

See Labor 3/28 P. Pass 4/12/91

SENATE FILE 457

SENATE FILE 457  
BY COMMITTEE ON BUSINESS  
AND LABOR RELATIONS

(SUCCESSOR TO SSB 323)

Passed Senate, Date 3/26/91 (p. 881) Passed House, Date 4/17/91 (p. 1346)  
Vote: Ayes 35 Nays 14 Vote: Ayes 52 Nays 45

*Re* Approved May 2, 1991 - See letter  
*Governor's veto sustained 5/6/91 (p. 1481)*

A BILL FOR

1 An Act relating to collective bargaining.  
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 457

H-3649 amended

1 Section 1. Section 20.9, unnumbered paragraph 1, Code  
2 1991, is amended to read as follows:

3196, 3198

3 The public employer and the employee organization shall  
4 meet at reasonable times, including meetings reasonably in  
5 advance of the public employer's budget-making process, to  
6 negotiate in good faith with respect to wages, hours,  
7 vacations, insurance, holidays, leaves of absence, shift  
8 differentials, overtime compensation, supplemental pay,  
9 seniority, transfer procedures, discipline and discharge, job  
10 classifications, health and safety matters, evaluation  
11 procedures, procedures for staff reduction, in-service  
12 training and other matters mutually agreed upon. Negotiations  
13 shall also include terms authorizing dues checkoff for members  
14 of the employee organization and grievance procedures for  
15 resolving any questions arising under the agreement, which  
16 shall be embodied in a written agreement and signed by the  
17 parties. If an agreement provides for dues checkoff, a  
18 member's dues may be checked off only upon the member's  
19 written request and the member may terminate the dues checkoff  
20 at any time by giving thirty days' written notice. Such  
21 obligation to negotiate in good faith does not compel either  
22 party to agree to a proposal or make a concession.

3185

23 Sec. 2. Section 279.13, Code 1991, is amended by adding  
24 the following new subsection:

25 NEW SUBSECTION. 4. If a teacher is represented by an  
26 employee organization and covered by a collective bargaining  
27 agreement negotiated under chapter 20 which includes  
28 procedures for discipline and discharge, sections 279.15

H-3616

29 through 279.19 shall not apply to the teacher.

30 Sec. 3. Section 279.14, Code 1991, is amended by striking  
31 the section and inserting in lieu thereof the following:

32 279.14 EVALUATION CRITERIA.

33 The board of educational examiners shall develop summative  
34 evaluation criteria which shall be used by local school  
35 districts to evaluate teachers licensed under chapter 260,

1 unless the parties to the collective bargaining agreement  
2 mutually agree to alternate evaluation criteria.

3 Sec. 4. Section 400.18, Code 1991, is amended to read as  
4 follows:

5 400.18 REMOVAL, DEMOTION, OR SUSPENSION.

6 No person holding civil service rights as provided in this  
7 chapter shall be removed, demoted, or suspended arbitrarily,  
8 except as otherwise provided in this chapter, but may be  
9 removed, demoted, or suspended after a hearing by a majority  
10 vote of the civil service commission, for neglect of duty,  
11 disobedience, misconduct, or failure to properly perform the  
12 person's duties. However, if a person holding civil service  
13 rights as provided in this chapter is represented by an  
14 employee organization and covered by a collective bargaining  
15 agreement negotiated under chapter 20 which includes removal,  
16 demotion, or suspension procedures, the procedures provided in  
17 this chapter for removal, demotion, or suspension shall not  
18 apply to the person.

19 EXPLANATION

20 Section 1 of the bill adds discipline and discharge to the  
21 list of mandatory subjects of collective bargaining  
22 agreements.

23 Section 2 provides that a teacher whose collective  
24 bargaining agreement includes procedures for discipline and  
25 discharge cannot use chapter 279 provisions for appeal of a  
26 discharge.

27 Section 3 requires the board of educational examiners to  
28 develop summative evaluation criteria which shall be used by  
29 local school districts to evaluate teachers, unless the  
30 parties to a collective bargaining agreement mutually agree to  
31 alternate evaluation criteria.

32 Section 4 provides that the procedures in a collective  
33 bargaining agreement covering removal, demotion, or suspension  
34 apply to a person under city civil service procedures who is  
35 covered by the collective bargaining agreement rather than the

1 procedures specified in chapter 400.

