

CHAPTER 321

**APPROPRIATIONS AND OTHER PROVISIONS RELATING TO
STATE REGULATORY AGENCIES AND THE PUBLIC DEFENDER**

H.F. 779

AN ACT relating to and making appropriations, subject to certain conditions, to regulatory bodies of state government, including the auditor of state, the campaign finance disclosure commission, the department of employment services, the office of the state public defender, the department of inspections and appeals, the department of commerce, and the racing commission, among others, and effecting the laws enforced by and procedures utilized by such regulatory bodies, determining the ownership and control of certain property in the possession of the office of the state public defender, and imposing penalties.

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 office of the auditor of state for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	1,650,034
.....	FTEs	95.00

As a condition, qualification, and limitation, of the funds appropriated, \$560,000 is allocated for 16 FTEs and necessary expenses in connection with the auditing of area community colleges; provided, however, that if 1989 Iowa Acts, House File 451, is enacted, any unexpended portion of the moneys allocated to conduct audits of area community colleges shall revert to the general fund except that the auditor may retain and expend up to \$46,500, of any moneys subject to this reversion, for 5.50 FTEs and necessary expenses in connection with the implementation and administration of generally accepted accounting principles acceleration.

The auditor of state shall be reimbursed for performing examinations of the department of commerce, the department of human services, the state department of transportation, the Iowa department of public health, the state board of regents, the department of agriculture and land stewardship, the department of economic development, the department of education, the department of employment services, the department of natural resources, the offices of the clerks of the district court of the judicial department, the Iowa public employees' retirement system, and federal financial assistance, as defined in Pub. L. No. 98-502, received by all other departments.

The auditor of state shall audit an agency or department, which does not receive federal funding, every other year if in the judgment of the auditor of state, the agency or department would not be adversely affected by being audited less than annually. The auditor of state shall report to the legislative fiscal bureau and the department of management on or before September 1, 1989, which agencies and departments will be audited every other year instead of annually.

The auditor of state shall collect information on the costs, including time spent by employees of the auditor of state, associated with providing assistance to private certified public accounting firms, local governments, and other people in connection with audits of political subdivisions not conducted by the auditor of state. The auditor of state shall report the cost information to the legislative fiscal bureau and the department of management on or before September 1, 1989.

Sec. 2. There is appropriated from the general fund of the state to the campaign finance disclosure commission for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	228,811
.....	FTEs	5.75

Sec. 3. There is appropriated from the general fund of the state to the department of employment services for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amounts, or so much thereof as is necessary, for the purposes designated:

1. DIVISION OF LABOR SERVICES

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	2,323,948
.....	FTEs	94.05

As a condition, qualification, and limitation of the funds appropriated in this section, the department shall utilize the \$68,691 allocated for the contractor registration program only for that program and the two FTEs which are authorized and funded for that program, and \$83,954 shall be utilized in connection with the implementation of federal superfund duties delegated or assumed by the division, for which two FTEs are authorized and funded.

As a condition, qualification, and limitation of the funds appropriated, \$197,948, or so much thereof as is necessary, shall be expended for five FTEs and necessary expenses, to be employed in connection with the enforcement of the Iowa minimum wage law. Enforcement of the Iowa minimum wage law shall not begin until January 1, 1990, though moneys may be expended and positions filled prior to January 1, 1990, to adopt required rules, and for training, organization, and other preparatory purposes.

2. DIVISION OF INDUSTRIAL SERVICES

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	1,427,900
.....	FTEs	36.95

The division shall maintain the three full-time employees hired in the fiscal year beginning July 1, 1988, and ending June 30, 1989, as directed by the general assembly, from the funds appropriated, to expedite the administrative hearing process for workers' compensation cases, and to reduce case backlogs. The employees shall include one deputy industrial commissioner, and two clerical employees. The division shall continue charging a sixty-five dollar filing fee for workers' compensation cases. The filing fee shall be paid by the petitioner of a claim; however, the fee can be taxed as a cost, and therefore, paid by the losing party, except in cases where it would impose an undue hardship or be unjust in the circumstances.

It is the intent of the general assembly that the position of job service commissioner not be filled and that the director of the department of employment services shall continue to act as the chief executive officer of the division of job service.

The department of employment services, the department of personnel, and the department of management shall work together to ensure that as nearly as possible all full-time equivalent positions authorized and funded for the department of employment services will be utilized during the fiscal year beginning July 1, 1989, and ending June 30, 1990, and future fiscal years, to ensure that the backlog of cases in that department will be reduced as rapidly as possible.

Sec. 4. CONTINGENCY FUND USES – BUILDING AND EQUIPMENT EXPENSES, ECONOMIC DEVELOPMENT LABOR SURVEYS, DIVISION-APPROVED TRAINING.

1. Notwithstanding the provisions of section 96.13, subsection 3, which restrict the use of moneys in the special employment security contingency fund, moneys in the fund on June 30, 1989, shall not be transferred by the treasurer of state to either the temporary emergency surcharge fund or the unemployment compensation fund, but shall be available to the division of job service of the department of employment services for the fiscal year beginning July 1, 1989, and ending June 30, 1990, for expenditures under subsection 2.

