

CHESTER J. CULVER
GOVERNOR

OFFICE OF THE GOVERNOR

PATTY JUDGE
LT. GOVERNOR

April 29, 2010

The Honorable Michael Mauro
Secretary of State
State Capitol Building
LOCAL

Dear Mr. Secretary:

I hereby transmit Senate File 2378, an Act relating to and making appropriations to the justice system, modifying certain traffic offenses, fees and fines, and including effective date provisions. Senate File 2378 is approved on this date, with the exceptions noted below, which I hereby disapprove.

I am unable to approve the item designated as Section 4, subsection 5 of the bill in its entirety. This provisions calls for the Department of Corrections to eliminate the chief security officer position. The funding for this position has already been eliminated as a result of budget cuts and this language is unnecessary.

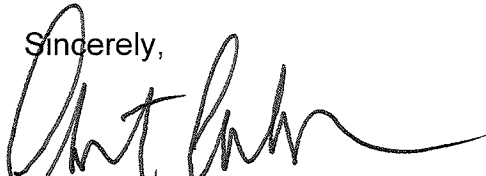
I am unable to approve the item designated as Section 5, subsection 6 of the bill in its entirety. This provision would require all Community Based Correctional (CBC) Facilities to accept offenders transferred from other judicial districts without consideration of evidence-based practices regarding supervisory status. I disapprove this language to assure that each CBC facility will maintain control of the types and numbers of offenders whom they serve in their respective residential programs.

I also am unable to approve the related section designated as Section 17 of the bill in its entirety. This section creates an effective-upon-enactment date for the item above (Section 4, subsection 5) related to the elimination the Department of Corrections chief security officer position.

I am also unable to approve the item designated as Section 18, subsection 3, lettered paragraph "ag" of the bill in its entirety. This language creates two different fines for violations of Iowa Code section 321.437 related to rear view mirrors and side view mirrors and conflicts with subsection 12, lettered paragraph "b" of the bill. This disapproval will correct the inconsistency immediately rather than waiting for the next legislative session to take corrective action.

For the above reasons, I respectfully disapprove the designated items in accordance with Article III, Section 16 of the Constitution of the State of Iowa. All other items in Senate File 2378 are hereby approved this date.

Sincerely,

A handwritten signature in black ink, appearing to read "Chester J. Culver". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Chester J. Culver
Governor

cc: Secretary of the Senate
Chief Clerk of the House

cjc:rc0



Senate File 2378

AN ACT

RELATING TO AND MAKING APPROPRIATIONS TO THE JUSTICE SYSTEM,
MODIFYING CERTAIN TRAFFIC OFFENSES, FEES AND FINES, AND
INCLUDING EFFECTIVE DATE PROVISIONS.

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

DIVISION I
APPROPRIATIONS

Section 1. DEPARTMENT OF JUSTICE.

1. There is appropriated from the general fund of the state to the department of justice for the fiscal year beginning July 1, 2010, and ending June 30, 2011, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

a. For the general office of attorney general for salaries, support, maintenance, and miscellaneous purposes, including the prosecuting attorneys training program, victim assistance grants, office of drug control policy prosecuting attorney program, and odometer fraud enforcement, and for not more than the following full-time equivalent positions:

..... \$ 7,732,930
..... FTEs 232.50

It is the intent of the general assembly that as a condition of receiving the appropriation provided in this lettered paragraph, the department of justice shall maintain a record of the estimated time incurred representing each agency or department.

b. For victim assistance grants:

..... \$ 3,060,000

The funds appropriated in this lettered paragraph shall be used to provide grants to care providers providing services to

crime victims of domestic abuse or to crime victims of rape and sexual assault.

The balance of the victim compensation fund established in section 915.94 may be used to provide salary and support of not more than 22 FTEs and to provide maintenance for the victim compensation functions of the department of justice.