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S-3185

SENATE FILE 457

1 Amend Senate File 457 as follows:  
 2 1. Page 1, by inserting after line 22 the  
 3 following:  
 4 "Sec. \_\_\_\_ Section 20.17, subsection 3, Code 1991.  
 5 is amended to read as follows:  
 6 3. ~~Negotiating sessions, strategy meetings of~~  
 7 ~~public employers or employee organizations, mediation~~  
 8 ~~and the deliberative process of arbitrators shall be~~  
 9 ~~exempt from the provisions of chapter 21. However,~~  
 10 the The employee organization shall present its  
 11 initial bargaining position to the public employer at  
 12 the first bargaining session. The public employer  
 13 shall present its initial bargaining position to the  
 14 employee organization at the second bargaining  
 15 session, which shall be held no later than two weeks  
 16 following the first bargaining session. Both sessions  
 17 shall be open to the public and subject to the  
 18 provisions of chapter 21. Hearings conducted by  
 19 arbitrators shall be open to the public."

20 2. By renumbering as necessary.  
By RAY TAYLOR

14 S-3185 FILED MARCH 26, 1991  
15 RULED OUT OF ORDER (p. 881)

SENATE FILE 457

S-3188

1 Amend Senate File 457 as follows:  
 2 1. Page 1, by striking lines 12 through 20 and  
 3 inserting the following: "training and other matters  
 4 mutually agreed upon. Public employers are prohibited  
 5 from creating any form of dues checkoff for any  
 6 private labor organization, political action  
 7 committee, or any other organization which directly  
 8 benefits an employee association or organization.  
 9 Such".

By LINN FUHRMAN

22 S-3188 FILED MARCH 26, 1991  
23 WITHDRAWN (p. 880)

SENATE FILE 457

S-3190

1 Amend Senate File 457 as follows:  
 2 1. Page 1, by striking lines 12 through 20 and  
 3 inserting the following: "training and other matters  
 4 mutually agreed upon. ~~Negotiations shall also include~~  
 5 ~~terms authorizing dues checkoff for members of the~~  
 6 ~~employee organization and grievance procedures for~~  
 7 ~~resolving any questions arising under the agreement,~~  
 8 ~~which shall be embodied in a written agreement and~~  
 9 ~~signed by the parties. If an agreement provides for~~  
 10 ~~dues checkoff, a member's dues may be checked off on~~  
 11 ~~upon the member's written request and the member may~~  
 12 ~~terminate the dues checkoff at any time by giving~~  
 13 ~~thirty days written notice. Public employers are~~  
 14 prohibited from creating any form of dues checkoff for  
 15 any private labor organization, political action  
 16 committee, or any other organization which directly  
 17 benefits an employee association or organization.  
 18 Such".

By LINN FUHRMAN

33 S-3190 FILED MARCH 26, 1991

LOST

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## SENATE FILE 457

H-3649

1 Amend Senate File 457, as passed by the Senate, as  
2 follows:

3 1. By striking everything after the enacting  
4 clause and inserting the following:

5 "Section 1. Section 20.1, unnumbered paragraph 1,  
6 Code 1991, is amended to read as follows:

7 The general assembly declares that it is the public  
8 policy of the state to promote harmonious and co-  
9 operative relationships between government and its  
10 employees by permitting public employees to organize  
11 and bargain ~~collectively~~; to protect the citizens of  
12 this state by assuring effective and orderly  
13 operations of government in providing for their  
14 health, safety, and welfare; to prohibit and prevent  
15 all strikes by public employees; and to protect the  
16 rights of public employees to join or refuse to join,  
17 and to participate in or refuse to participate in,  
18 employee organizations; and to permit individual  
19 employees to negotiate with their employers and file  
20 grievances without interference from employee  
21 organizations.

22 Sec. 2. Section 20.3, subsection 4, Code 1991, is  
23 amended to read as follows:

24 4. "Employee organization" means an organization  
25 of any kind in which public employees participate, and  
26 which exists for the primary purpose of representing  
27 public employees in their employment relations, and  
28 which has obtained signed membership cards from public  
29 employees.

30 Sec. 3. Section 20.6, subsection 3, Code 1991, is  
31 amended to read as follows:

32 3. Maintain, after consulting with individual  
33 employees, employee organizations, and public  
34 employers, a list of qualified persons representative  
35 of the public to be available to serve as mediators  
36 and arbitrators and establish their compensation  
37 rates.

38 Sec. 4. Section 20.8, Code 1991, is amended by  
39 adding the following new subsection:

40 NEW SUBSECTION. 5. Bargain for their contracts  
41 individually with their employer and to file  
42 grievances on their own behalf as an individual.