2. The division of job service shall expend moneys which are credited to the special employment security contingency fund during the fiscal year beginning July 1, 1989, and ending June 30, 1990, including moneys which are available to the division of job service under subsection 1, only in accordance with the following restrictions:

a. The division may expend up to \$50,000 from the fund for repair of exterior brick of, and fire safety upgrades for, the state administrative office building.

b. The division may expend up to \$500,500 from the fund for the support of the county, labor survey, economic development teams.

c. Any balance of moneys in the special employment security contingency fund shall be deposited by the treasurer of state in the division-approved training fund which is created as a special fund in the state treasury. Notwithstanding section 453.7, interest or earnings from moneys deposited in the division-approved training fund shall be credited to that fund. The division shall use moneys from the fund to pay only the instructional cost of training related to tuition and course fees, approved by the division pursuant to section 96.4 and 345 Iowa administrative code, rules 4.39 and 4.40, for individuals who demonstrate to the division's satisfaction that they are financially incapable of paying the instructional cost of the approved training. However, the division may expend up to \$40,000 from the fund for administrative costs relating to payments for division approved training.

Payments from the fund shall not be made to the individual receiving approved training but shall be made directly to the institution or person providing the approved training. Payments shall not exceed \$1,000 per individual trainee in any two-year period. The division shall distribute information on the qualification requirements for and availability of payment for the division-approved training to individuals filing claims for benefits or receiving benefits under chapter 96.

Sec. 5. FEDERAL FUNDS APPROPRIATED FOR BUILDING PURCHASE. There is appropriated out of the funds made available to this state pursuant to section 903 of the federal Social Security Act, as amended, for the fiscal year beginning July 1, 1989, and ending June 30, 1990, \$62,500, and for the fiscal year beginning July 1, 1990, and ending June 30, 1991, \$62,500, to the department of employment services for the payment of the last two of four annual payments to the Iowa public employees' retirement system for the purchase of that portion of the state administrative office building located at 1000 East Grand, Des Moines, Iowa, which is owned by the Iowa public employees' retirement system.

The moneys appropriated in this section shall not be obligated after June 30, 1991. The amount obligated pursuant to this section during any twelve-month period beginning on July 1 and ending on June 30 shall not exceed the amount available for obligation pursuant to section 903 of the federal Social Security Act, as amended, and as reflected in the accounts of the division of job service of the department of employment services and the United States department of labor.

Sec. 6. There is appropriated from the administrative contribution surcharge fund of the state to the department of employment services for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, for the purposes designated:

DIVISION OF JOB SERVICE

Notwithstanding section 96.7, subsection 12, paragraph "c", for salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	5,187,600
.....	FTEs	149.94

As a condition, qualification, and limitation of this appropriation, the department of employment services shall provide services throughout the fiscal year beginning July 1, 1989, and ending June 30, 1990, in all communities in which job service offices are operating on July 1, 1989. However, this provision shall not prevent the consolidation of multiple offices within the same city or the collocation of job service offices with another public agency.

The department shall provide information to the legislative fiscal bureau upon request to be used for legislative oversight of all programs operated by the department.

The department shall develop performance standards and criteria for measuring services to certain individuals including but not limited to individuals over fifty-five years of age, individuals who have drawn unemployment insurance benefits for ten weeks or longer,

handicapped individuals, females, minorities, veterans, youth, aid to dependent children recipients, and other appropriate targeted populations.

The department shall submit to the general assembly on or before October 1, 1989, a service delivery plan that will provide for all of the following:

1. Services be streamlined and limited to those specifically funded by the United States congress and the Iowa general assembly.
2. Services will continue to be available to communities which currently have a job service office.
3. A timetable and cost of implementing and disseminating automated services.
4. A cost analysis of all services provided to employers and individuals seeking work.
5. A description of the existing relationship between the department and private employment agencies.
6. Alternatives to office closings including but not limited to, group intake, increased automation, itinerant service, collocation, and flexible operating hours.
7. The feasibility of establishing employer fees for providing services not specifically funded through federal grants or by the general assembly.
8. A report of innovative employment service practices which are adaptable to Iowa's employers and Iowa's work force.

Notwithstanding section 8.33, moneys appropriated to the department of employment services, division of job service, for division approved training in 1988 Iowa Acts, chapter 1274, section 8, subsection 2, in the original amount of \$1,149,209 shall not lapse or revert at the end of the fiscal year ending June 30, 1989, but the unexpended balance shall be available to the division of job service in the division approved training fund for the fiscal year beginning July 1, 1989, and ending June 30, 1990.

Sec. 7. There is appropriated from the general fund of the state to the department of inspections and appeals for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amounts, or so much thereof as is necessary, for the purposes designated:

1. GENERAL DEPARTMENT

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	4,124,300
.....	FTEs	250.50

Of the amount appropriated, \$38,700, or so much thereof as is necessary, shall be expended for one FTE and necessary expenses in connection with the administration of payment claims to court-appointed counsel for adult and juvenile indigent defense costs.

Three FTEs responsible for conducting alcoholic beverage audits shall be transferred to the alcoholic beverage division of the department of commerce.

2. EMPLOYMENT APPEAL BOARD

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	35,500
.....	FTEs	1.80

3. FOSTER CARE REVIEW BOARD

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	304,171
.....	FTEs	8.50

4. The department of inspections and appeals may charge state departments, agencies, and commissions for services rendered and the payment received shall be considered repayment receipts as defined in section 8.2, subsection 5.

