

CHAPTER 1206

**SUPPLEMENTAL APPROPRIATIONS – JUDICIAL DEPARTMENT PLANNING
H.F. 2065**

AN ACT relating to an appropriation to the judicial department for long-range and strategic planning and providing an effective date.

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

Section 1. There is appropriated from the general fund of the state to the judicial department for the fiscal year beginning July 1, 1995, and ending June 30, 1996, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the development and implementation of a long-range and strategic plan for the judicial branch of government through the supreme court’s commission on planning for the 21st century:

..... \$ 50,000

Notwithstanding section 8.33, moneys appropriated in this section which remain unexpended or unobligated at the close of the fiscal year shall not revert to the general fund of the state but shall remain available for expenditure for the designated purpose in the succeeding fiscal year.

Sec. 2. **EFFECTIVE DATE.** This Act, being deemed of immediate importance, takes effect upon enactment.

Approved February 12, 1996

CHAPTER 1207

**MISCELLANEOUS SUPPLEMENTAL APPROPRIATIONS
H.F. 2114**

AN ACT relating to and making supplemental appropriations for the fiscal year beginning July 1, 1995, and providing an effective date.

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

Section 1. **DEPARTMENT OF ECONOMIC DEVELOPMENT – STRATEGIC INVESTMENT FUND – TOURISM.** There is appropriated from the general fund of the state to the department of economic development for the fiscal year beginning July 1, 1995, and ending June 30, 1996, to supplement the appropriations made in 1995 Iowa Acts, chapter 204, section 1, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For deposit in the Iowa strategic investment fund, to supplement the amount appropriated in 1995 Iowa Acts, chapter 204, section 1, subsection 2, paragraph “d”:

..... \$ 2,100,000

2. To supplement the amount allocated for heritage tourism and sesquicentennial advertising in 1995 Iowa Acts, chapter 204, section 1, subsection 5, paragraph “b”, to be used for media purchases and other promotional efforts for the sesquicentennial advertising:

..... \$ 2,000,000

Notwithstanding section 8.33, moneys appropriated in this subsection which remain unencumbered or unobligated at the close of the fiscal year shall not revert to the general fund of the state but shall remain available for the purpose designated in the succeeding fiscal year.

Sec. 2. DEPARTMENT OF HUMAN SERVICES – CHILD DAY CARE. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1995, and ending June 30, 1996, to supplement the appropriation made in 1995 Iowa Acts, chapter 205, section 6, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For state child care assistance, provided moneys appropriated in this section are not subject to transfer under section 8.39 or any other provision but shall only be used for funding of state child care assistance for persons who are eligible for or are on a waiting list for but who are not receiving the assistance as of the effective date of this section:

..... \$ 1,274,000

*Sec. 3. STATE PUBLIC DEFENDER. There is appropriated from the general fund of the state to the office of the state public defender of the department of inspections and appeals for the fiscal year beginning July 1, 1995, and ending June 30, 1996, to supplement the appropriation made in 1995 Iowa Acts, chapter 207, section 16, subsection 2, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For court-appointed attorney fees for indigent adults and juveniles, as specified in law by the general assembly:

..... \$ 6,400,000*

Sec. 4. DEPARTMENT OF EDUCATION – GENERAL ADMINISTRATION. There is appropriated from the general fund of the state to the department of education for the fiscal year beginning July 1, 1995, and ending June 30, 1996, to supplement the amount appropriated in 1995 Iowa Acts, chapter 218, section 1, subsection 1, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For general administration to be used to provide assistance to school districts involved in a financial reporting pilot project:

..... \$ 50,000

Notwithstanding section 8.33, moneys appropriated in this section which remain unexpended or unobligated at the close of the fiscal year shall not revert to the general fund of the state but shall remain available for expenditure in the succeeding fiscal year for the purpose designated.

Sec. 5. SCHOOL FOR THE DEAF AND BRAILLE AND SIGHT SAVING SCHOOL. There is appropriated from the general fund of the state to the state board of regents for the fiscal year beginning July 1, 1995, and ending June 30, 1996, to supplement the amounts appropriated in 1995 Iowa Acts, chapter 218, section 6, subsections 5 and 6, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For the state school for the deaf:

..... \$ 47,000

2. For the Iowa braille and sight saving school:

..... \$ 47,000

3. Of the moneys appropriated to the state school for the deaf and the Iowa braille and sight saving school in this section, each school may expend not more than \$45,000 for technology needs of the school. Notwithstanding section 8.33, moneys appropriated in this section which remain unexpended or unobligated at the close of the fiscal year shall not revert to the general fund of the state, but shall remain available for expenditure for technology needs at the designated school in the succeeding fiscal year.