43 Sec. 5. Section 20.9, unnumbered paragraph 1, Code  
44 1991, is amended to read as follows:

45 The public employer and the any employee  
46 organization and individual employee choosing to  
47 participate shall meet at reasonable times, including  
48 meetings reasonably in advance of the public  
49 employer's budget-making process, to negotiate in good  
50 faith with respect to wages, hours, vacations,

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1 insurance, holidays, leaves of absence, shift  
2 differentials, overtime compensation, supplemental  
3 pay, seniority, transfer procedures, job  
4 classifications, health and safety matters, evaluation  
5 procedures, procedures for staff reduction, in-service  
6 training and other matters mutually agreed upon.  
7 Negotiations shall also include terms authorizing dues  
8 checkoff for members of the employee organization and  
9 individual employees, and grievance procedures for  
10 resolving any questions arising under the agreement,  
11 which shall be embodied in a written agreement and  
12 signed by the parties. If an agreement provides for  
13 dues checkoff, a member's dues may be checked off only  
14 upon the member's written request and the member may  
15 terminate the dues checkoff at any time by-giving  
16 thirty-days-written-notice and that termination shall  
17 be effective immediately. Such obligation to  
18 negotiate in good faith does not compel either party  
19 to agree to a proposal or make a concession.

20 Sec. 6. Section 20.10, subsection 2, paragraph e,  
21 Code 1991, is amended by striking the paragraph and  
22 inserting in lieu thereof the following:

23 e. Refuse to negotiate with individual employees  
24 or with an employee organization as required in this  
25 chapter.

26 Sec. 7. Section 20.10, subsection 2, paragraph f,  
27 Code 1991, is amended by striking the paragraph.

28 Sec. 8. Section 20.10, subsection 3, paragraph c,  
29 Code 1991, is amended to read as follows:

30 c. Refuse to bargain ~~collectively~~ with a public  
31 employer as required in this chapter.

32 Sec. 9. Section 20.12, subsection 5, Code 1991, is  
33 amended to read as follows:

34 5. If an employee organization or any of its  
35 officers is held to be in contempt of court for  
36 failure to comply with an injunction pursuant to this  
37 section, or is convicted of violating this section,  
38 the employee organization ~~shall-be-immediately~~  
39 ~~decertified,~~ shall cease-to-represent-the-bargaining  
40 unit not represent employees in negotiations, contract  
41 administration, grievances procedures, or other  
42 actions under this chapter, shall cease to receive any  
43 dues by checkoff, and may again-be-certified-only  
44 after-twelve-months-have-elapsed-from-the-effective  
45 date-of-decertification-and-only-after-a-new  
46 compliance-with-section-20-14 only act as a bargaining  
47 agent and collect dues by checkoff after five years  
48 have elapsed. The penalties provided in this section  
49 may be suspended or modified by the court, but only  
50 upon request of the public employer and only if the

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1 court determines the suspension or modification is in  
2 the public interest.

3 Sec. 10. Section 20.16, Code 1991, is amended by  
4 striking the section and inserting in lieu thereof the  
5 following:

6 20.16 DUTY TO BARGAIN.

7 Upon receipt by a public employer of a request from  
8 an individual employee or an employee organization  
9 acting as an agent for individual employees, the duty  
10 to engage in bargaining shall arise.

11 Sec. 11. Section 20.17, subsection 1, Code 1991,  
12 is amended by striking the subsection.

13 Sec. 12. Section 20.17, subsection 2, Code 1991,  
14 is amended to read as follows:

15 2. ~~The~~ An individual employee or employee  
16 organization and the public employer may designate any  
\* 17 individual as its representative to engage in  
18 ~~collective~~ bargaining negotiations.

19 Sec. 13. Section 20.17, subsection 3, Code 1991,  
20 is amended to read as follows:

\* 21 3. Negotiating sessions, strategy meetings of  
22 public employers, individual employees, or employee  
23 organizations, mediation and the deliberative process  
24 of arbitrators shall be exempt from the provisions of  
25 chapter 21. However, the individual employee or the  
26 employee organization shall present its initial  
27 bargaining position to the public employer at the  
28 first bargaining session. The public employer shall  
29 present its initial bargaining position to the  
30 individual employee or the employee organization at  
31 the second bargaining session, which shall be held no  
32 later than two weeks following the first bargaining  
33 session. Both sessions shall be open to the public  
34 and subject to the provisions of chapter 21. Hearings  
35 conducted by arbitrators shall be open to the public.

36 Sec. 14. Section 20.17, subsection 4, Code 1991,  
37 is amended by striking the subsection and inserting in  
38 lieu thereof the following:

39 4. The terms of a proposed bargaining agreement  
40 shall be available to the public and reasonable notice  
41 shall be given to the public employees prior to  
42 ratification of the agreement. The agreement is  
43 binding on the public employer and all employees who  
44 sign the agreement.