*5. LEGAL SERVICES CORPORATION. For the general operations of the legal services corporation of Iowa:

.....	\$	150,000
-------	----	---------

*Item veto; see message at end of the Act

As a condition, limitation, and qualification of the funds appropriated in this subsection, the legal services corporation of Iowa shall maintain in operation all offices which were operating as of May 1, 1989, except that one office may be closed. If during the fiscal year of the appropriation the legal services corporation closes or ceases to operate more than one office of the offices which were operating as of May 1, 1989, the money appropriated in this subsection shall be immediately refunded to the general fund of the state.*

Sec. 8. There is appropriated from the general fund of the state to the office of the state public defender for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	3,684,000
.....	FTEs	89.53

For indigent court-appointed attorney fees for adults and juveniles, notwithstanding section 232.141 and chapter 815:

.....	\$	7,200,000
-------	----	-----------

The department of inspections and appeals and the judicial department shall work together to provide a smooth transition for the payment of court-appointed attorney fees for indigent defense of adults and juveniles and shall jointly submit a proposal for any necessary changes in the Code, to permanently transfer this function to the office of the state public defender, by December 15, 1989.

Sec. 9. There is appropriated from the road use tax fund to the department of inspections and appeals for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	417,500
.....	FTEs	11.00

It is the intent of the general assembly that the department of inspections and appeals cross-train its employees to perform more than one form of inspection or work whenever possible.

Sec. 10. There is appropriated from the general fund of the state to the public employment relations board for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	648,530
.....	FTEs	13.50

Sec. 11.

1. There is appropriated from the professional licensing revolving fund to the professional licensing and regulation division of the department of commerce, for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	679,675
.....	FTEs	9.0

The professional licensing division of the department of commerce shall transfer at the beginning of each fiscal quarter from appropriated trust funds to the administrative services trust fund an amount which represents the division's share of the estimated cost of consolidated administrative services within the department of commerce, such share to be in the same proportion as established by agreement in the fiscal year beginning July 1, 1986, and ending June 30, 1987, with the first quarterly transfer to occur between July 1 and July 31 annually.

*Item veto; see message at end of the Act

2. It is the intent of the general assembly that the department of commerce shall transfer eighty percent of fee revenue from the professional licensing and regulation division to the professional licensing revolving fund. The department of commerce shall remit and deposit the remaining twenty percent of the professional licensing and regulation division fees to the general fund of the state.

The professional licensing and regulation division may expend additional funds, including funds required for additional personnel, if those additional expenditures are actual expenses which exceed the funds budgeted for the division, and result directly from the licensing and regulation of the subject professions. Before the division expends or encumbers an amount in excess of the funds budgeted for examinations, the director of the department of management shall approve the expenditure or encumbrance. Before approval is given, the director of the department of management shall determine that the examination expenses exceed the funds budgeted by the general assembly to the division and the division does not have other funds from which the expenses can be paid. Upon approval of the director of the department of management, the division may expend and encumber funds for excess expenses. The amounts necessary to fund the excess expenses shall be collected from those persons being regulated or licensed which caused the excess expenditures, and the collections shall be treated as repayment receipts as defined in section 8.2, subsection 5.

Sec. 12. There is appropriated from the administrative services trust fund to the administrative services division of the department of commerce for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:	\$	1,529,000
	FTEs	43.50

Sec. 13. Notwithstanding section 123.53, there is appropriated from the beer and liquor control fund to the alcoholic beverages division of the department of commerce for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:	\$	4,808,000
	FTEs	87.86

Of the amount appropriated, \$144,000, or so much thereof as is necessary, shall be expended for four FTEs, and necessary expenses, including three FTEs transferred from the department of inspections and appeals, in connection with alcoholic beverage audits.

The alcoholic beverages division of the department of commerce shall transfer at the beginning of each fiscal quarter from appropriated trust funds to the administrative services trust fund an amount which represents the division's share of the estimated cost of consolidated administrative services within the department of commerce, such share to be in the same proportion as established by agreement in the fiscal year beginning July 1, 1986, and ending June 30, 1987, with the first quarterly transfer to occur between July 1 and July 31 annually. At the close of the fiscal year, actual versus estimated expenditures shall be reconciled and any overpayment shall be returned to each division or any underpayment shall be paid by each division.

Sec. 14. There is appropriated from the banking revolving fund to the banking division of the department of commerce for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:	\$	5,256,500
	FTEs	118.50

The banking division of the department of commerce shall transfer at the beginning of each fiscal quarter from appropriated trust funds to the administrative services trust fund an amount which represents the division's share of the estimated cost of consolidated administrative services within the department of commerce, such share to be in the same proportion as established by agreement in the fiscal year beginning July 1, 1986, and ending June 30, 1987, with the first quarterly transfer to occur between July 1 and July 31 annually. At the close of the fiscal year, actual versus estimated expenditures shall be reconciled and any overpayment shall be returned to each division or any underpayment shall be paid by each division.

The banking division may expend additional funds, including funds for additional personnel, if those additional expenditures are actual expenses which exceed the funds budgeted for bank examinations and directly result from examinations of banks. Before the division expends or encumbers an amount in excess of the funds budgeted for examinations, the director of the department of management shall approve the expenditure or encumbrance. Before approval is given, the director of the department of management shall determine that the examination expenses exceed the funds budgeted by the general assembly to the division and that the division does not have other funds from which examination expenses can be paid. Upon approval of the director of the department of management the division may expend and encumber funds for excess examination expenses. The amounts necessary to fund the excess examination expenses shall be collected from those banks being regulated which caused the excess expenditures, and the collections shall be treated as repayment receipts as defined in section 8.2, subsection 5.