The department of justice may transfer moneys from the victim compensation fund established in section 915.94 to the victim assistance grant program.

c. For legal services for persons in poverty grants as provided in section 13.34:

..... \$ 1,930,671

2. a. The department of justice, in submitting budget estimates for the fiscal year commencing July 1, 2011, pursuant to section 8.23, shall include a report of funding from sources other than amounts appropriated directly from the general fund of the state to the department of justice or to the office of consumer advocate. These funding sources shall include but are not limited to reimbursements from other state agencies, commissions, boards, or similar entities, and reimbursements from special funds or internal accounts within the department of justice. The department of justice shall also report actual reimbursements for the fiscal year commencing July 1, 2009, and actual and expected reimbursements for the fiscal year commencing July 1, 2010.

b. The department of justice shall include the report required under paragraph "a", as well as information regarding any revisions occurring as a result of reimbursements actually received or expected at a later date, in a report to the co-chairpersons and ranking members of the joint appropriations subcommittee on the justice system and the legislative services agency. The department of justice shall submit the report on or before January 15, 2011.

Sec. 2. OFFICE OF CONSUMER ADVOCATE. There is appropriated from the department of commerce revolving fund created in section 546.12 to the office of consumer advocate of the department of justice for the fiscal year beginning July 1, 2010, and ending June 30, 2011, 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:

..... \$ 3,336,344

..... FTEs 27.00

Sec. 3. DEPARTMENT OF CORRECTIONS — FACILITIES.

1. There is appropriated from the general fund of the state to the department of corrections for the fiscal year beginning July 1, 2010, and ending June 30, 2011, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

For the operation of adult correctional institutions, reimbursement of counties for certain confinement costs, and federal prison reimbursement, to be allocated as follows:

a. For the operation of the Fort Madison correctional facility, including salaries, support, maintenance, and miscellaneous purposes:

..... \$ 39,991,374

As a condition of receiving an appropriation in this lettered paragraph, the department of corrections shall operate the John Bennett facility either as an institution of the department or a community-based correctional facility.

b. For the operation of the Anamosa correctional facility, including salaries, support, maintenance, and miscellaneous purposes:

..... \$ 30,416,461

As a condition of receiving the appropriation in this lettered paragraph, the department of corrections shall employ two part-time registered nurses at the Luster Heights facility, and shall seek volunteer licensed medical personnel to serve at the facility.

It is the intent of the general assembly that the department of corrections fully operate the Luster Heights facility at the facility's 88-bed capacity.

As a condition of the moneys appropriated in this lettered paragraph, the department of corrections shall replace expired federal funding by expending at least \$238,252 for continuation of a treatment program that prepares offenders for ongoing therapeutic treatment programs offered by the department and maintaining at least 4.75 FTEs for the program.

Moneys appropriated in this lettered paragraph shall provide for one full-time substance abuse counselor for the Luster Heights facility for the purpose of certification of a substance abuse program at that facility.

c. For the operation of the Oakdale correctional facility, including salaries, support, maintenance, and miscellaneous purposes:

..... \$ 55,755,246

d. For the operation of the Newton correctional facility, including salaries, support, maintenance, and miscellaneous purposes:

..... \$ 26,452,257

e. For the operation of the Mt. Pleasant correctional facility, including salaries, support, maintenance, and miscellaneous purposes:

..... \$ 26,265,257

f. For the operation of the Rockwell City correctional facility, including salaries, support, maintenance, and miscellaneous purposes:

..... \$ 9,324,565

g. For the operation of the Clarinda correctional facility, including salaries, support, maintenance, and miscellaneous purposes:

..... \$ 23,645,033

Moneys received by the department of corrections as reimbursement for services provided to the Clarinda youth corporation are appropriated to the department and shall be used for the purpose of operating the Clarinda correctional facility.

h. For the operation of the Mitchellville correctional facility, including salaries, support, maintenance, and miscellaneous purposes:

..... \$ 15,486,586

i. For the operation of the Fort Dodge correctional facility, including salaries, support, maintenance, and miscellaneous purposes:

..... \$ 29,020,235

j. For reimbursement of counties for temporary confinement of work release and parole violators, as provided in sections 901.7, 904.908, and 906.17, and for offenders confined pursuant to section 904.513:

..... \$ 775,092

k. For federal prison reimbursement, reimbursements for out-of-state placements, and miscellaneous contracts:

..... \$ 239,411

2. The department of corrections shall use moneys appropriated in subsection 1 to continue to contract for the services of a Muslim imam.

Sec. 4. DEPARTMENT OF CORRECTIONS — ADMINISTRATION.