45 Sec. 15. Section 20.17, subsection 5, Code 1991,  
46 is amended to read as follows:

47 5. Terms of any ~~collective~~ bargaining agreement  
48 may be enforced by a civil action in the district  
49 court of the county in which the agreement was made  
50 upon the initiative of either any party.

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1 Sec. 16. Section 20.17, subsection 6, Code 1991,  
2 is amended to read as follows:

3 6. No ~~collective~~ bargaining agreement or  
4 arbitrators' decision shall be valid or enforceable if  
5 its implementation would be inconsistent with any  
6 statutory limitation on the public employer's funds,  
7 spending or budget or would substantially impair or  
8 limit the performance of any statutory duty by the  
9 public employer. A ~~collective~~ bargaining agreement or  
10 arbitrators' award may provide for benefits  
11 conditional upon specified funds to be obtained by the  
12 public employer, but the agreement shall provide  
13 either for automatic reduction of such conditional  
14 benefits or for additional bargaining if the funds are  
15 not obtained or if a lesser amount is obtained.

16 Sec. 17. Section 20.17, subsection 7, Code 1991,  
17 is amended by striking the subsection.

18 Sec. 18. Section 20.17, subsection 10, Code 1991,  
19 is amended to read as follows:

20 10. The negotiation of a proposed ~~collective~~  
21 bargaining agreement by representatives of a state  
22 public employer and ~~a-state an individual employee or~~  
23 an employee organization shall be complete not later  
24 than March 15 of the year when the agreement is to  
25 become effective. The board shall provide, by rule, a  
26 date on which any impasse item must be submitted to  
27 binding arbitration and for such other procedures as  
28 deemed necessary to provide for the completion of  
29 negotiations of proposed state ~~collective~~ bargaining  
30 agreements not later than March 15. The date selected  
31 for the mandatory submission of impasse items to  
32 binding arbitration shall be sufficiently in advance  
33 of March 15 to insure that the arbitrators' decision  
34 can be reasonably made before March 15.

35 Sec. 19. Section 20.18, Code 1991, is amended to  
36 read as follows:

37 20.18 GRIEVANCE PROCEDURES.

38 An agreement ~~with-an-employee-organization-which-is~~  
39 ~~the-exclusive-representative-of-public-employees-in-an~~  
40 ~~appropriate-unit~~ may provide procedures for the  
41 consideration of public employee grievances and of  
42 disputes over the interpretation and application of  
43 agreements. Negotiated procedures may provide for  
44 binding arbitration of public employee grievances and  
45 of disputes over the interpretation and application of  
46 existing agreements. An arbitrator's decision on a  
47 grievance may not change or amend the terms,  
48 conditions or applications of the collective  
49 bargaining agreement. Such procedures shall provide  
50 for the invoking of arbitration only with the approval

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1 of the employee organization, and in the case of an  
2 employee grievance, only with the approval of the  
3 public employee. The costs of arbitration shall be  
4 shared equally by the parties.

5 Public employees of the state or public employees  
6 covered by civil service shall follow either the  
7 grievance procedures provided in a collective  
8 bargaining agreement, or in the event that grievance  
9 procedures are not provided, shall follow grievance  
10 procedures established pursuant to chapter 19A or  
11 chapter 400, as applicable.

12 Sec. 20. Section 20.19, Code 1991, is amended to  
13 read as follows:

14 20.19 IMPASSE PROCEDURES -- AGREEMENT OF PARTIES.

15 As the first step in the performance of their duty  
16 to bargain, the public employer and the individual  
17 employee or the employee organization shall endeavor  
18 to agree upon impasse procedures. Such agreement  
19 shall provide for implementation of these impasse  
20 procedures not later than one hundred twenty days  
21 prior to the certified budget submission date of the  
22 public employer. If the parties fail to agree upon  
23 impasse procedures under the provisions of this  
24 section, the impasse procedures provided in sections  
25 20.20 to 20.22 shall apply.

26 Sec. 21. Section 20.21, Code 1991, is amended to  
27 read as follows:

28 20.21 FACT-FINDING.

29 If the impasse persists ten days after the mediator  
30 has been appointed, the board shall appoint a fact-  
31 finder representative of the public, from a list of  
32 qualified persons maintained by the board. The fact-  
33 finder shall conduct a hearing, may administer oaths,  
34 and may request the board to issue subpoenas. The  
35 fact-finder shall make written findings of facts and  
36 recommendations for resolution of the dispute and, not  
37 later than fifteen days from the day of appointment,  
38 shall serve such findings on the public employer and  
39 the certified individual employee or the negotiator  
40 for the employee organization.