Sec. 15. 1988 Iowa Acts, chapter 1274, section 20, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Any unexpended moneys from the appropriation for the fiscal year beginning July 1, 1988, and ending June 30, 1989, to the division of banking from the banking revolving fund, shall not revert to the banking revolving fund, but may be expended by the division of banking for the purchase of computer equipment to continue the automation support of field audit staff. A report on the types, quantities, and costs of equipment acquired pursuant to this paragraph shall be provided to the department of management and the legislative fiscal bureau on or before July 15, 1989.

Sec. 16. There is appropriated from the credit union revolving fund to the credit union division of the department of commerce for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	951,000
.....	FTEs	20.00

The credit union division of the department of commerce shall transfer at the beginning of each fiscal quarter from appropriated trust funds to the administrative services trust fund an amount which represents the division's share of the estimated cost of consolidated administrative services within the department of commerce, such share to be in the same proportion as established by agreement in the fiscal year beginning July 1, 1986, and ending June 30, 1987, with the first quarterly transfer to occur between July 1 and July 31 annually. At the close of the fiscal year, actual versus estimated expenditures shall be reconciled and any overpayment shall be returned to each division or any underpayment shall be paid by each division.

The credit union division may expend additional funds, including funds for additional personnel, if those additional expenditures are actual expenses which exceed the funds budgeted for credit union examinations and directly result from examinations of credit unions. Before the division expends or encumbers an amount in excess of the funds budgeted for examinations, the director of the department of management shall approve the expenditure or encumbrance. Before approval is given, the director of the department of management shall determine that the examination expenses exceed the funds budgeted by the general assembly to

the division and that the division does not have other funds from which examination expenses can be paid. Upon approval of the director of the department of management the division may expend and encumber funds for excess examination expenses. The amounts necessary to fund the excess examination expenses shall be collected from those credit unions being regulated which caused the excess expenditures, and the collections shall be treated as repayment receipts as defined in section 8.2, subsection 5.

Sec. 17. There is appropriated from the savings and loan revolving fund to the savings and loan division of the department of commerce for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	310,000
.....	FTEs	6.00

The savings and loan division of the department of commerce shall transfer at the beginning of each fiscal quarter from appropriated trust funds to the administrative services trust fund an amount which represents the division's share of the estimated cost of consolidated administrative services within the department of commerce, such share to be in the same proportion as established by agreement in the fiscal year beginning July 1, 1986, and ending June 30, 1987, with the first quarterly transfer to occur between July 1 and July 31 annually. At the close of the fiscal year, actual versus estimated expenditures shall be reconciled and any overpayment shall be returned to each division or any underpayment shall be paid by each division.

The savings and loan division may expend additional funds, including funds for additional personnel, if those additional expenditures are actual expenses which exceed the funds budgeted for savings and loan examinations and directly result from examinations of savings and loan associations. Before the division expends or encumbers an amount in excess of the funds budgeted for examinations, the director of the department of management shall approve the expenditure or encumbrance. Before approval is given, the director of the department of management shall determine that the examination expenses exceed the funds budgeted by the general assembly to the division and that the division does not have other funds from which examination expenses can be paid. Upon approval of the director of the department of management the division may expend and encumber funds for excess examination expenses. The amounts necessary to fund the excess examination expenses shall be collected from those savings and loan associations being regulated which caused the excess expenditures, and the collections shall be treated as repayment receipts as defined in section 8.2, subsection 5.

Sec. 18. There is appropriated from the insurance revolving fund to the insurance division of the department of commerce for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	4,004,800
.....	FTEs	93.33

Of the amount appropriated, at least \$21,128 shall be expended to hire an executive secretary for the insurance commissioner.

Of the amount appropriated, \$75,000 shall be expended for the salary and reasonable and necessary expenses of the director of insurance development, who for budgetary purposes is under the division of insurance. The director of insurance development shall continue to maintain the director's office in its current location.

Of the funds appropriated, conditioned upon the enactment of Senate File 278 by the Seventy-third General Assembly, 1989 Session, the following amounts shall be added to the budget of the regulated industries unit of the securities bureau of the insurance division; \$25,000 shall

be used for the salary and benefits of a full-time administrative assistant, to be responsible for assisting in the administration of chapter 523D regarding the registration of continuing care retirement communities; \$1,000 shall be used for the training, travel, and other necessary expenses of the administrative assistant for the chapter 523D program; and \$3,800 shall be used for equipment, supplies, and a computer for the chapter 523D administrative assistant.

It is the intent of the general assembly that the department of commerce shall transfer sixty percent of insurance nonexamination revenues received for the fiscal year beginning July 1, 1989, and ending June 30, 1990, to the general fund of the state to the extent that the remaining forty percent of nonexamination revenues available to the division exceed or are projected to exceed the division's appropriation pursuant to this Act.

Of the funds appropriated, \$126,395, or so much thereof as is necessary, shall be transferred to the office of the attorney general to reimburse the office of the attorney general for two assistant attorneys general.