1. There is appropriated from the general fund of the state

to the department of corrections for the fiscal year beginning July 1, 2010, and ending June 30, 2011, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

a. For general administration, including salaries, support, maintenance, employment of an education director to administer a centralized education program for the correctional system, and miscellaneous purposes:

..... \$ 4,254,068

(1) It is the intent of the general assembly that as a condition of receiving the appropriation provided in this lettered paragraph the department of corrections shall not, except as otherwise provided in subparagraph (3), enter into a new contract, unless the contract is a renewal of an existing contract, for the expenditure of moneys in excess of \$100,000 during the fiscal year beginning July 1, 2010, for the privatization of services performed by the department using state employees as of July 1, 2010, or for the privatization of new services by the department without prior consultation with any applicable state employee organization affected by the proposed new contract and prior notification of the co-chairpersons and ranking members of the joint appropriations subcommittee on the justice system.

(2) It is the intent of the general assembly that each lease negotiated by the department of corrections with a private corporation for the purpose of providing private industry employment of inmates in a correctional institution shall prohibit the private corporation from utilizing inmate labor for partisan political purposes for any person seeking election to public office in this state and that a violation of this requirement shall result in a termination of the lease agreement.

(3) It is the intent of the general assembly that as a condition of receiving the appropriation provided in this lettered paragraph the department of corrections shall not enter into a lease or contractual agreement pursuant to section 904.809 with a private corporation for the use of building space for the purpose of providing inmate employment without providing that the terms of the lease or contract establish safeguards to restrict, to the greatest extent feasible, access by inmates working for the private corporation to personal identifying information of citizens.

b. For educational programs for inmates at state penal

institutions:

..... \$ 1,558,109

As a condition of receiving the appropriation in this lettered paragraph, the department of corrections shall transfer at least \$300,000 from the canteen operating funds established pursuant to section 904.310 to be used for correctional educational programs funded in this lettered paragraph.

It is the intent of the general assembly that moneys appropriated in this lettered paragraph shall be used solely for the purpose indicated and that the moneys shall not be transferred for any other purpose. In addition, it is the intent of the general assembly that the department shall consult with the community colleges in the areas in which the institutions are located to utilize moneys appropriated in this lettered paragraph to fund the high school completion, high school equivalency diploma, adult literacy, and adult basic education programs in a manner so as to maintain these programs at the institutions.

To maximize the funding for educational programs, the department shall establish guidelines and procedures to prioritize the availability of educational and vocational training for inmates based upon the goal of facilitating an inmate's successful release from the correctional institution.

The director of the department of corrections may transfer moneys from Iowa prison industries for use in educational programs for inmates.

Notwithstanding section 8.33, moneys appropriated in this lettered paragraph that remain unobligated or unexpended at the close of the fiscal year shall not revert but shall remain available for expenditure only for the purpose designated in this lettered paragraph until the close of the succeeding fiscal year.

c. For the development of the Iowa corrections offender network (ICON) data system:

..... \$ 424,364

d. For offender mental health and substance abuse treatment:

..... \$ 22,319

e. For viral hepatitis prevention and treatment:

..... \$ 167,881

2. It is the intent of the general assembly that the department of corrections shall continue to operate the correctional farms under the control of the department at

the same or greater level of participation and involvement as existed as of June 30, 2011; shall not enter into any rental agreement or contract concerning any farmland under the control of the department that is not subject to a rental agreement or contract as of January 1, 2010, without prior legislative approval; and shall further attempt to provide job opportunities at the farms for inmates. The department shall attempt to provide job opportunities at the farms for inmates by encouraging labor-intensive farming or gardening where appropriate; using inmates to grow produce and meat for institutional consumption; researching the possibility of instituting food canning and cook-and-chill operations; and exploring opportunities for organic farming and gardening, livestock ventures, horticulture, and specialized crops.

3. The department of corrections shall provide a smoking cessation program to offenders committed to the custody of the director or who are otherwise detained by the department, that complies with legislation enacted restricting or prohibiting smoking on the grounds of correctional institutions.

4. As a condition of receiving the appropriations made in this section, the department of corrections shall develop and implement offender reentry programs in Black Hawk and Polk counties to provide transitional planning and release primarily for offenders released from the Iowa correctional institution for women at Mitchellville and the Fort Dodge correctional facility. Programming shall include minority and gender-specific responsiveness, employment, substance abuse treatment, mental health services, housing, and family reintegration. The department of corrections shall collaborate with the first and fifth judicial district departments of correctional services, the Iowa department of workforce development, the department of human services, community-based providers and faith-based organizations, and local law enforcement.