Sec. 6. DEPARTMENT OF GENERAL SERVICES. There is appropriated from the general fund of the state to the department of general services for the fiscal year beginning July 1, 1995, and ending June 30, 1996, to supplement the appropriation made in 1995 Iowa Acts, chapter 219, section 5, subsection 6, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For utility costs:

..... \$ 55,000

*Item veto; see message at end of the Act

Sec. 7. DEPARTMENT OF INSPECTIONS AND APPEALS. There is appropriated from the general fund of the state to the department of inspections and appeals for the fiscal year beginning July 1, 1995, and ending June 30, 1996, to supplement the appropriation made in 1995 Iowa Acts, chapter 219, section 9, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For racetrack regulation, to be used for employment of not more than one full-time equivalent position which shall be in addition to the full-time equivalent positions authorized in 1995 Iowa Acts, chapter 219, section 9:
..... \$ 42,000

Sec. 8. DEPARTMENT OF PERSONNEL. There is appropriated from the Iowa public employees' retirement system fund to the department of personnel for the fiscal year beginning July 1, 1995, and ending June 30, 1996, to supplement the appropriation made in 1995 Iowa Acts, chapter 219, section 16, subsection 1, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For salaries, support, maintenance, and other operational purposes to pay the costs of the Iowa public employees' retirement system:
..... \$ 116,850

Sec. 9. DEPARTMENT OF REVENUE AND FINANCE. There is appropriated from the general fund of the state to the department of revenue and finance for the fiscal year beginning July 1, 1995, and ending June 30, 1996, to supplement the appropriation made in 1995 Iowa Acts, chapter 219, section 19, subsection 3, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For internal resources management:
..... \$ 104,500

*Sec. 10. DEPARTMENT OF REVENUE AND FINANCE – REFUND CLAIMS. There is appropriated from the general fund of the state to the department of revenue and finance for the fiscal year beginning July 1, 1995, and ending June 30, 1996, an amount sufficient to pay all refund claims timely filed pursuant to section 422.73, subsection 3, as enacted by this Act, and to pay up to \$75,000 for processing such claims.

Notwithstanding section 8.33, moneys appropriated in this section which remain unexpended or unobligated at the close of the fiscal year shall not revert to the general fund of the state but shall remain available for expenditure in the succeeding fiscal year for the purposes of paying refund claims and processing costs as provided in this section and the moneys are not subject to transfer under section 8.39.*

*Sec. 11. Section 422.73, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Notwithstanding subsection 2, a claim for refund of individual income tax paid for any tax year beginning on or after January 1, 1985, and before January 1, 1989, is considered timely if filed with the department on or before October 31, 1996, if the taxpayer's claim is the result of the unconstitutional taxation of federal pension benefits based upon the decision in *Davis v. Michigan Department of Treasury*, 489 U.S. 803, 109 S. Ct. 1500 (1989).

A taxpayer entitled to a refund of tax paid under this subsection shall receive an amount equal to one hundred percent of the refund without interest. The claim for refund shall be filed separate from any income tax return and shall not be allowed as a credit for income taxes owed. A claim shall be filed between the effective date of this subsection and October 31, 1996. An extension for filing shall not be allowed and claims disallowed on the basis of timeliness shall not be allowed upon appeal to any other state agency notwithstanding any other provision of law.

The claim for refund shall be made on claim forms to be made available by the department. In order for a taxpayer to have a valid refund claim, the taxpayer must supply legible copies of documents the director deems necessary to show entitlement to the refund, including

*Item veto; see message at end of the Act

but not limited to income tax forms and W-2P forms, which will establish the state income tax that was paid on the federal pension benefits for the tax years in question. The burden of proof is on the taxpayer to show that the claim for refund is valid. Estates are not entitled to file a claim for refund under this subsection, except a spouse of a deceased taxpayer who was the spouse of the taxpayer when the unconstitutional tax was imposed may file a claim for refund without reopening the deceased taxpayer's estate. If a taxpayer has filed a claim under this subsection and subsequently dies before receipt of the refund, the taxpayer's estate is entitled to receipt of any valid refund claim.