The insurance division of the department of commerce shall transfer at the beginning of each fiscal quarter from appropriated trust funds to the administrative services trust fund an amount which represents the division's share of the estimated cost of consolidated administrative services within the department of commerce, such share to be in the same proportion as established by agreement in the fiscal year beginning July 1, 1986, and ending June 30, 1987, with the first quarterly transfer to occur between July 1 and July 31 annually. At the close of the fiscal year, actual versus estimated expenditures shall be reconciled and any overpayment shall be returned to each division or any underpayment shall be paid by each division.

The insurance division may expend additional funds, including funds for additional personnel, if those additional expenditures are actual expenses which exceed the funds budgeted for insurance company examinations and directly result from examinations of insurance companies. Before the division expends or encumbers an amount in excess of the funds budgeted for examinations, the director of the department of management shall approve the expenditure or encumbrance. Before approval is given, the director of the department of management shall determine that the examination expenses exceed the funds budgeted by the general assembly to the division and that the division does not have other funds from which examination expenses can be paid. Upon approval of the director of the department of management the division may expend and encumber funds for excess examination expenses. The amounts necessary to fund the excess examination expenses shall be collected from those insurance companies being regulated which caused the excess expenditures, and the collections shall be treated as repayment receipts as defined in section 8.2, subsection 5.

Sec. 19. There is appropriated from the utilities trust fund to the utilities division of the department of commerce for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	4,489,300
.....	FTEs	87.50

The general assembly finds that cost-effective energy efficiency is a vital goal for Iowa because Iowa produces virtually none of the energy it consumes, but pays substantial amounts for the energy it purchases from out-of-state sources. The most effective means of discovering creative and cost-effective energy efficiency program options is through a cooperative effort among consumers, utilities, and the utilities board.

Of the amount appropriated in this section, not more than \$100,000 shall be expended by the utilities board to study and identify promising cost-effective energy efficiency program options. The board may retain one or more consultants in conjunction with the board's study. The board shall share the results of the study and any consulting contract with any legislative interim committee appointed encompassing similar subject matter, and that legislative interim committee shall have access to any consultant retained by the board with the full cooperation of the board. The board shall establish a cooperative effort among consumers and utilities to assist the board in identifying promising energy efficiency program options

and means to implement such options. Consumer participants may be reimbursed for actual expenses. The board shall provide to the general assembly on or before November 1, 1989, a report on the cost-effective program options identified in the cooperative board study and any recommendations of the board for legislative action.

The utilities division of the department of commerce shall transfer at the beginning of each fiscal quarter from appropriated trust funds to the administrative services trust fund an amount which represents the division's share of the estimated cost of consolidated administrative services within the department of commerce, such share to be in the same proportion as established by agreement in the fiscal year beginning July 1, 1986, and ending June 30, 1987, with the first quarterly transfer to occur between July 1 and July 31 annually. At the close of the fiscal year, actual versus estimated expenditures shall be reconciled and any overpayment shall be returned to each division or any underpayment shall be paid by each division.

Sec. 20. There is appropriated from the racing commission fund to the racing commission for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	1,712,500
.....	FTEs	30.99

The racing commission shall provide, in the budget forms for the fiscal year beginning July 1, 1990, and ending June 30, 1991, a separate line item for veterinarian services and another line item for body fluid testing of dogs and horses. These items shall also be designated in the base budget package and any decision packages in which they appear in the budget forms. Other professional and scientific services may be combined into an additional line item, but must be clearly explained in the budget narrative section of the budget forms.

Sec. 21. All federal grants to and the federal receipts of the agencies appropriated funds under this Act, not otherwise appropriated, are appropriated for the purposes set forth in the federal grants or receipts unless otherwise provided by the general assembly.

Sec. 22.

1. There is created in the office of the treasurer of state for the racing and gaming commission, an excursion boat gambling revolving fund.

2. There is appropriated from the general fund of the state to the racing and gaming commission, \$100,000, for deposit in the excursion boat gambling revolving fund.

3. The amount appropriated from the general fund of the state in subsection 2 is appropriated from the excursion boat gambling revolving fund to the treasurer of state, to be transferred to and deposited in the general fund of the state no later than June 30, 1991.

4. All license fees, fees, and penalties collected by the racing and gaming commission in connection with excursion boat gambling shall be deposited into the excursion boat gambling revolving fund.

5. There is appropriated from the excursion boat gambling revolving fund to the racing and gaming commission, for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions for administration and enforcement of the excursion boat gambling laws:

.....	\$	100,000
.....	FTEs	2.00

Sec. 23. NEW SECTION. 13B.8A PUBLIC DEFENDER PROPERTY.

1. Notwithstanding section 13B.8, subsection 4, public property referred to in subsection 2 in the custody of a person or agency referred to in subsection 3 shall not be property of the department of inspections and appeals, but shall be devoted for the use of the department of inspections and appeals in its course of business. The department of inspections and appeals

shall only be responsible for maintenance contracts or contracts for purchase entered into by the department of inspections and appeals. Upon replacement of the property by the department of inspections and appeals, the property shall revert to the use of the appropriate county.

2. This section applies to the following property:

- a. Books, accounts, and records that pertain to the operation of the public defender's offices.
- b. Forms, materials, and supplies that are consumed in the usual course of business.
- c. Tables, chairs, desks, lamps, curtains, window blinds, rugs and carpeting, flags and flag standards, pictures and other wall decorations, and other similar furnishings.
- d. Typewriters, adding machines, desk calculators, cash registers and similar business machines, reproduction machines and equipment, microfiche projectors, tape recorders and associated equipment, microphones, amplifiers and speakers, film projectors and screens, overhead projectors, and similar personal property.
- e. Filing cabinets, shelving, storage cabinets, and other property used for storage.
- f. Books of statutes, books of ordinances, books of judicial decisions, and reference books, except those that are customarily held in a law library for use by the public.
- g. All other personal property that is in use in the operation of the offices of the public defender.

