

CHAPTER 1242

APPROPRIATIONS — REGULATORY BODIES

H.F. 2455

AN ACT relating to and making appropriations to regulatory bodies of state government, including the auditor of state, the campaign finance disclosure commission, the department of employment services, the department of inspections and appeals, the office of the state public defender, the department of commerce, public employment relations board, and the racing and gaming commission, allocating certain standing appropriations subject to certain procedures and conditions, and providing an effective date.

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

Section 1. **AUDITOR OF STATE.** 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, 1992, and ending June 30, 1993, 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:

.....	\$	1,037,678
.....	FTEs	109.78

The auditor of state may expend additional moneys and retain additional full-time equivalent positions as is reasonable and necessary to perform audits, including audits for local governments, if the amount expended is proportional to the costs that are reimbursable from the entity being audited, including but not limited to expenses reimbursable pursuant to section 11.5A, 11.5B, 11.20, or 11.21. The auditor of state shall notify the legislative fiscal committee and the legislative fiscal bureau at the time the additional funds are requested.

Sec. 2. **CAMPAIGN FINANCE DISCLOSURE COMMISSION.** There is appropriated from the general fund of the state to the campaign finance disclosure commission for the fiscal year beginning July 1, 1992, and ending June 30, 1993, 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:

.....	\$	256,420
.....	FTEs	6.75

Sec. 3. **DEPARTMENT OF EMPLOYMENT SERVICES.** There is appropriated from the general fund of the state to the department of employment services for the fiscal year beginning July 1, 1992, and ending June 30, 1993, 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, contingent upon the enactment of section 5 of this Act and the provision which requires moneys appropriated from the special employment security contingency fund to first be used to fully fund the appropriation of \$296,508 to the division of labor services in subsection 1 of section 5 of this Act prior to funding the appropriations in section 5 of this Act to the division of industrial services and the division of job service:

.....	\$	2,222,743
.....	FTEs	90.00

From the contractor registration fees, the division of labor services shall reimburse the department of inspections and appeals for all costs associated with hearings under chapter 91C, relating to contractor registration.

*Item veto; see message at end of the Act

2. DIVISION OF INDUSTRIAL SERVICES

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

.....	\$	1,828,127
.....	FTEs	35.00

Sec. 4. ADMINISTRATIVE CONTRIBUTION SURCHARGE FUND. 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, 1992, and ending June 30, 1993, 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, conducting labor availability surveys, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	6,259,913
.....	FTEs	161.50

Of the amount appropriated under this section, \$200,000 shall be used by the department to conduct labor availability surveys. As a condition of this expenditure, the department shall adopt rules providing that all communities which are scheduled to be surveyed during the fiscal year shall contribute forty percent of the cost of completing the community surveys.

1. The department of employment services shall provide services throughout the fiscal year beginning July 1, 1992, and ending June 30, 1993, in all communities in which job service offices are operating on July 1, 1992. However, this provision shall not prevent the consolidation of multiple offices within the same city or the colocation of job service offices with another public agency.

2. The division of industrial services shall not reduce the number of scheduled hearings of contested cases or eliminate the venue of such hearings, as established by the division for the period beginning January 1, 1992, and ending January 20, 1993. The division shall also establish a substantially similar schedule for such hearings for the period beginning January 20, 1993, and ending June 30, 1993. The division shall report to the legislative fiscal bureau concerning any modification of the established schedule, or any changes which the division determines are necessary in establishing the schedule for the period beginning January 20, 1993, and ending June 30, 1993.

3. The division shall continue charging a \$65 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 paid by the losing party, except in cases where it would impose an undue hardship or be unjust under the circumstances.

4. The industrial commissioner shall study and make written recommendations concerning options to fund the division involving all employers relieved from the requirement of obtaining insurance pursuant to section 87.11, all group self-insured associations or plans authorized by section 87.4, and all insurance companies writing insurance policies authorized by section 515.48, subsection 5, paragraph "d". Recommendations made shall provide for complete and total funding of the operations of the division of industrial services and shall also provide a plan of implementation and any legislative proposals or actions necessary to implement the recommendations. The report shall be provided in writing to the general assembly and the legislative fiscal bureau no later than January 20, 1993.

5. 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, 1992, and ending June 30, 1993, and future fiscal years, to ensure that the backlog of cases in that department will be reduced as rapidly as possible.