5. The chief security officer position within the department of corrections shall be eliminated by the effective date of this subsection.

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6. The department shall place inmates at the Luster Heights facility who have been approved by the board of parole for work release but who are expected to be waiting in prison for at least four months for a bed to become available at a community-based correctional facility, unless the placement would dislodge an inmate receiving substance abuse treatment.

Sec. 5. JUDICIAL DISTRICT DEPARTMENTS OF CORRECTIONAL SERVICES.

1. There is appropriated from the general fund of the state to the department of corrections for the fiscal year beginning July 1, 2010, and ending June 30, 2011, for salaries, support, maintenance, and miscellaneous purposes, the following amounts, or so much thereof as is necessary, to be allocated as follows:

a. For the first judicial district department of correctional services:
..... \$ 12,453,082

As a condition of the moneys appropriated in this lettered paragraph, the department of corrections shall replace expired federal funding by expending at least \$140,000 for the dual diagnosis program and maintaining 1.25 FTEs for the program.

b. For the second judicial district department of correctional services:
..... \$ 10,770,616

c. For the third judicial district department of correctional services:
..... \$ 5,715,578

d. For the fourth judicial district department of correctional services:
..... \$ 5,522,416

e. For the fifth judicial district department of correctional services, including funding for electronic monitoring devices for use on a statewide basis:
..... \$ 18,938,081

As a condition of receiving the appropriation in this lettered paragraph, the fifth judicial district department of correctional services shall reinstate 67 beds in buildings 65 and 66 at the Fort Des Moines facility and resume operating the buildings, in addition to maintaining the 199 beds in buildings 68 and 70 at the Fort Des Moines facility. The district department may use inmate labor to upgrade and renovate the buildings, if renovation and updating are required.

f. For the sixth judicial district department of correctional services:
..... \$ 13,030,356

g. For the seventh judicial district department of correctional services:
..... \$ 6,846,560

h. For the eighth judicial district department of correctional services:

..... \$ 6,935,622

2. Each judicial district department of correctional services, within the funding available, shall continue programs and plans established within that district to provide for intensive supervision, sex offender treatment, diversion of low-risk offenders to the least restrictive sanction available, job development, and expanded use of intermediate criminal sanctions.

3. Each judicial district department of correctional services shall provide alternatives to prison consistent with chapter 901B. The alternatives to prison shall ensure public safety while providing maximum rehabilitation to the offender. A judicial district department of correctional services may also establish a day program.

4. The governor's office of drug control policy shall consider federal grants made to the department of corrections for the benefit of each of the eight judicial district departments of correctional services as local government grants, as defined pursuant to federal regulations.

5. The department of corrections shall continue to contract with a judicial district department of correctional services to provide for the rental of electronic monitoring equipment which shall be available statewide.

6. A judicial district department of correctional services shall accept into the facilities of the district department, offenders assigned from other judicial district departments of correctional services.

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Sec. 6. DEPARTMENT OF CORRECTIONS — REALLOCATION OF APPROPRIATIONS. Notwithstanding section 8.39, within the moneys appropriated in this Act to the department of corrections, the department may reallocate the moneys appropriated and allocated as necessary to best fulfill the needs of the correctional institutions, administration of the department, and the judicial district departments of correctional services. However, in addition to complying with the requirements of sections 904.116 and 905.8 and providing notice to the legislative services agency, the department of corrections shall also provide notice to the department of management, prior to the effective date of the revision or reallocation of an appropriation made pursuant to this section. The department shall not reallocate an appropriation or allocation for the purpose of eliminating any program.

Sec. 7. INTENT — REPORTS.

1. The department in cooperation with townships, the Iowa cemetery associations, and other nonprofit or governmental entities may use inmate labor during the fiscal year beginning July 1, 2010, to restore or preserve rural cemeteries and historical landmarks. The department in cooperation with the counties may also use inmate labor to clean up roads, major water sources, and other water sources around the state.

2. Each month the department shall provide a status report regarding private-sector employment to the legislative services agency beginning on July 1, 2010. The report shall include the number of offenders employed in the private sector, the combined number of hours worked by the offenders, and the total amount of allowances, and the distribution of allowances pursuant to section 904.702, including any moneys deposited in the general fund of the state.

Sec. 8. ELECTRONIC MONITORING REPORT. The department of corrections shall submit a report on electronic monitoring to the general assembly, to the co-chairpersons and the ranking members of the joint appropriations subcommittee on the justice system, and to the legislative services agency by January 15, 2011. The report shall specifically address the number of persons being electronically monitored and break down the number of persons being electronically monitored by offense committed. The report shall also include a comparison of any data from the prior fiscal year with the current year.

Sec. 9. STATE AGENCY PURCHASES FROM PRISON INDUSTRIES.

1. As used in this section, unless the context otherwise requires, "state agency" means the government of the state of Iowa, including but not limited to all executive branch departments, agencies, boards, bureaus, and commissions, the judicial branch, the general assembly and all legislative agencies, institutions within the purview of the state board of regents, and any corporation whose primary function is to act as an instrumentality of the state.

2. State agencies are hereby encouraged to purchase products from Iowa state industries, as defined in section 904.802, when purchases are required and the products are available from Iowa state industries. State agencies shall obtain bids from Iowa state industries for purchases of office furniture during the fiscal year beginning July 1, 2010, exceeding \$5,000 or in accordance with applicable administrative rules related to purchases for the agency.

Sec. 10. STATE PUBLIC DEFENDER. There is appropriated from

the general fund of the state to the office of the state public defender of the department of inspections and appeals for the fiscal year beginning July 1, 2010, and ending June 30, 2011, the following amounts, or so much thereof as is necessary, to be allocated as follows for the purposes designated:

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

.....	\$ 21,743,182
.....	FTEs 203.00

2. For the fees of court-appointed attorneys for indigent adults and juveniles, in accordance with section 232.141 and chapter 815:

.....	\$ 15,680,929
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Sec. 11. IOWA LAW ENFORCEMENT ACADEMY.

1. There is appropriated from the general fund of the state to the Iowa law enforcement academy for the fiscal year beginning July 1, 2010, and ending June 30, 2011, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

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

.....	\$ 1,049,430
.....	FTEs 30.55

It is the intent of the general assembly that the Iowa law enforcement academy may provide training of state and local law enforcement personnel concerning the recognition of and response to persons with Alzheimer's disease.

The Iowa law enforcement academy may temporarily exceed and draw more than the amount appropriated and incur a negative cash balance as long as there are receivables equal to or greater than the negative balance and the amount appropriated in this subsection is not exceeded at the close of the fiscal year.

2. The Iowa law enforcement academy may select at least five automobiles of the department of public safety, division of state patrol, prior to turning over the automobiles to the department of administrative services to be disposed of by public auction, and the Iowa law enforcement academy may exchange any automobile owned by the academy for each automobile selected if the selected automobile is used in training law enforcement officers at the academy. However, any automobile exchanged by the academy shall be substituted for the selected

vehicle of the department of public safety and sold by public auction with the receipts being deposited in the depreciation fund to the credit of the department of public safety, division of state patrol.

Sec. 12. BOARD OF PAROLE. There is appropriated from the general fund of the state to the board of parole for the fiscal year beginning July 1, 2010, and ending June 30, 2011, 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:

.....	\$	1,045,259
.....	FTEs	13.50

Sec. 13. DEPARTMENT OF PUBLIC DEFENSE. There is appropriated from the general fund of the state to the department of public defense for the fiscal year beginning July 1, 2010, and ending June 30, 2011, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. MILITARY DIVISION

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

.....	\$	6,249,201
.....	FTEs	324.00

The military division may temporarily exceed and draw more than the amount appropriated and incur a negative cash balance as long as there are receivables of federal funds equal to or greater than the negative balance and the amount appropriated in this subsection is not exceeded at the close of the fiscal year.

2. HOMELAND SECURITY AND EMERGENCY MANAGEMENT DIVISION

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

.....	\$	2,038,119
.....	FTEs	33.00

The homeland security and emergency management division may temporarily exceed and draw more than the amount appropriated and incur a negative cash balance as long as there are receivables of federal funds equal to or greater than the negative balance and the amount appropriated in this subsection is not exceeded at the close of the fiscal year.