3. This section applies to the following persons and agencies:

- a. Offices of the public defender.
- b. Persons who are employed by an office of the public defender.

4. Subsections 1 through 3 and 5 do not apply to electronic data storage equipment, commonly referred to as computers, or to computer terminals or any machinery, equipment, or supplies used in the operation of computers. Those counties providing computer services to the public defender shall continue to provide these services until the general assembly provides otherwise. The state shall reimburse these counties for the cost of providing these services. Each county providing computer services to an office of the public defender shall submit a bill for these services to the department of inspections and appeals at the end of each calendar quarter. Reimbursement shall be payable from funds appropriated to the department for operating expenses of the offices of the public defender and shall be paid within thirty days after receipt by the department of inspections and appeals of the quarterly billing.

5. Personal property of a type that is subject to subsections 1 through 3 shall be subject to the control of the offices of the public defender. The offices of the public defender may issue necessary orders to preserve the use of the property by the public defender. The offices of the public defender shall establish and maintain an inventory of property used by the offices of the public defender.

Sec. 24. Section 68B.7, unnumbered paragraph 2, Code 1989, is amended to read as follows:

No A person who has served as the head of or on a commission or board of a regulatory agency or as a deputy thereof, shall not, within a period of two years after the termination of such service accept employment with that commission, board, or agency or receive compensation for any services rendered on behalf of any person, firm, corporation, or association in any case, proceedings, or application before the department with which the person so served wherein the person's compensation is to be dependent or contingent upon any action by such agency with respect to any license, contract, certificate, ruling, decision, opinion, rate schedule, franchise, or other benefit, or in promoting or opposing, directly or indirectly, the passage of bills or resolutions before either house of the general assembly.

Sec. 25. Section 88.8, subsection 3, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The commissioner has unreviewable discretion to withdraw a citation charging an employer with violating this chapter. If the parties enter into a settlement agreement prior to a hearing, the employment appeal board shall enter an order affirming the agreement.

Sec. 26. Section 89.2, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 8. "Exhibition boiler" means a boiler which is operated in the state for nonprofit purposes including, but not limited to, exhibitions, fairs, parades, farm machinery

shows, or any other event of an historical or educational nature. An "exhibition boiler" includes steam locomotives, traction and portable steam engines, and stationary boilers of the firetube, watertube, and returntube class, model or miniature, and may be riveted, riveted and welded, or all welded construction, if used within the state solely for nonprofit purposes.

Sec. 27. Section 89.3, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 11. An exhibition boiler does not require an annual inspection certificate but special inspections may be requested by the owner or an event's management to be performed by the commissioner. Upon the completion of an exhibition boiler inspection a written condition report shall be prepared by the commissioner regarding the condition of the exhibition boiler's boiler or pressure vessel. This report will be issued to the owner and the management of all events at which the exhibition boiler is to be operated. The event's management is responsible for the decision on whether the exhibition boiler should be operated and shall inform the division of labor of the event's management's decision. The event's management is responsible for any injuries which result from the operation of any exhibition boiler approved for use at the event by the event's management. A repair symbol, known as the "R" stamp, is not required for repairs made to exhibition boilers pursuant to the rules regarding inspections and repair of exhibition boilers as adopted by the commissioner, pursuant to chapter 17A.

Sec. 28. Section 135C.37, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Upon the request of a person filing a complaint under this section, the department shall mail to the person without charge, a copy of the report of the investigation performed in response to the complaint and a copy of the most recent final findings with respect to compliance with licensing requirements on the part of the facility against which the complaint was filed.

Sec. 29. Section 476.6, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 17. WATER COSTS FOR FIRE PROTECTION IN CERTAIN CITIES.

a. Application. A city furnished water by a public utility subject to rate regulation may apply to the board for inclusion of all or a part of the costs of fire hydrants or other improvements, maintenance, and operations for the purpose of providing adequate water production, storage, and distribution for public fire protection in the rates or charges assessed to consumers covered by the applicant's fire protection service. The application shall be made in a form and manner approved by or as directed by the board. The applicant shall provide such additional information as the board may require to consider the application.

b. Review. The board shall review the application, and may in its discretion consider additional evidence, beyond that supplied in the application or provided by the applicant in response to a request for additional information pursuant to paragraph "a", including, but not limited to, soliciting oral or written testimony from other interested parties.

c. Notice. Written notice of a proposed rate increase shall be provided by the public utility pursuant to subsection 5, except that notice shall be provided within ninety days of the date of application. Costs of the notice shall be paid for by the applicant.

d. Conditions for approval. As a condition to approving an application to include water-related fire protection costs in the utility's rates or charges, the board shall make an affirmative determination that the following conditions will be met:

(1) That the service area currently charged for fire protection, either directly or indirectly, is substantially the same service area containing those persons who will pay for water-related fire protection through inclusion of such costs within the utility's rates or charges.

(2) That the inclusion of such costs within the utility's rates or charges will not cause substantial inequities among the utility's customers.

(3) That all or a portion of the costs sought to be included in the utility's rates or charges by the applicant are reasonable in the circumstances, and limited to the purposes specified in paragraph "a".

(4) That written notice has been provided pursuant to paragraph "c" and that the costs of the notice have been paid by the applicant.

e. Inclusion within rates or charges. If the board affirmatively determines that the conditions of paragraph "d" are or will be satisfied, the board shall include the reasonable costs in the rates or charges assessed to consumers covered by the applicant's fire protection service.

f. Written order. The board shall issue a written order within six months of the date of application. The written order shall include a recitation of the facts found pursuant to consideration of the application.

Sec. 30. Section 476.10, unnumbered paragraph 4, Code 1989, is amended to read as follows:

Whenever the board shall deem it necessary in order to carry out the duties imposed upon it in connection with rate regulation under section 476.6, investigations under section 476.3, or review proceedings under section 476.31, the board may employ additional temporary or permanent staff, or may contract with persons who are not state employees for engineering, accounting, or other professional services, or both. The costs of these additional employees and contract services shall be paid by the public utility whose rates are being reviewed in the same manner as other expenses are paid under this section. There is hereby appropriated out of any funds in the state treasury not otherwise appropriated, such sums as may be necessary to enable the board to hire additional staff and contract for services under this section. The board shall increase quarterly assessments specified in unnumbered paragraph two, by amounts necessary to enable the board to hire additional staff and contract for services under this section. The authority to hire additional temporary or permanent staff that is granted to the board by this section shall not be subject to limitation by any administrative or executive order or decision that restricts the number of state employees or the filling of employee vacancies, and shall not be subject to limitation by any law of this state that restricts the number of state employees or the filling of employee vacancies unless that law is made applicable to this section by express reference to this section. Before the board expends or encumbers an amount in excess of the funds budgeted for rate regulation and before the board increases quarterly assessments pursuant to this paragraph, the director of the department of management shall approve the expenditure or encumbrance. Before approval is given, the director of the department of management shall determine that the expenses exceed the funds budgeted by the general assembly to the board for rate regulation and that the board does not have other funds from which the expenses can be paid. Upon approval of the director of the department of management the board may expend and encumber funds for the excess expenses, and increase quarterly assessments to raise the additional funds.

Sec. 31. NEW SECTION. 477.9A DEREGULATED SERVICES.

A telegraph or telephone company whose services are deregulated by the board under section 476.1 may use public notice as a means of conveying terms and conditions to customers where identification of those customers is infeasible or impractical. Public notice may also be used to convey changes in terms and conditions, other than price increases or limitations of liability, to all other customers, but only if those customers were put on notice that this means would be used to convey subsequent changes. Notwithstanding section 477.7, when services are deregulated by the board under section 476.1, a telegraph or telephone company, in any contract, agreement, or by means of public notice, may reasonably limit its liability under section 477.7 in the course of providing the deregulated communications services to its customers, except for acts of willful misconduct. However, this section shall not be construed to allow a greater limitation on liability than exists in any contract or approved tariff as of the effective date of the deregulation of the services.

Sec. 32. Section 507B.4, subsection 9, paragraph f, Code 1989, is amended to read as follows:

f. Not attempting in good faith to effectuate prompt, fair and equitable settlements of claims in which liability has become reasonably clear, or failing to include interest on the payment of claims when required under section 511.38.

Sec. 33. Section 508.14, Code 1989, is amended to read as follows:

508.14 VIOLATION BY DOMESTIC COMPANY.

Upon a failure of ~~any~~ a company organized under the laws of this state to make the deposit provided in section 511.8, subsection 16, or file the statement in the time herein stated, or to file in a timely manner any financial statement required by rule of the commissioner of insurance, the commissioner of insurance shall notify the attorney general of the default, who shall at once apply to the district court of the county where the home office of ~~such~~ the company is located for an order requiring the company to show cause, upon reasonable notice, to be fixed by the court, why its business shall not be discontinued. If, upon the hearing, no sufficient cause is shown, the court shall decree its dissolution. In lieu of a district court action authorized by this section, the commissioner may impose an administrative penalty of three hundred dollars upon the company.

Sec. 34. Section 508.15, Code 1989, is amended to read as follows:

508.15 VIOLATION BY FOREIGN COMPANY.

Companies organized and chartered by the laws of a foreign state or country, failing to file the evidence of investment and statement within the time fixed, or failing to timely file any financial statement required by rule of the commissioner of insurance, shall forfeit and pay the sum of three hundred dollars, to be collected in an action in the name of the state and paid to the treasurer of state for deposit in the general fund of the state, and their right to transact further new business in this state shall immediately cease until the requirements of this chapter have been fully complied with.

Sec. 35. NEW SECTION. 511.38 INTEREST ON DELAYED CLAIMS PAYMENTS.

1. When an insurance policy provides for the payment of its proceeds to a beneficiary upon the death of an individual and, without the written consent of the beneficiary, the company fails or refuses to pay the proceeds within thirty days after receipt of satisfactory proof of death, the company shall pay interest on the proceeds or any amount of the proceeds not paid within the thirty days, provided, however, if the policy requires a beneficiary to survive for a designated period after the death of the insured, the company shall pay interest on the proceeds or any amount of the proceeds not paid within thirty days after the designated period.