*Item veto; see message at end of the Act

Sec. 5. EMPLOYMENT SECURITY CONTINGENCY FUND. There is appropriated from the special employment security contingency fund to the department of employment services for the fiscal year beginning July 1, 1992, and ending June 30, 1993, the following amounts, or so much thereof as is necessary, for the purposes designated and subject to the requirement that the appropriation to the division of labor services under this section be fully funded from the special employment security contingency fund prior to any amounts being used to fund the appropriations made to the division of industrial services and the division of job service under this section:

1. DIVISION OF LABOR SERVICES

For salaries, support, maintenance, and miscellaneous purposes:
 \$ 296,508

2. DIVISION OF INDUSTRIAL SERVICES

For salaries, support, maintenance, and miscellaneous purposes:
 \$ 175,494

3. DIVISION OF JOB SERVICE

For asbestos removal and remodeling:
 \$ 75,000

Sec. 6. DEPARTMENT OF INSPECTIONS AND APPEALS. There is appropriated from the general fund of the state to the department of inspections and appeals for the fiscal year beginning July 1, 1992, and ending June 30, 1993, the following amounts, or so much thereof as is necessary, for the purposes designated:

1. FINANCE AND SERVICES DIVISION

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

..... \$ 467,307
 FTEs 24.00

2. AUDITS DIVISION

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

..... \$ 416,731
 FTEs 15.00

3. APPEALS AND FAIR HEARINGS DIVISION

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

..... \$ 197,547
 FTEs 24.00

4. INVESTIGATIONS DIVISION

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

..... \$ 458,808
 FTEs 35.00

5. HEALTH FACILITIES DIVISION

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

..... \$ 1,367,682
 FTEs 118.00

6. INSPECTIONS DIVISION

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

..... \$ 711,017
 FTEs 20.00

7. EMPLOYMENT APPEAL BOARD

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

.....	\$	42,764
.....	FTEs	16.80

The employment appeal board shall be reimbursed by the labor services division of the department of employment services for all costs associated with hearings conducted under chapter 91C, related to contractor registration. The board may expend, in addition to the amount appropriated under this subsection, such amounts as are directly billable to the labor services division under this subsection and to retain such additional full-time equivalent positions as needed to conduct hearings required pursuant to chapter 91C.

8. FOSTER CARE REVIEW BOARD

For salaries, support, maintenance, and miscellaneous purposes for conducting foster care review services in the sixth and eighth judicial districts, and for not more than the following full-time equivalent positions:

.....	\$	131,831
.....	FTEs	4.00

It is the intent of the general assembly that the state foster care review board continue to conduct business on a voluntary basis. If the appropriation made in this subsection is not sufficient to fund an administrator for the state board, personnel in the sixth judicial district shall provide administrative assistance to the state board. The funds appropriated for the foster care program shall be used first to fully fund the program in the sixth judicial district and second to implement local board reviews in the eighth judicial district.

The department of human services and the state foster care review board shall enter into a contract for the purpose of submitting an application to the appropriate federal agency to obtain any available federal funding. Funding received as a result of submitting the application shall be forwarded to the state foster care review board to be used in place of appropriated state funds for the board. Any unexpended funds shall revert to the general fund of the state.

9. The department of human services shall submit an application for funding available pursuant to Title IV-E of the federal Social Security Act for the following claims:

a. For the fiscal year beginning July 1, 1991, and ending June 30, 1992, for state foster care review board administrative review costs. The department shall begin making application for the costs upon the effective date of this Act.

b. For the fiscal period beginning July 1, 1989, and ending June 30, 1991, for state foster care review board administrative review costs. The department shall make application for the costs no later than July 1, 1992.

Sec. 7. STATE PUBLIC DEFENDER. 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, 1992, and ending June 30, 1993, the following amounts, or so much thereof as is necessary, for the purposes designated:

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

.....	\$	6,271,741
.....	FTEs	144.75

The office of the state public defender shall submit monthly written reports to the legislative fiscal bureau indicating the status of the activities of the office as a result of its expansion.

The judicial department shall provide, within thirty days after the end of each calendar quarter, a written report concerning adult and juvenile indigent defense, to the state public defender's office and the department of inspections and appeals, including the amount of restitution collected for attorney fees as follows:

a. By county.

b. By case type in the following categories:

(1) Juvenile cases involving delinquency actions, child in need of assistance actions, or termination of parental rights actions.

(2) Adult cases involving misdemeanor or felony prosecutions.

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

..... \$ 8,445,465

Sec. 8. 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.

Sec. 9. ROAD USE TAX FUND. There is appropriated from the use tax receipts collected under chapter 423 prior to deposit in the road use tax fund, to the department of inspections and appeals for the fiscal year beginning July 1, 1992, and ending June 30, 1993, the following amount, or so much thereof as is necessary, for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes:

..... \$ 821,929

Sec. 10. PUBLIC EMPLOYMENT RELATIONS BOARD. There is appropriated from the general fund of the state to the public employment relations board for the fiscal year beginning July 1, 1992, and ending June 30, 1993, 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:

..... \$ 673,998
..... FTEs 13.00

Sec. 11. DEPARTMENT OF COMMERCE. There is appropriated from the general fund of the state to the department of commerce for the fiscal year beginning July 1, 1992, and ending June 30, 1993, the following amounts, or so much thereof as is necessary, for the purposes designated:

1. PROFESSIONAL LICENSING AND REGULATION DIVISION

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

..... \$ 802,762
..... FTEs 11.00

2. ADMINISTRATIVE SERVICES DIVISION

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

..... \$ 1,195,532
..... FTEs 30.50

3. ALCOHOLIC BEVERAGES DIVISION

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

..... \$ 2,706,848
..... FTEs 27.00

4. BANKING DIVISION

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

..... \$ 4,957,650
..... FTEs 99.00

**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. The amounts necessary to fund the excess examination expenses shall be collected from banks being regulated,*

*Item veto; see message at end of the Act

*and the collections shall be treated as repayment receipts as defined in section 8.2. The division shall notify in writing the legislative fiscal bureau and the department of management when hiring additional personnel. The written notification shall include documentation that any additional expenditure related to such hiring will be totally reimbursed to the general fund, and shall also include the division's justification for hiring such personnel. The division must obtain the approval of the department of management only if the number of additional personnel to be hired exceeds the number of full-time equivalent positions authorized by this section.**

5. CREDIT UNION DIVISION

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

.....	\$	858,333
.....	FTEs	20.00

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. The amounts necessary to fund the excess examination expenses shall be collected from credit unions being regulated, and the collections shall be treated as repayment receipts as defined in section 8.2. The division shall notify in writing the legislative fiscal bureau and the department of management when hiring additional personnel. The written notification shall include documentation that any additional expenditure related to such hiring will be totally reimbursed to the general fund, and shall also include the division's justification for hiring such personnel. The division must obtain the approval of the department of management only if the number of additional personnel to be hired exceeds the number of full-time equivalent positions authorized by this section.

6. INSURANCE DIVISION

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

.....	\$	4,312,118
.....	FTEs	91.00

The division of insurance may reallocate authorized full-time equivalent positions as necessary to respond to accreditation criticisms or requirements.

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 or accreditation purposes, directly result from examinations of insurance companies or accreditation purposes, and the additional funds expended for such purposes are fully reimburseable** from insurance companies. Before the division expends or encumbers an amount in excess of the funds budgeted for examinations or accreditation, 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 or accreditation expenses exceed the funds budgeted by the general assembly to the division and that the division does not have other funds from which examination or accreditation expenses can be paid. Upon approval of the director of the department of management the division may expend and encumber funds for excess examination or accreditation expenses. The amounts necessary to fund the excess examination or accreditation 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.

7. UTILITIES DIVISION

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

.....	\$	4,391,833
.....	FTEs	84.00

*Item veto; see message at end of the Act
 **According to enrolled Act.

The utilities division may expend additional funds, including funds for additional personnel, if those additional expenditures are actual expenses which exceed the funds budgeted for utility regulation. Before the division expends or encumbers an amount in excess of the funds budgeted for regulation, 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 regulation expenses exceed the funds budgeted by the general assembly to the division and that the division does not have other funds from which regulation expenses can be paid. Upon approval of the director of the department of management the division may expend and encumber funds for excess regulation expenses. The amounts necessary to fund the excess regulation expenses shall be collected from those utility companies being regulated which caused the excess expenditures, and the collections shall be treated as repayment receipts as defined in section 8.2.

Sec. 12. RACING AND GAMING COMMISSION. There is appropriated from the general fund of the state to the racing and gaming commission of the department of inspections and appeals for the fiscal year beginning July 1, 1992, and ending June 30, 1993, 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:

.....	\$	1,655,339
.....	FTEs	18.71

Sec. 13. EXCURSION BOAT REGULATION. There is appropriated from the general fund of the state to the racing and gaming commission of the department of inspections and appeals for the fiscal year beginning July 1, 1992, and ending June 30, 1993, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

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

.....	\$	619,513
.....	FTEs	12.84

Sec. 14. Section 11.4, subsection 6, unnumbered paragraph 3, Code 1991, is amended to read as follows:

The state auditor is hereby authorized to obtain, maintain, and operate, under the auditor's exclusive control such ~~offset printing~~ machinery as may be necessary to print confidential reports and documents originating in the auditor's office.

*Sec. 15. Section 11.5B, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. *The reimbursement of the department or agency to the auditor of state shall be allocated to each funding source of the department or agency in proportion to the percentage each funding source is of the total funding to the department or agency.**

Sec. 16. Section 11.6, subsection 5, Code Supplement 1991, is amended to read as follows:

5. The auditor of state may, within three years of filing, during normal business hours upon reasonable notice of at least twenty-four hours, review the audit work papers prepared by a certified public accountant in the performance of an audit or examination conducted pursuant to this section.

Sec. 17. Section 11.6, subsection 11, Code Supplement 1991, is amended by striking the subsection.

