlimited | Appropriation transfers between programs within a department must be reported quarterly to the Legislature. |
| Alaska | Not allowed | Not allowed | Agency transfers can be made only if provided for in the appropriations act or if the Legislature amends the appropriations act. |
| Arizona | Not allowed | Limited | Requires approval of the Joint Legislative Budget Committee to: 1) transfer funds to or from personal services and employee related expenditures from any other program, budget, or subclass; and 2) transfer funds within the Department of Administration. The Legislature must amend the appropriations act for interdepartmental transfers. |
| Arkansas | Limited | Limited | Depending on the situation, the Executive Branch may be required to consult the Legislature. |
| California | Not allowed | Limited | The Legislature must amend the appropriations act for interdepartmental transfers. |
| Colorado | Not allowed | Not allowed | Only the Legislature may transfer funds through appropriation. However, the Legislature allows limited transfers to close the books. |
| Connecticut | Limited | Limited | Approval by Legislative - Executive Finance Advisory Committee is binding over transfers within a department of more than \$50,000 or 10 percent, whichever is less. |
| Delaware | Limited | Limited | The Comptroller General, an employee of the Legislature, must concur on all transfers of general funds approved by the Budget Director. |
| Florida | Not allowed | Limited | The Legislature must be consulted to ensure statutory guidelines not violated. |
| Georgia | Limited | Limited | The General Assembly Fiscal Affairs Committee, which serves upon the governor's call only, is authorized to move appropriations between objects within a department. |
| Hawaii | Not allowed | Unlimited | The Legislature must amend the appropriations act for interdepartmental transfers. |
| Idaho | Not allowed | Limited | The Legislature must amend the appropriations act for interdepartmental transfers and transfers between programs exceeding 10 percent. |
| Illinois | Not allowed | Limited | Approval by Legislature is binding over interdepartmental transfers and transfers exceeding two percent of an operating budget item. |
| Indiana | Unlimited | Unlimited | None provided in statutes. |
| Iowa | Unlimited | Unlimited | Before any transfer of funds, chairs and subcommittee chairs of the House and Senate appropriations committees must be given at least two weeks to review and comment on the proposed transfers. |
| Kansas | Not allowed | Limited | Some transfers between departments may be allowed, with special legislative permission. Any State agency may, with the approval of the State Finance Council, transfer all or part of its items of appropriation to another of its items of appropriation. |
| Kentucky | Not allowed | Unlimited | The Legislature must amend the appropriations act for interdepartmental transfers. The budget bill may permit fund transfers. |
| Louisiana | Not allowed | Limited | The Joint Legislative Committee on the Budget may approve transfers between programs. The Legislative Fiscal Office analyzes and makes recommendations on these requests. |
| Maine | Not allowed | Unlimited | Review done by the Joint Appropriations Committee. |
| Maryland | Limited | Unlimited | Copies of amendments are sent to the Department of Legislative Services. |
| Massachusetts | Not allowed | Limited | Legislative approval is required for transfers between program classes within a department. |
| Michigan | Not allowed | Limited | Approval by the House and Senate Appropriations Committees is binding over intradepartmental transfers. The Legislature must amend the appropriations act for interdepartmental transfers. |