2. The interest owed on any amount of the proceeds of a policy under this section shall be computed from the date of receipt of the proof of death. The rate of interest shall be the higher of the following:

a. The effective rate of interest charged by the company on policy loans under section 511.36 on the date of receipt of proof of death.

b. The effective rate of interest paid by the company on death proceeds left on deposit with the company.

3. A payment of interest shall not be required under this section in any case in which the beneficiary elects to receive the proceeds under the policy by any means other than a lump sum payment.

Sec. 36. Section 514E.5, subsection 2, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. However, the association policy shall pay benefits as a primary payer in any case where benefit coverage provided under the laws of the United States, including Medicare and Medicaid, or under the laws of this state is, by rule or statute, secondary to all other coverages.

Sec. 37. Section 514G.7, subsection 2, Code 1989, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. Provide coverage for skilled nursing care only, or provide significantly more coverage for skilled care in a facility than coverage for lower levels of care.

Sec. 38. Section 514G.7, subsection 4, Code 1989, is amended by striking the subsection and inserting in lieu thereof the following:

4. PRIOR HOSPITALIZATION – INSTITUTIONALIZATION.

a. Effective July 1, 1989, a long-term care insurance policy shall not be delivered or issued for delivery in this state if the policy does either of the following:

(1) Conditions eligibility for any benefits on a requirement of prior hospitalization.

(2) Conditions eligibility for benefits covering care provided in an institutional care setting on the receipt of a higher level of institutional care.

b. Effective July 1, 1989, a long-term care insurance policy containing any limitations or conditions for eligibility, other than those prohibited in paragraph 1, shall clearly label such limitations or conditions in a separate paragraph of the policy or certificate entitled "Limitations or Conditions on Eligibility for Benefits".

c. A long-term care insurance policy advertised, marketed, or offered as containing long-term care benefits at home shall not condition receipt of benefits on a requirement of prior hospitalization.

d. A long-term care insurance policy which conditions eligibility for noninstitutional benefits on the prior receipt of institutional care shall not require a prior institutional stay of more than thirty days for which benefits are paid.

Sec. 39. Section 514G.7, subsection 7, Code 1989, is amended to read as follows:

7. **OUTLINE OF COVERAGE.** An outline of coverage shall be delivered to an applicant for an individual long-term care insurance policy at the time of application. ~~In the case of direct response solicitations, the insurer shall deliver the outline of coverage upon the applicant's request, but regardless of request shall deliver the outline no later than at the time of policy delivery.~~ An outline of coverage must include all of the following:

a. A description of the principal benefits and coverage provided in the policy.

b. A statement of the principal exclusions, reductions, and limitations contained in the policy.

c. A statement of the renewal provisions, including any reservation in the policy of a right to change premiums. Continuation or conversion provisions of group coverage shall be specifically described.

d. A statement that the outline of coverage is a summary of the policy issued or applied for, not a contract of insurance, and that the policy or group master policy should be consulted to determine governing contractual provisions.

e. A description of the terms by which the policy or certificate may be returned and premium refunded.

f. A description of the cost of care and benefits.

Sec. 40. 1986 Iowa Acts, chapter 1246, section 755, is hereby reenacted and remains effective to the extent that persons who were employed by the division of alcoholic beverages whose positions were terminated as a result of 1986 Iowa Acts, chapter 1246, sections 724 through 761, shall continue to be accorded the hiring preferences for other positions in state departments provided by 1986 Iowa Acts, chapter 1246, section 755. This preference shall terminate on June 30, 1990.

Sec. 41. Section 31 of this Act, being deemed of immediate importance, takes effect upon enactment.

Sec. 42. Section 477.9A, as enacted in this Act, is repealed effective May 1, 1990.

Approved June 5, 1989, except the item which I hereby disapprove and which is designated as section 7, subsection 5 in its entirety. My reasons for vetoing are delineated in the item veto message pertaining to this Act to the secretary of state this same date a copy of which is attached hereto.

TERRY E. BRANSTAD, Governor

Dear Madam Secretary:

I hereby transmit House File 779, an Act relating to and making appropriations, subject to certain conditions, to regulatory bodies of state government, including the auditor of state, the campaign finance disclosure commission, the department of employment services, the office of the state public defender, the department of inspections and appeals, the department of commerce, and the racing commission, among others, and effecting the laws enforced by and procedures utilized by such regulatory bodies, determining the ownership and control of certain property in the possession of the office of the state public defender, and imposing penalties.

House File 779 is, therefore, approved on this date with the following exception which I hereby disapprove.

I am unable to approve the item designated as Section 7, subsection 5, in its entirety. This provision makes a new appropriation of \$150,000 to the Legal Services Corporation of Iowa. This program already has a budget of \$2.9 million and has received modest federal funding increases in recent years. This extra state expenditure is imprudent and unnecessary. The Legal Services Corporation of Iowa is federally funded as well as receiving funds from other sources.

Given the substantial overspending of state taxpayers funds by this General Assembly, I cannot approve what is likely to be an additional long-term commitment of tax money for this purpose. Moreover, I have separately approved an appropriation increase of \$140,000 above the Attorney General's recommendation for legal assistance to farmers. These funds also go to this corporation in the effort to defend indigent farmers. That substantial increase in state funds should be sufficient to maintain the operation of the corporation while the need exists.

For the above reason, I hereby respectfully disapprove this item in accordance with Amendment IV of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in House File 779 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*