41 ~~The public employer and the certified employee~~  
42 ~~organization shall immediately accept the fact-~~  
43 ~~finder's recommendation or shall within five days~~  
44 ~~submit the fact-finder's recommendations to the~~  
45 ~~governing body and members of the certified employee~~  
46 ~~organization for acceptance or rejection:--If the~~  
47 ~~dispute continues ten days after the report is~~  
48 ~~submitted, the report shall be made public by the~~  
49 ~~board. If the parties to the mediation procedures do~~  
50 not immediately accept the fact-finder's

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1 recommendation, the report shall be made public by the  
2 board.

3 Sec. 22. Section 20.22, subsections 4, 5, 9, and  
4 12, Code 1991, are amended to read as follows:

5 4. The panel of arbitrators shall consist of three  
6 members appointed in the following manner:

7 a. One member shall be appointed by the public  
8 employer.

9 b. One member shall be appointed by the employee  
10 organization or individual employees.

11 c. One member shall be appointed mutually by the  
12 members appointed by the public employer and the  
13 employee organization or individual employees. The  
14 last member appointed shall be the chairperson of the  
15 panel of arbitrators. No member appointed shall be an  
16 employee of the parties.

17 d. The public employer and employee organization  
18 or individual employees shall each pay the fees and  
19 expenses incurred by the arbitrator each selected.  
20 The fee and expenses of the chairperson of the panel  
21 and all other costs of arbitration shall be shared  
22 equally.

23 5. If the third member has not been selected  
24 within four days of notification as provided in  
25 subsection 2, a list of three arbitrators shall be  
26 submitted to the parties by the board. The two  
27 arbitrators selected by the public employer and the  
28 employee organization or individual employees shall  
29 determine by lot which arbitrator shall remove the  
30 first name from the list submitted by the board. The  
31 arbitrator having the right to remove the first name  
32 shall do so within two days and the second arbitrator  
33 shall have one additional day to remove one of the two  
34 remaining names. The person whose name remains shall  
35 become the chairperson of the panel of arbitrators and  
36 shall call a meeting within ten days at a location  
37 designated by the chairperson.

38 9. The panel of arbitrators shall consider, in  
39 addition to any other relevant factors, the following  
40 factors:

41 a. Past ~~collective~~ bargaining contracts between  
42 the parties including the bargaining that led up to  
43 such contracts.

44 b. Comparison of wages, hours and conditions of  
45 employment of the involved public employees with those  
46 of other public employees doing comparable work,  
47 giving consideration to factors peculiar to the area  
48 and the classifications involved.

49 c. The interests and welfare of the public, the  
50 ability of the public employer to finance economic

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1 adjustments and the effect of such adjustments on the  
2 normal standard of services.  
3 d. The power of the public employer to levy taxes  
4 and appropriate funds for the conduct of its  
5 operations.

6 12. The selections by the panel of arbitrators and  
7 items agreed upon by the public employer and the  
8 employee organization or individual employees, shall  
9 be deemed to be the ~~collective~~ bargaining agreement  
10 between the parties.

11 Sec. 23. Section 20.25, subsections 1, 6, and 7,  
12 Code 1991, are amended to read as follows:

13 1. Every employee organization which ~~is-certified~~  
14 ~~as-a-representative-of-public-employees~~ engages in  
15 negotiations, grievance adjustments, or collects dues  
16 by checkoff under the provisions of this chapter shall  
17 file with the board a registration report, signed by  
18 its president or other appropriate officer. The  
19 report shall be in a form prescribed by the board and  
20 shall be accompanied by two copies of the employee  
21 organization's constitution and bylaws. A filing by a  
22 national or international employee organization of its  
23 constitution and bylaws shall be accepted in lieu of a  
24 filing of such documents by each subordinate  
25 organization. All changes or amendments to such  
26 constitutions and bylaws shall be promptly reported to  
27 the board.

28 6. An employee organization that has not  
29 registered or filed an annual report, or that has  
30 failed to comply with other provisions of this  
31 chapter, shall not ~~be-certified~~ negotiate, handle  
32 grievances, or collect dues by checkoff. ~~Certified~~  
33 ~~employee-organizations-failing-to-comply-with-this~~  
34 ~~chapter-may-have-such-certification-revoked-by-the~~  
35 ~~board-~~ Prohibitions may be enforced by injunction  
36 upon the petition of the board to the district court  
37 of the county in which the violation occurs.  
38 Complaints of violation of this section shall be filed  
39 with the board.