Sec. 18. Section 13B.4, Code Supplement 1991, is amended by adding the following new subsections:

*Item veto; see message at end of the Act

NEW SUBSECTION. 5A. The state public defender shall report in writing to the general assembly on January 20 of each year regarding any funds recouped or collected pursuant to section 331.756, subsection 86, during the previous calendar year.

Sec. 19. Section 96.13, subsection 3, Code Supplement 1991, is amended to read as follows:
3. Special employment security contingency fund.

a. There is created in the state treasury a special fund to be known as the special employment security contingency fund. All interest, fines, and penalties, regardless of when they become payable, collected from employers under section 96.14 shall be paid into the fund. The moneys shall not be expended or available for expenditure in any manner which would permit their substitution for federal funds which would in the absence of the moneys be available to finance expenditures for the administration of the employment security law department. However, the moneys may be used as a revolving fund to cover expenditures for which federal funds have been duly requested but not yet received, subject to the charging of the expenditures against the funds when received. The moneys may be used for the payment of costs of administration which are found not to have been properly and validly chargeable against federal grants or other funds, received for ~~or in the employment security administration fund the department~~. The moneys in the fund are specifically made available to replace, within a reasonable time, any moneys received by this state in the form of grants from the federal government for administrative expenses which because of any action or contingency have been expended for purposes other than, or in excess of, those necessary for the proper administration of the employment security law department. All moneys in the fund shall be deposited, administered, and disbursed in the same manner and under the same conditions and requirements as are provided by law for other special funds in the state treasury. Interest earned upon moneys in the fund shall be deposited in and credited to the fund.

The treasurer of state shall be the custodian of the fund and shall give a separate and additional bond conditioned upon the faithful performance of the treasurer's duties in connection with the fund in an amount and with sureties as shall be fixed and approved by the governor. The premium for the bond shall be paid from the moneys in the fund. All sums recovered on the bond for losses sustained by the fund shall be deposited in the fund. Refunds of interest and penalties shall be paid only from the fund.

Balances to the credit of the fund shall not lapse at any time but shall continuously be available to the ~~division of job service department~~ for expenditures consistent with this subsection. Moneys remaining in the fund at the end of each fiscal year shall not revert to any fund and shall remain in the fund.

b. The ~~division department~~ shall annually report to the joint regulatory and finance regulations appropriations subcommittee on its plans for expenditures during the next state fiscal year from the special employment security contingency fund. The report shall describe the specific expenditures and explain why the expenditures are to be made from the fund and not from federal administrative funds.

c. The ~~division department~~ may appear before the executive council and request funds to meet unanticipated emergencies.

Sec. 20. Section 117.29, Code 1991, is amended by adding the following new subsection:
NEW SUBSECTION. 10. Noncompliance with the trust account requirements under section 117.46.

Sec. 21. Section 117.34, unnumbered paragraph 1, Code 1991, is amended to read as follows:

The real estate commission may upon its own motion and shall upon the verified complaint in writing of any person, if the complaint together with evidence, documentary or otherwise, presented in connection with the complaint makes out a prima-facie case, request the department of inspections and appeals commission staff or any other duly authorized representative or designee to investigate the actions of any real estate broker, real estate salesperson, or other person who assumes to act in either capacity within this state, and may suspend or revoke a license issued under this chapter at any time if the licensee has by false or fraudulent representation obtained a license, or if the licensee is found to be guilty of any of the following:

Sec. 22. Section 117.46, subsections 3 and 5, Code 1991, are amended to read as follows:

3. Each broker shall authorize the department of inspections and appeals real estate commission to examine each trust account and shall obtain the certification of the bank or savings and loan association attesting to each trust account and consenting to the examination and audit of each account by a duly authorized representative of the department commission. The certification and consent shall be furnished on forms prescribed by the department commission. This does not apply to an individual farm account maintained in the name of the owner or owners for the purpose of conducting ongoing farm business whether it is conducted by the farm owner or by an agent or farm manager when the account is part of a farm management agreement between the owner and agent or manager.

5. A broker may maintain more than one trust account provided the department commission is advised of said account as specified in subsections 2 and 3 above.

Sec. 23. Section 117.46, Code 1991, is amended by adding the following new subsections:

NEW SUBSECTION. 6. The commission will verify on a test basis, a random sampling of the brokers, corporations, and partnerships for their trust account compliance as a condition of licensure renewal. Each broker, corporation, and partnership shall submit a special report or audit of their trust account to the commission when required.

The special report or audit shall be submitted with the filed renewal application or at such other time as the commission may direct. In addition, the commission may upon reasonable cause request or order an audit or special report. All audits and special reports addressed in this section shall be conducted at the expense of the broker by a certified public accountant.

NEW SUBSECTION. 7. The examination of a trust account shall have been conducted within the twelve months immediately preceding expiration of the license or at such other times as directed by the commission. The report shall be in the approved form and shall include, but is not limited to, a list of all trust account numbers examined and their location and statement indicating if the broker's trust accounts are maintained in accordance with this chapter and the rules adopted for this chapter.