Overview of Other State Appropriation Transfers

| State | Authority of Executive Branch to Transfer Appropriations by Type | | Role of the Legislature in Transfers |
|----------------|--|-----------------|--|
| | Interdepartment | Intradepartment | |
| Minnesota | Not allowed | Unlimited | The Legislature is notified. |
| Mississippi | Not allowed | Limited | The Legislature must authorize interdepartmental transfers in the appropriations act. |
| Missouri | Not allowed | Not allowed | The Legislature must amend the appropriations act for any transfers to be made. |
| Montana | Limited | Unlimited | For the requirements of programs within a department, the Finance Committee does not have the power to approve or disapprove, only to advise. |
| Nebraska | Not allowed | Not allowed | The Legislature must amend the appropriations act for any transfers between departments or programs or delegate by specific act. |
| Nevada | Not allowed | Limited | Transfer of money within a department requires Legislative Interim Finance Committee approval. The Legislature must amend the appropriations act for interdepartmental transfers. |
| New Hampshire | Not allowed | Limited | All transfers within a department require prior approval of the Joint Legislative Fiscal Committee. |
| New Jersey | Limited | Limited | Depending on the type and dollar threshold of transfer, may require approval of legislative budget and finance officer of Joint Budget Oversight Committee. |
| New Mexico | Not allowed | Unlimited | Approved transfers are delayed 10 days for staff review by the Legislative Finance Committee (LFC). If the staff objects, the transfer is delayed for 35 days or until the LFC can hold a hearing. At the conclusion of the hearing, the transfer may be approved regardless of the position of the LFC or the outcome of the hearing. |
| New York | Not allowed | Limited | The Legislature must amend the appropriations act for all interdepartmental transfers and for transfers between programs exceeding the limit of the executive's transfer authority. |
| North Carolina | Not allowed | Limited | The Legislature must amend the appropriations act for interdepartmental transfers. |
| North Dakota | Not allowed | Unlimited | If less than \$50,000, transfers are binding by Emergency Commission, which consists of the Governor, the Legislative Council Chair, the Secretary of State, and the Chairs of the Senate and House Appropriations Committees. If \$50,000 or more, the transfer must also be approved by the Budget Section, which consists of legislative leadership and House and Senate Appropriations Committee members. |
| Ohio | Not allowed | Not allowed | A controlling board with six legislative members and one Executive Branch member may approve requests to transfer appropriations within any agency. Transfers between agencies must be approved by the Legislature. |
| Oklahoma | Not allowed | Limited | Approval by Executive-Legislative Contingency Review Board is binding for intradepartmental transfers exceeding 25 percent but less than 40 percent of any appropriation. The Legislature must amend the appropriations act for all interdepartmental transfers and intradepartmental transfers exceeding 40 percent of an appropriation. |
| Oregon | Not allowed | Limited | Approval by the Legislative Emergency Board is binding over transfers between expenditure classifications within the budget of an agency. The Legislature must amend the appropriations act for interdepartmental transfers. |
| Pennsylvania | Not allowed | Limited | Transfers of funds that will be used for original intent can occur via subcontracts or a reorganization plan (requires legislative oversight). The reorganization plan would move the entity receiving the appropriation to another department. If the money is to be used for the same purpose, it can be moved on a contractual basis. If the intent is to use the money for a different purpose, the transfer is not allowed. |
| Rhode Island | Not allowed | Limited | The Legislature must amend the appropriation account for interdepartmental transfers. |

Overview of Other State Appropriation Transfers

| State | Authority of Executive Branch to Transfer Appropriations by Type | | Role of the Legislature in Transfers |
|----------------|--|-----------------|--|
| | Interdepartment | Intradepartment | |
| South Carolina | Unlimited | Limited | The Budget and Control Board - of the five members, two are legislators - must unanimously approve transfers. |
| South Dakota | Unlimited | Unlimited | Transfers between departments require approval by the Interim Appropriations Committee. |
| Tennessee | Not allowed | Limited | If approved, transfers between divisions within a department are binding by a committee composed of Senate Speaker, House Speaker, and Comptroller. The Legislature must amend the appropriations act for interdepartmental transfers. |
| Texas | Limited | Limited | The Governor or the Legislative Budget Board may propose a transfer. The latter entity must approve a proposal by the first entity. |
| Utah | Not allowed | Unlimited | None. |
| Vermont | Not allowed | Limited | Transfers within a department in excess of \$25,000 require approval of the Emergency Board. The Legislature must amend the appropriations act for interdepartmental transfers. |
| Virginia | Not allowed | Limited | None. |
| Washington | Limited | Unlimited | Legislature must approve transfers between departments. |
| West Virginia | Not allowed | Limited | None. |
| Wisconsin | Limited | Limited | Approval by Legislative Joint Committee on Finance is binding over transfers to be made between years, appropriations, or programs. |
| Wyoming | Limited | Limited | The Legislature grants the authority in session laws every two years. |