40 7. Upon the written request of any member of a  
41 certified employee organization, the auditor of state  
42 may audit the financial records of the certified  
43 employee organization.

44 Sec. 24. REPEALS. Sections 20.13, 20.14, and  
45 20.15, Code 1991, are repealed."

46 2. Title page, by striking line 1, and inserting  
47 the following: "An Act relating to bargaining by  
48 individual employees."

By TYRRELL of Iowa  
KREBSBACH of Mitchell

RENKEN of Grundy  
EDDIE of Buena Vista

H-3649 FILED APRIL 16, 1991

*Amended - ruled not germane 4/17/91 (p. 1534)*

SENATE FILE 457

H-3675

1 Amend the amendment, H-3649, to Senate File 457, as  
2 passed by the Senate, as follows:

3 1. Page 3, line 17, by inserting after the word  
4 "individual" the following: "or organization".

By TYRRELL of Iowa

H-3675 FILED APRIL 17, 1991  
ADOPTED (p. 1333)

SENATE FILE 457

H-3676

1 Amend Senate File 457, as passed by the Senate, as  
2 follows:

3 1. Page 1, line 9, by inserting after the word  
4 "discharge" the following: "unless the employee is a  
5 probationary teacher pursuant to section 279.19".

6 2. Page 1, line 29, by striking the figure  
7 "279.19" and inserting the following: "279.18".

By McNEAL of Hardin

H-3676 FILED APRIL 17, 1991  
MOTION TO SUSPEND RULES LOST (p. 1346)

SENATE FILE 457

H-3687

1 Amend the amendment, H-3649, to Senate File 457 as  
2 passed by the Senate, as follows:

3 1. Page 3, by striking lines 24 and 25 and  
4 inserting the following: "of arbitrators shall be  
A 5 exempt-from open to the public and subject to the  
6 provisions of chapter 21. However, the The individual  
7 employee or the".

8 2. Page 7, by inserting after line 43, the  
9 following:

B 10 "Sec. \_\_\_\_ . Section 20.26, unnumbered paragraph 1,  
11 Code 1991, is amended to read as follows:

12 An employee organization shall not make any direct  
13 or indirect contribution out of the funds of the  
14 employee organization to any political party or  
15 organization or in support of any candidate for  
16 elective public office. A collective bargaining  
17 agreement shall not provide for a checkoff for a  
18 political action committee.

19 Dues checkoff shall be immediately suspended upon  
20 evidence that funds from dues checkoff are being  
21 contributed to a political action committee."

22 3. By renumbering as necessary.

By TYRRELL of Iowa

H-3687 FILED APRIL 17, 1991  
A-ADOPTED; B-ADOPTED (p. 1335)

**SENATE FILE 457  
FISCAL NOTE**

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A fiscal note for Senate File 457 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

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Senate File 457 modifies certain procedures for collective bargaining. These include:

1. Adds "discipline and discharge" to the list of mandatory subjects of collective bargaining agreements.
2. Prohibits a teacher from using appeal procedures under Chapter 279 if "discipline and discharge" are included in the collective bargaining agreement.
3. Requires the Board of Educational Examiners to develop summative evaluation criteria to be used by local school districts to evaluate teachers, unless both parties to a collective bargaining agreement agree to alternative evaluation criteria.
4. Exempts persons holding civil service rights from procedures for removal, demotion or suspension under Chapter 400 if covered under a collective bargaining agreement.

**ASSUMPTIONS:**

1. Addition of "discipline and discharge" to the list of mandatory subjects for bargaining will increase the amount of time in mediation and/or the number of mediation sessions.
2. Disagreement over "discipline and discharge" will cause some cases to proceed to factfinding and arbitration.
3. After the initial year, discipline and discharge provisions in contracts will provide a basis for grievances and prohibited practices.

**FISCAL IMPACT:**

With the addition of "discipline and discharge," it is estimated that 20% of disputes will need an additional mediation session. Based on the FY 1990 total of 373 disputes at an average cost of \$204 per session, this would require additional General Fund expenditures of \$14,402 and 0.35 FTE for the Public Employment Relations Board for FY 1992.