NEW SUBSECTION. 8. The commission shall adopt rules to ensure implementation of this section.

Sec. 24. Section 123.24, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 5. Notwithstanding subsection 4, the division shall assess a bottle surcharge to be included in the price of alcoholic liquor in an amount sufficient, when added to the amount not refunded to class "E" liquor control licensees pursuant to section 455C.2, to pay the costs incurred by the division for collecting and properly disposing of the liquor containers. The amount collected pursuant to this subsection, in addition to any amounts not refunded to class "E" liquor control licensees pursuant to section 455C.2, shall be deposited in the beer and liquor control fund established under section 123.53.

Sec. 25. Section 123.53, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 4. The treasurer of state, after making the transfer provided for in subsection 3, shall transfer to the division from the beer and liquor control fund and before any other transfer to the general fund, an amount sufficient to pay the costs incurred by the division for collecting and properly disposing of the liquor containers.

Sec. 26. Section 135C.16, subsection 1, Code 1991, is amended by striking the subsection and inserting in lieu thereof the following:

1. In addition to the inspections required by sections 135C.9 and 135C.38, the department shall make or cause to be made such further unannounced inspections as it deems necessary to adequately enforce this chapter. At least one general unannounced inspection shall be conducted for each health care facility within a fifteen-month period. The inspector shall show identification to the person in charge of the facility and state that an inspection is to be made before beginning the inspection. An employee of the department who gives unauthorized advance notice of an inspection made or planned to be made under this subsection or section

135C.38 shall be disciplined as determined by the director, except that if the employee is employed pursuant to the merit system provisions of chapter 19A the discipline shall not exceed the discipline authorized pursuant to that chapter.

Sec. 27. Section 237.16, unnumbered paragraph 2, Code 1991, is amended to read as follows:

The members of the state board shall annually select a chairperson, vice chairperson, and other officers the members deem necessary. The members ~~are~~ may be entitled to receive reimbursement for actual and necessary expenses incurred in the performance of their duties, subject to available funding. Each member of the board may also be eligible to receive compensation as provided in section 7E.6. The state board shall meet at least twice a year.

Sec. 28. Section 237.18, subsection 5, unnumbered paragraph 1, Code 1991, is amended to read as follows:

Employ ~~an administrator and~~ appropriate staff in accordance with available funding. The board shall coordinate with the department of inspections and appeals regarding administrative functions of the board.

Sec. 29. Section 237.23, Code 1991, is amended to read as follows:

237.23 AUTOMATIC REPEAL.

Sections 237.15 through 237.22, Code 1987, are repealed July 1, 1992 1996.

Sec. 30. Section 331.756, subsection 5, Code 1991, is amended to read as follows:

5. Enforce all forfeited bonds and recognizances and prosecute all proceedings necessary for the recovery of debts, revenues, moneys, fines, penalties, restitution of court-appointed attorney fees or expense of a public defender, and forfeitures accruing to the state or the county or to a school district or road district in the county, and all suits in the county against public service corporations which are brought in the name of the state. To assist in this duty, the county attorney may procure professional collection services provided by persons or organizations which are generally considered to have knowledge and special abilities which are not generally available to state or local government or may designate another county official or agency to assist with collection efforts.

If professional collection services are procured, the county attorney shall enter on the appropriate record of the clerk of the district court an indication of the satisfaction of each obligation to the full extent of all moneys collected in satisfaction of that obligation, including all fees and compensation retained by the collection service incident to the collection and not paid into the office of the clerk.

Before a county attorney designates another county official or agency to assist with collection of debts, revenues, moneys, fines, penalties, restitution of court-appointed attorney fees or expense of a public defender, and forfeitures, the board of supervisors of the county must approve the designation. Notwithstanding the disposition provisions of sections 602.8106 and 911.3, the county may retain up to thirty-five percent of all moneys collected, excluding amounts collected for victim restitution, as compensation for collection services. The county attorney shall enter on the appropriate record of the clerk of the district court an indication of the satisfaction of each obligation, including the amount retained by the county for collection services and not paid into the office of the clerk.

Sec. 31. Section 331.756, Code 1991, is amended by adding the following new subsections:

NEW SUBSECTION. 64A. Assist the department of revenue and finance in the implementation of the setoff under section 421.17, subsection 25, in regard to moneys owed to the state.

NEW SUBSECTION. 64B. Make a written report to the department of inspections and appeals within fifteen days of the end of each calendar quarter of the amount of funds which were owed to the state for indigent defense services and which were recouped pursuant to subsection 5 or 64A.