The department shall make a reasonable attempt to notify individuals who are entitled to a refund under this subsection.*

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

Approved March 19, 1996, except the items which I hereby disapprove and which are designated as Section 3 in its entirety; and Sections 10 and 11 in their entirety. My reasons for vetoing these items are delineated in the item veto message pertaining to this Act to the Speaker of the House this same date, a copy of which is attached hereto.

TERRY E. BRANSTAD, Governor

Dear Mr. Speaker:

I hereby transmit House File 2114, an Act relating to and making supplemental appropriations for the fiscal year beginning July 1, 1995, and providing an effective date.

House File 2114, the supplemental appropriations bill, is the first budget bill of the 1996 session. It is disappointing to me that so early in the session the legislature has succumbed to the temptation of excessive spending. Even in times of a budget surplus we must remain vigilant in our resolve to spend responsibly. If an area of the budget is out of control, action should be taken to bring it under control before additional funding is provided. If spending for a particular item would establish a dangerous precedent, funds should not be spent for that purpose.

The amount of spending in House File 2114 is substantially over the budget recommendations I submitted to the legislature in January. The bill provides approximately \$10.3 million to pay claims barred by the statute of limitations which I believe would set bad precedent. It also contains \$6.4 million in additional spending for court appointed attorneys that cannot be approved without accompanying reforms. Failure to adopt the reforms recommended by the state public defender and me in the past has contributed to the present deficit in this area.

House File 2114 is, therefore, approved on this date with the following exceptions which I hereby disapprove.

I am unable to approve the item designated as Section 3, in its entirety. This item would provide \$6.4 million to address a shortfall in funding to pay for costs of indigent defense. In the past year alone, the costs for this program have increased by 31 percent. While I recommended this additional funding to the legislature, it cannot be approved until the reforms proposed to contain these costs have been passed and presented for my signature. Failing to adequately control these costs has led to continued abuses and unnecessary costs to the taxpayers. This area of the budget must be brought under control.

I am unable to approve the items designated as Sections 10 and 11, in their entirety. These items would create a standing unlimited appropriation, estimated at \$10.3 million, to provide

*Item veto; see message at end of the Act

refunds to certain federal retirees. This action would supersede the state's statute of limitations for filing claims, thereby setting a precedent that could create untold future financial exposure. It is unfortunate that these claims were not filed timely. However, there is no compelling reason why they should be treated different than claims filed by any other group or individual. Allowing the filing of claims after the statute of limitations has run out is bad public policy.

For the above reasons, I hereby respectfully disapprove these items in accordance with Amendment IV of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in House File 2114 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, Governor

CHAPTER 1208
APPROPRIATIONS - ENERGY CONSERVATION - PETROLEUM
OVERCHARGE FUNDS
H.F. 2444

AN ACT relating to energy conservation including making appropriations of petroleum overcharge funds.

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

Section 1. There is appropriated from those funds designated within the energy conservation trust created in section 473.11, for disbursement pursuant to section 473.11, to the following named agencies for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. To the division of community action agencies of the department of human rights for qualifying energy conservation programs for low-income persons, including but not limited to energy weatherization projects, which target the highest energy users, and may include the low-income home energy assistance program, and including administrative costs, to be expended first from the available balances in the Warner/ Imperial, the office of hearings and appeals second-stage settlement (OHA), and Amoco funds and then the Stripper Well fund for a total appropriation not to exceed:

From the Warner/Imperial, the office of hearings and appeals second-stage settlement (OHA), Amoco, and Stripper Well funds:

.....	\$	700,000
2. To the department of natural resources for the following purposes:		
a. For the state energy conservation program from the Exxon fund:		
.....	\$	115,000
b. For administration of petroleum overcharge programs from the Stripper Well fund, not to exceed the following amount:		
.....	\$	300,000

Notwithstanding section 8.33, the unencumbered or unobligated moneys remaining at the end of the fiscal year from the appropriations made in subsections 1 and 2 shall not revert but shall be available for expenditure during subsequent fiscal years until expended for the purposes for which originally appropriated.

Approved April 15, 1996