Source: Public Employment Relations Board

(LSB 2677sv, MAS)

FILED APRIL 18, 1991

BY DENNIS PROUTY, FISCAL DIRECTOR

Running, Ch.  
Buhr  
Rensink

SSB 323  
BUSINESS & LABOR RELATIONS

SENATE FILE 457  
BY (PROPOSED COMMITTEE ON  
BUSINESS AND LABOR  
RELATIONS BILL BY  
CHAIRPERSON RUNNING)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

A BILL FOR

1 An Act relating to collective bargaining.

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

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1 Section 1. Section 20.9, unnumbered paragraph 1, Code  
2 1991, is amended to read as follows:

3 The public employer and the employee organization shall  
4 meet at reasonable times, including meetings reasonably in  
5 advance of the public employer's budget-making process, to  
6 negotiate in good faith with respect to wages, hours,  
7 vacations, insurance, holidays, leaves of absence, shift  
8 differentials, overtime compensation, supplemental pay,  
9 seniority, transfer procedures, discipline and discharge, job  
10 classifications, health and safety matters, evaluation  
11 procedures, procedures for staff reduction, in-service  
12 training and other matters mutually agreed upon. Negotiations  
13 shall also include terms authorizing dues checkoff for members  
14 of the employee organization and grievance procedures for  
15 resolving any questions arising under the agreement, which  
16 shall be embodied in a written agreement and signed by the  
17 parties. If an agreement provides for dues checkoff, a  
18 member's dues may be checked off only upon the member's  
19 written request and the member may terminate the dues checkoff  
20 at any time by giving thirty days' written notice. Such  
21 obligation to negotiate in good faith does not compel either  
22 party to agree to a proposal or make a concession.

23 Sec. 2. Section 279.13, Code 1991, is amended by adding  
24 the following new subsection:

25 NEW SUBSECTION. 4. If a teacher is represented by an  
26 employee organization and covered by a collective bargaining  
27 agreement negotiated under chapter 20 which includes  
28 procedures for discipline and discharge, sections 279.15  
29 through 279.19 shall not apply to the teacher.

30 Sec. 3. Section 279.14, Code 1991, is amended by striking  
31 the section and inserting in lieu thereof the following:

32 279.14 EVALUATION CRITERIA.

33 The board of educational examiners shall develop evaluation  
34 criteria which shall be used by local school districts to  
35 evaluate teachers licensed under chapter 260, unless the

1 parties to the collective bargaining agreement mutually agree  
2 to alternate evaluation criteria.

3 Sec. 4. Section 400.18, Code 1991, is amended to read as  
4 follows:

5 400.18 REMOVAL, DEMOTION, OR SUSPENSION.

6 No person holding civil service rights as provided in this  
7 chapter shall be removed, demoted, or suspended arbitrarily,  
8 except as otherwise provided in this chapter, but may be  
9 removed, demoted, or suspended after a hearing by a majority  
10 vote of the civil service commission, for neglect of duty,  
11 disobedience, misconduct, or failure to properly perform the  
12 person's duties. However, if a person holding civil service  
13 rights as provided in this chapter is represented by an  
14 employee organization and covered by a collective bargaining  
15 agreement negotiated under chapter 20 which includes removal,  
16 demotion, or suspension procedures, the procedures provided in  
17 this chapter for removal, demotion, or suspension shall not  
18 apply to the person.

19 EXPLANATION

20 Section 1 of the bill adds discipline and discharge to the  
21 list of mandatory subjects of collective bargaining  
22 agreements.

23 Section 2 provides that a teacher whose collective  
24 bargaining agreement includes procedures for discipline and  
25 discharge cannot use chapter 279 provisions for appeal of a  
26 discharge.

27 Section 3 requires the board of educational examiners to  
28 develop evaluation criteria which shall be used by local  
29 school districts to evaluate teachers, unless the parties to a  
30 collective bargaining agreement mutually agree to alternate  
31 evaluation criteria.

32 Section 4 provides that the procedures in a collective  
33 bargaining agreement covering removal, demotion, or suspension  
34 apply to a person under city civil service procedures who is  
35 covered by the collective bargaining agreement rather than the

- 1 procedures specified in chapter 400.
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TERRY E. BRANSTAD  
GOVERNOR

## OFFICE OF THE GOVERNOR

STATE CAPITOL  
DES MOINES, IOWA 50319

515 281-5211

May 2, 1991

The Honorable Joseph Welsh  
President of the Senate  
State Capitol Building  
L O C A L

Dear Mr. President:

Senate File 457, an act relating to collective bargaining, is hereby disapproved and transmitted to you in accordance with Article III, Section 16, of the Constitution of the State of Iowa.

Senate File 457 amends the Iowa Public Employment Relations Act by adding the words "discipline and discharge" to the list of mandatory subjects of bargaining in Section 20.9 of the Code of Iowa. In 1990, the General Assembly approved similar legislation. That Act, Senate File 385, was disapproved because it failed to address a conflict between the provisions of a contract relating to discipline and dismissal and the statutory termination procedures for certificated school employees and civil service employees, and because it failed to maintain a balance between the rights of public employers and employees.