Sec. 32. Section 421.17, subsection 25, Code Supplement 1991, is amended to read as follows:

25. To establish and maintain a procedure to set off against a debtor's income tax refund or rebate any debt which is in the form of a liquidated sum due, owing, and payable to the clerk of the district court as a criminal fine, civil penalty, surcharge, or court costs, or restitution of attorney fees incurred as a result of services provided under chapters 13B and 815, and section 232.141. The procedure shall meet the following conditions:

a. Before setoff all outstanding tax liabilities collectible by the department shall be satisfied except that no portion of a refund or rebate shall be credited against tax liabilities which are not yet due.

b. Before setoff the clerk of the district court county attorney shall obtain and forward to the department the full name and social security number of the debtor. The department shall cooperate in the exchange of relevant information with the clerk county attorney. However, only relevant information required by the clerk county attorney shall be provided by the department. The information shall be held in confidence and shall be used for purposes of setoff only.

c. The clerk shall, at least quarterly and monthly if practicable, county attorney, on the first day of February and August of each calendar year, shall submit to the department for setoff the debts described in this subsection, which are at least fifty dollars.

d. Upon submission of a claim the department shall notify the clerk county attorney if the debtor is entitled to a refund or rebate and of the amount of the refund or rebate and the debtor's address on the income tax return.

e. Upon notice of entitlement to a refund or rebate the clerk county attorney shall send written notification to the debtor of the clerk's county attorney's assertion of rights to all or a portion of the debtor's refund or rebate and the entitlement to recover the debt through the setoff procedure, the basis of the assertion, the opportunity to request that a joint income tax refund or rebate be divided between spouses, and the debtor's opportunity to give written notice of intent to contest the amount of the claim. The clerk county attorney shall send a copy of the notice to the department.

f. Upon the request of a debtor or a debtor's spouse to the clerk county attorney, filed within fifteen days from the mailing of the notice of entitlement to a refund or rebate, and upon receipt of the full name and social security number of the debtor's spouse, the clerk county attorney shall notify the department of the request to divide a joint income tax refund or rebate. The department shall upon receipt of the notice divide a joint income tax refund or rebate between the debtor and the debtor's spouse in proportion to each spouse's net income as determined under section 422.7.

g. The department shall, after notice has been sent to the debtor by the clerk county attorney, set off the debt against the debtor's income tax refund or rebate. The department shall transfer at least quarterly and monthly if practicable, sixty-five percent of the amount set off to the clerk treasurer of state for deposit in the general fund of the state. The remaining thirty-five percent shall be remitted to the county and deposited in the general fund of the county. If the debtor gives timely written notice of intent to contest the amount of the claim, the department shall hold the refund or rebate until final determination of the correct amount of the claim. The clerk county attorney shall notify the debtor in writing upon completion of setoff.

Sec. 33. Section 421.17, subsection 26, Code Supplement 1991, is amended to read as follows:

26. To provide that in the case of multiple claims to payments filed under subsections 21, 23, 25, and 29 that priority shall be given to claims filed by the child support recovery unit or the foster care recovery unit under subsection 21, next priority shall be given to claims filed by the college student aid commission under subsection 23, next priority shall be given to claims filed by the investigations division of the department of inspections and appeals under subsection 21, next priority shall be given to claims filed by a clerk of the district court county attorney under subsection 25, and last priority shall be given to claims filed by other state agencies under subsection 29. In the case of multiple claims under subsection 29, priority shall be determined in accordance with rules to be established by the director.

Sec. 34. Section 455C.2, subsection 1, Code Supplement 1991, is amended to read as follows:

1. ~~Except purchases of alcoholic liquor as defined in section 123.3, subsection 8, by holders of class "A", "B", "C", and "E" liquor control licenses, a~~ A refund value of not less than five cents shall be paid by the consumer on each beverage container sold in this state by a dealer for consumption off the premises. Upon return of the empty beverage container upon which a refund value has been paid to the dealer or person operating a redemption center and acceptance of the empty beverage container by the dealer or person operating a redemption center, the dealer or person operating a redemption center shall return the amount of the refund value to the consumer.

Sec. 35. Section 455C.3, subsection 5, Code Supplement 1991, is amended by striking the subsection and inserting in lieu thereof the following:

5. The alcoholic beverages division of the department of commerce shall provide for the disposal of empty beverage containers as required under subsection 2. The division shall give priority consideration to the recycling of the empty beverage containers to the extent possible, before any other appropriate disposal method is considered or implemented.

Sec. 36. Section 910.2, Code 1991, is amended to read as follows:

910.2 RESTITUTION OR COMMUNITY SERVICE TO BE ORDERED BY SENTENCING COURT.

In all criminal cases except simple misdemeanors under chapter 321, in which there is a plea of guilty, verdict of guilty, or special verdict upon which a judgment of conviction is rendered, the sentencing court shall order that restitution be made by each offender to the victims of the offender's criminal activities and, ~~if the court so orders and~~ to the extent that the offender is reasonably able to ~~do so pay~~, for crime victim assistance reimbursement, court costs, court-appointed attorney's fees or the expense of a public defender when applicable. However, victims shall be paid in full before restitution is paid for crime victim assistance reimbursement, court costs, court-appointed attorney's fees or for the expense of a public defender. In structuring a plan of restitution, the court shall provide for payments in the following order of priority: victim, crime victim assistance reimbursement, court costs, and court-appointed attorney's fees or the expense of a public defender. When the offender is not reasonably able to pay all or a part of the crime victim assistance reimbursement, court costs, court-appointed attorney's fees or the expense of a public defender, the court may require the offender in lieu of that portion of the crime victim assistance reimbursement, court costs, court-appointed attorney's fees, or expense of a public defender for which the offender is not reasonably able to pay, to perform a needed public service for a governmental agency or for a private, nonprofit agency which provides a service to the youth, elderly or poor of the community. When community service is ordered, the court shall set a specific number of hours of service to be performed by the offender. The judicial district department of correctional services shall provide for the assignment of the offender to a public agency or private nonprofit agency to perform the required service.

Sec. 37. **NEW SECTION. 910.7A JUDGMENT — ENFORCEMENT.**

1. An order requiring an offender to pay restitution constitutes a judgment and lien against all property of a liable defendant for the amount the defendant is obligated to pay under the order and may be recorded in any office for the filing of liens against real or personal property.

2. A judgment of restitution may be enforced by the state, a victim entitled under the order to receive restitution, a deceased victim's estate, or any other beneficiary of the judgment in the same manner as a civil judgment.

Sec. 38. Sections 123.24 and 123.53, section 455C.2, subsection 1, and section 455C.3, subsection 5, as amended in this Act, take effect September 1, 1992.

Sec. 39. 1989 Iowa Acts, chapter 272, sections 35 and 36, are repealed.

Sec. 40. 1989 Iowa Acts, chapter 272, section 42, as amended by 1990 Iowa Acts, chapter 1261, section 43, and 1991 Iowa Acts, chapter 268, section 442, is amended to read as follows:

SEC. 42. ~~Sections Section 34, 35, and 36 of this Act are~~ is effective July September 1, 1992.

Sec. 41. 1990 Iowa Acts, chapter 1234, section 76, as amended by 1991 Iowa Acts, chapter 213, section 35, is repealed.

Sec. 42. 1991 Iowa Acts, chapter 268, section 404, subsection 2, unnumbered paragraph 2, is amended to read as follows:

The division shall expend up to \$550,000 for the following: \$50,000, or so much thereof as is necessary, for the removal of 2 chillers and 1 underground storage tank, and \$100,000, or so much thereof as is necessary, for asbestos removal or encapsulation at the job service site located at 1000 East Grand, Des Moines, Iowa, and \$400,000, or so much thereof as is necessary, for the support of the labor survey, economic development teams to assist in conducting "labor availability surveys". Notwithstanding section 8.33 or this section, unencumbered and unobligated funds remaining on June 30, 1992, from the appropriations in this subsection for asbestos removal or encapsulation at the job service site located at 1000 East Grand, Des Moines, shall not revert but shall be available for expenditure for the same purpose for the fiscal year beginning July 1, 1992.

Sec. 43. The supreme court shall review the indigency criteria and procedures used by district court judges for reviewing attorney fee claims for indigent defense in an effort to implement uniform application of such criteria and procedures. This review shall be completed no later than January 1, 1993.

Sec. 44. PILOT PROJECT.

1. The state public defender shall establish a two-year pilot project to contract with private attorneys for the provision of legal services to indigent persons in two counties, with such counties to be determined by the chief justice of the supreme court, pursuant to this section.

2. If the local public defender is unable to handle a case, because of a conflict of interest or overload of cases, or if a county is not served by a local public defender, the court shall appoint other counsel for the indigent person as follows:

a. Subject to paragraph "b", the court shall appoint an attorney designated by the state public defender as a contract attorney in the county to handle the case. Appointment of contract attorneys shall be on a rotational or equalizational basis, while taking into consideration the experience of the contract attorneys and the difficulty of the case.

b. If the court determines that the nature of the charge or the complexity of the issues in a case requires that an attorney, other than the attorney or attorneys who have contracted with the state public defender, be appointed, the court may appoint a noncontract attorney that the court deems appropriate to provide legal services to the indigent person. If the court appoints a noncontract attorney under this paragraph, the court shall notify the state public defender in writing of the reasons for not appointing the attorney specified in the state public defender contract for legal services to indigent persons and submit a copy of the notification to the state public defender within five working days of the date of the appointment of other counsel.

3. This section is repealed June 30, 1994.

Sec. 45. REPORT.

1. The state public defender shall make a written report to the legislative fiscal bureau on or before January 10, 1994, concerning the pilot project established in section 44 of this Act. The report shall include the following information:

a. Type and number of cases, and the number of cases which proceed to trial, for which legal services are being provided under the pilot project.

b. The rate paid to the contract attorneys.

c. The total number of hours dedicated to providing the legal services.

d. The total cost incurred in providing the legal services.