It is clear that the General Assembly has attempted to address the conflicts with other termination procedures by excluding the application of those procedures to employees who are covered by discipline and discharge provisions in a collective bargaining agreement. However, the Act falls short of removing all conflicts in the law by failing to address the just cause procedures for teachers in Section 279.27. Senate File 457 would also disallow the application of a probationary period for beginning teachers. In view of the many efforts that have been made to improve the quality of teaching during the past decade, it would be a mistake to remove the authority of school boards to require a teacher to serve a probationary period before a continuing contract is issued under Section 279.13.

As Governor, I have encouraged the representatives of public employers and public employees to work together in an effort to address the issues raised by this legislation while maintaining the balance between employer and employee rights. I believe that it is possible to fashion legislation which would achieve these objectives.

Future efforts to expand the list of mandatory subjects of bargaining to include the terms "discipline and discharge" should be balanced with the following corresponding statutory changes.

1. Provide for judicial review of discipline or discharge decisions which involve professional employees.
2. Provide public employers with the exclusive right to determine the standards of performance for employees.
3. Provide that statutory procedures for termination under Chapters 279 and 400 are not available to employees covered by a collective bargaining agreement, and retain provisions for a probationary period for beginning teachers.
4. Provide direction to arbitrators or other third parties who rule in cases of discipline and discharge in order to protect the interests and welfare of the public.

It may also be appropriate for the Board of Educational Examiners and the State Board of Education to develop a model policy for the evaluation of certificated school employees. Quality teaching is a vital part of a world class school system. A model evaluation policy could help teachers, administrators, and school board members respond to the increasing demand for excellence in teaching and learning.

Additionally, other changes in the law which could shift the balance between employer and employee rights should be reviewed carefully before they are included in future legislation concerning this subject.

For the above reasons, I hereby respectfully disapprove Senate File 457.

Sincerely,



Terry E. Branstad  
Governor

TEB/ps

cc: Secretary of the Senate  
Chief Clerk of the House  
Secretary of State

SENATE FILE 457

AN ACT  
RELATING TO COLLECTIVE BARGAINING.

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

Section 1. Section 20.9, unnumbered paragraph 1, Code 1991, is amended to read as follows:

The public employer and the employee organization shall meet at reasonable times, including meetings reasonably in advance of the public employer's budget-making process, to negotiate in good faith with respect to wages, hours, vacations, insurance, holidays, leaves of absence, shift differentials, overtime compensation, supplemental pay, seniority, transfer procedures, discipline and discharge, job classifications, health and safety matters, evaluation procedures, procedures for staff reduction, in-service training and other matters mutually agreed upon. Negotiations shall also include terms authorizing dues checkoff for members of the employee organization and grievance procedures for resolving any questions arising under the agreement, which shall be embodied in a written agreement and signed by the

parties. If an agreement provides for dues checkoff, a member's dues may be checked off only upon the member's written request and the member may terminate the dues checkoff at any time by giving thirty days' written notice. Such obligation to negotiate in good faith does not compel either party to agree to a proposal or make a concession.

Sec. 2. Section 279.13, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 4. If a teacher is represented by an employee organization and covered by a collective bargaining agreement negotiated under chapter 20 which includes procedures for discipline and discharge, sections 279.15 through 279.19 shall not apply to the teacher.

Sec. 3. Section 279.14, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

279.14 EVALUATION CRITERIA.

The board of educational examiners shall develop summative evaluation criteria which shall be used by local school districts to evaluate teachers licensed under chapter 260, unless the parties to the collective bargaining agreement mutually agree to alternate evaluation criteria.

Sec. 4. Section 400.18, Code 1991, is amended to read as follows:

400.18 REMOVAL, DEMOTION, OR SUSPENSION.

No person holding civil service rights as provided in this chapter shall be removed, demoted, or suspended arbitrarily, except as otherwise provided in this chapter, but may be removed, demoted, or suspended after a hearing by a majority vote of the civil service commission, for neglect of duty, disobedience, misconduct, or failure to properly perform the person's duties. However, if a person holding civil service rights as provided in this chapter is represented by an employee organization and covered by a collective bargaining agreement negotiated under chapter 20 which includes removal, demotion, or suspension procedures, the procedures provided in

this chapter for removal, demotion, or suspension shall not apply to the person.

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JOE J. WELSH  
President of the Senate

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ROBERT C. ARNOULD  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 457, Seventy-fourth General Assembly.

Approved *Wetland* May 2, 1991

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JOHN F. DWYER  
Secretary of the Senate

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TERRY E. BRANSTAD  
Governor