2. The information collected pursuant to subsection 1 shall be provided to the indigent defense advisory commission established pursuant to section 13B.2A, which shall review the information and make recommendations to the general assembly concerning the elimination or continuation of the use of contract attorneys in providing indigent defense. The recommendations shall be provided prior to March 1, 1994.

Sec. 46. FEDERAL GRANTS. All federal grants to and the federal receipts of 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. 47. EFFECTIVE DATES. Section 6, subsection 9, paragraph "a" and section 29, and sections 40 through 42 of this Act, being deemed of immediate importance, are effective upon enactment.

Approved June 3, 1992, except the items which I hereby disapprove and which are designated as Section 1, unnumbered and unlettered paragraph 3 in its entirety; Section 4, subsections 1 and 2 in their entirety; Section 11, subsection 4, unnumbered and unlettered paragraph 2 in its entirety; Section 11, subsection 5, unnumbered and unlettered paragraph 2 in its entirety; Section 15 in its entirety; and Section 41 in its entirety. My reasons for vetoing these items 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 2455, an Act relating to and making appropriations to regulatory bodies of state government, including the auditor of state, the campaign finance disclosure commission, the department of employment services, the department of inspections and appeals, the office of the state public defender, the department of commerce, public employment relations board, and the racing and gaming commission, allocating certain standing appropriations subject to certain procedures and conditions, and providing an effective date.

House File 2455 is, therefore, approved on this date with the following exceptions which I hereby disapprove.

I am unable to approve the item designated as Section 1, unnumbered and unlettered paragraph 3, in its entirety. This provision would permit the Auditor of State to expend additional moneys and hire additional staff by merely notifying the Legislative Fiscal Committee and the Legislative Fiscal Bureau. I cannot approve this provision which would allow the Office of the Auditor of State to exceed its authorized spending level.

I am unable to approve the item designated as Section 4, subsection 1, in its entirety. This provision requires the Department of Employment Services to continue all Job Service Offices that were in operation on July 1, 1992. This removes the department's flexibility in providing services where they are most needed and in the most cost effective manner.

I am unable to approve the item designated as Section 4, subsection 2, in its entirety. This provision requires the Industrial Services Division of the Department of Employment Services to maintain the current hearing schedule for contested workers' compensation cases. The division should have the flexibility to schedule hearings and locations which are most convenient to employers and injured workers.

I am unable to approve the items designated as Section 11, subsection 4, unnumbered and unlettered paragraph 2, and Section 11, subsection 5, unnumbered and unlettered paragraph 2, in their entirety. These provisions would permit the Banking and Credit Union Divisions of the Department of Commerce to hire additional personnel without following current hiring procedures.

I am unable to approve the item designated as Section 15, in its entirety. This provision would require an agency to reimburse the Auditor of State for audit costs in proportion to all sources of funding for the agency. We should maximize the use of funds other than general funds in paying audit costs. However, reimbursements should be made in proportion to the source of funds which are paying for the activity being audited.

I am unable to approve the item designated as Section 41, in its entirety. This provision relates to the sunset of workers' compensation insurance rate regulation. By disapproving this provision, the regulations will sunset July 1, 1994.

For the above reasons, I hereby respectfully disapprove these items in accordance with Amendment IV of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in House File 2455 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, Governor

CHAPTER 1243

APPROPRIATIONS – STATE DEPARTMENTS AND AGENCIES

H.F. 2459

AN ACT relating to and making appropriations to state departments, agencies, funds, and certain other entities, providing for the payment of abandoned property and payment of workers' compensation claims of state employees, providing for centralized collection of debt owed to the state, making related statutory changes, and providing effective dates.

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 following named agencies for the fiscal year beginning July 1, 1992, and ending June 30, 1993, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. COMMISSION ON UNIFORM STATE LAWS	
For support of the commission and expenses of the members:	
.....	\$ 19,280
2. NATIONAL CONFERENCE OF STATE LEGISLATURES	
For support of the membership assessment:	
.....	\$ 79,542

Sec. 2. REVIEW OF PROFESSIONAL, SCIENTIFIC, OR EDUCATIONAL DUES. The executive council shall review dues paid by state agencies of the executive department of state government for membership in professional, scientific, and educational organizations with the goal of reducing membership costs by one third. The executive council shall give first consideration to reductions by state agencies which have multiple memberships.

Sec. 3. WORLD FOOD PRIZE. Notwithstanding the requirement in section 99E.10, subsection 1, to transfer lottery revenue remaining after expenses are deducted, before the transfer of the revenue there is appropriated from the lottery fund to the treasurer of state for the fiscal year beginning July 1, 1992, and ending June 30, 1993, the following amount, or so much thereof as is necessary, to be used for the purpose designated: