

MAR 6 1972

Appropriations Calendar  
*See 3/21*

HOUSE FILE 1291

By COMMITTEE ON APPROPRIATIONS

Passed House, Date 3-15-72 Passed Senate, Date 3-23-72

Vote: Ayes 70 Nays 28 Vote: Ayes 30 Nays 20

Approved \_\_\_\_\_

*Motion to reconsider filed 3-16 (1227), Lost 3-21 (1306)*

## A BILL FOR

1 An Act relating to the establishment of an office of  
2 citizens' aide, his duties, and providing penalties  
3 and making an appropriation.

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

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1 Section 1. As used in this Act:

2 1. "Person" means an individual, aggregate of individuals,  
3 corporation, partnership, or unincorporated association.

4 2. "Agency" means all governmental entities, departments,  
5 boards, commissions, councils or institutions, and any of-  
6 ficer, employee or member thereof acting or purporting to  
7 act in the exercise of his official duties, but it does not  
8 include:

9 a. Any court or judge or appurtenant judicial staff.

10 b. The members, committees, or permanent or temporary  
11 staffs of the Iowa general assembly.

12 c. The governor of Iowa or his personal staff.

13 d. Any instrumentality formed pursuant to an interstate  
14 compact and answerable to more than one state.

15 3. "Officer" means any officer of an agency.

16 4. "Employee" means any employee of an agency.

17 5. "Administrative action" means any policy or action  
18 taken by an agency or failure to act pursuant to law.

19 Sec. 2. The office of citizens' aide is established.

20 Sec. 3. The citizens' aide shall be appointed by the  
21 legislative council with the approval and confirmation of  
22 a constitutional majority of the senate and with the approval  
23 and confirmation of a constitutional majority of the house  
24 of representatives. The legislative council shall fill a  
25 vacancy in this office in the same manner as the original  
26 appointment. If the appointment or vacancy occurs while the  
27 general assembly is not in session, such appointment shall  
28 be reported to the senate and the house of representatives  
29 within thirty days of their convening at their next regular  
30 session for approval and confirmation.

31 Sec. 4. The citizens' aide shall be a citizen of the state  
32 of Iowa, and shall be qualified to analyze problems of law,  
33 administration and public policy.

34 Sec. 5. The citizens' aide shall hold office for four  
35 years from the first day in July of the year of his approval

1 by the senate and the house of representatives, and until  
2 his successor is appointed by the legislative council, unless  
3 he can no longer perform his official duties, or is removed  
4 from office. The citizens' aide may at any time be removed  
5 from office by constitutional majority vote of the two houses  
6 of the general assembly or as provided by chapter sixty-six  
7 (66) of the Code. If a vacancy occurs in the office of  
8 citizens' aide, the deputy citizens' aide shall act as  
9 citizens' aide until the vacancy is filled by the legislative  
10 council.

11 Sec. 6. The citizens' aide shall designate one of the  
12 members of his staff as the deputy citizens' aide, with  
13 authority to act as citizens' aide when the citizens' aide  
14 is absent from the state or becomes disabled. The citizens'  
15 aide may delegate to members of his staff any of his authority  
16 or duties except the duty of formally making recommendations  
17 to agencies or reports to the governor or the general assembly.

18 Sec. 7. Neither the citizens' aide nor any member of his  
19 staff shall:

20 1. Hold any other public office of trust or profit under  
21 the laws of this state.

22 2. Engage in any other employment for remuneration.

23 3. Knowingly engage in or maintain any business transac-  
24 tions with persons employed by agencies against whom com-  
25 plaints may be made under the provisions of this Act.

26 4. Be actively involved in partisan affairs.

27 Sec. 8. The citizens' aide may maintain secrecy in respect  
28 to all matters including the identities of the complainants  
29 or witnesses coming before him, except that the general  
30 assembly, any standing committee of the general assembly or  
31 the governor may require disclosure of any matter and shall  
32 have complete access to the records and files of the citizens'  
33 aide. The citizens' aide may conduct private hearings.

34 Sec. 9. The citizens' aide shall have the following powers:

35 1. He may investigate, on complaint or on his own motion,

1 any administrative action of any agency, without regard to  
2 the finality of the administrative action, except that he  
3 shall not investigate the complaint of an employee of an  
4 agency in regard to that employee's employment relationship  
5 with the agency.

6 2. He may prescribe the methods by which complaints are  
7 to be made, received, and acted upon; determine the scope  
8 and manner of investigations to be made; and, subject to the  
9 requirements of this Act, he may determine the form, frequency,  
10 and distribution of his conclusions and recommendations.

11 3. He may request and shall be given by each agency such  
12 assistance and information as may be necessary in the per-  
13 formance of his duties. He may examine the records and docu-  
14 ments of all agencies not specifically made confidential by  
15 law. He may enter and inspect premises within any agency's  
16 control.

17 4. He may issue a subpoena to compel any person to ap-  
18 pear, give sworn testimony, or produce documentary or other  
19 evidence deemed relevant to a matter under his inquiry. The  
20 citizens' aide, his deputy and his assistants shall have the  
21 power to administer oaths to persons giving testimony before  
22 them. If a witness either fails or refuses to obey a subpoena  
23 issued by the citizens' aide, the citizens' aide may petition  
24 the district court having jurisdiction for an order directing  
25 obedience to the subpoena. In the event the court finds that  
26 the subpoena should be obeyed, it shall enter an order re-  
27 quiring obedience to the subpoena, and refusal to obey such  
28 court order shall be subject to punishment for contempt.

29 Sec. 10. No monetary or other charge shall be levied upon  
30 any person as a prerequisite to presentation of a complaint  
31 to the citizens' aide.

32 Sec. 11. An appropriate subject for investigation by the  
33 office of the citizens' aide is an administrative action that  
34 might be:

35 1. Contrary to law or regulation.

1       2. Unreasonable, unfair, oppressive, or inconsistent with  
2 the general course of an agency's functioning, even though  
3 in accordance with law.

4       3. Based on a mistake of law or arbitrary in ascertain-  
5 ments of fact.

6       4. Based on improper motivation or irrelevant considera-  
7 tion.

8       5. Unaccompanied by an adequate statement of reasons.  
9 The citizens' aide may also concern himself with strengthening  
10 procedures and practices which lessen the risk that objection-  
11 able administrative actions will occur.

12       Sec. 12. The citizens' aide may receive a complaint from  
13 any source concerning an administrative action. He shall  
14 conduct a suitable investigation into the administrative  
15 actions complained of unless he finds substantiating facts  
16 that:

17       1. The complainant has available to him another remedy  
18 or channel of complaint which he could reasonably be expected  
19 to use.

20       2. The grievance pertains to a matter outside the citizens'  
21 aide power.

22       3. The complainant has no substantive or procedural in-  
23 terest which is directly affected by the matter complained  
24 about.

25       4. The complaint is trivial, frivolous, vexatious, or  
26 not made in good faith.

27       5. Other complaints are more worthy of attention.

28       6. The citizens' aide resources are insufficient for  
29 adequate investigation.

30       7. The complaint has been delayed too long to justify  
31 present examination of its merit.

32       The citizens' aide may decline to investigate a complaint,  
33 but shall not be prohibited from inquiring into the matter  
34 complained about or into related problems at some future time.

35       Sec. 13. If the citizens' aide decides not to investigate,

1 he shall within sixty days inform the complainant in writ-  
2 ing of that decision and shall state his reasons. If the  
3 citizens' aide decides to investigate, he shall within sixty  
4 days notify the complainant in writing of his decision and  
5 he shall also notify the agency of his intention to  
6 investigate. After completing his consideration of a  
7 complaint, whether or not it has been investigated, the  
8 citizens' aide shall without delay inform the complainant  
9 of the fact, and when appropriate, the administrative agency  
10 or agencies involved. The citizens' aide shall on request  
11 of the complainant, and as appropriate, report the status  
12 of his investigation to the complainant.

13 Sec. 14. A letter to the citizens' aide from a person  
14 in a correctional institution, a hospital, or other institution  
15 under the control of an administrative agency shall be im-  
16 mediately forwarded, unopened to the citizens' aide by the  
17 institution where the writer of the letter is a resident.  
18 A letter from the citizens' aide to such a person shall be  
19 immediately delivered, unopened to the person.

20 Sec. 15. Before announcing a conclusion or recommenda-  
21 tion that criticizes an agency or any officer or employee,  
22 the citizens' aide shall consult with that agency, officer  
23 or employee, and shall attach to every report sent or made  
24 under the provisions of this Act a copy of any unedited  
25 comments made by or on behalf of the officer, employee, or  
26 agency.

27 Sec. 16. If, having considered a complaint and whatever  
28 material he deems pertinent, the citizens' aide finds  
29 substantiating facts that:

- 30 1. A matter should be further considered by the agency;
- 31 2. An administrative action should be modified or canceled;
- 32 3. A rule or regulation on which an administrative ac-  
33 tion is based should be altered;
- 34 4. Reasons should be given for an administrative action;
- 35 or

1       5. Any other action should be taken by the agency, he  
2 shall state his recommendations to the agency. If the  
3 citizens' aide requests, the agency shall, within twenty  
4 working days notify him of any action taken on his  
5 recommendations or the reasons for not complying with them.

6       If the citizens' aide believes that an administrative  
7 action has occurred because of laws whose results are unfair  
8 or otherwise objectionable, he shall notify the general as-  
9 sembly concerning desirable statutory change.

10       Sec. 17. The citizens' aide may publish his conclusions,  
11 recommendations, and suggestions and transmit them to the  
12 governor, the general assembly or any of its committees.  
13 When publishing an opinion adverse to an administrative agency  
14 or official he shall, unless excused by the agency or official  
15 affected, include with the opinion any unedited reply made  
16 by the agency.

17       Sec. 18. In addition to whatever reports he may make from  
18 time to time, the citizens' aide shall by February fifteenth  
19 of each year report to the general assembly and to the gov-  
20 ernor concerning the exercise of his functions during the  
21 preceding calendar year. In discussing matters with which  
22 he has been concerned, the citizens' aide need not identify  
23 specific persons or agencies if to do so would cause need-  
24 less hardship. If the annual report criticizes named agencies  
25 or officials, it must also include unedited replies made by  
26 the agency or official to the criticism, unless excused by  
27 the agency or official affected.

28       Sec. 19. If the citizens' aide believes that any public  
29 official, employee or other person has acted in a manner  
30 warranting criminal or disciplinary proceedings, he shall  
31 refer the matter to the appropriate authorities.

32       Sec. 20. No recommendations or other action by the  
33 citizens' aide, other than the issuance of a subpoena, shall  
34 be subject to judicial review.

35       No civil action, except removal from office as provided

1 in chapter sixty-six (66) of the Code, or proceeding shall  
2 be commenced against the citizens' aide or any member of his  
3 staff for any act or omission performed pursuant to the  
4 provisions of this Act nor shall the citizens' aide or any  
5 member of his staff be compelled to testify in any court with  
6 respect to any matter involving the exercise of his official  
7 duties except as may be necessary to enforce the provisions  
8 of this Act.

9 Sec. 21. A person required by the citizens' aide to provide  
10 information shall be paid the same fees and travel allowances  
11 as are extended to witnesses whose attendance has been re-  
12 quired in the district courts of this state. Officers and  
13 employees of an agency shall not be entitled to such fees  
14 and allowances. A person who, with or without service of  
15 compulsory process, provides oral or documentary information  
16 requested by the citizens' aide shall be accorded the same  
17 privileges and immunities as are extended to witnesses in  
18 the courts of this state, and shall also be entitled to be  
19 accompanied and advised by counsel while being questioned.

20 Sec. 22. A person who willfully obstructs or hinders the  
21 lawful actions of the citizens' aide or his staff, or who  
22 willfully misleads or attempts to mislead the citizens' aide  
23 in his inquiries, shall be subject to a fine of not more than  
24 one thousand dollars.

25 Sec. 23. There is appropriated from the general fund of  
26 the state for the office of citizens' aide for the fiscal  
27 year beginning July 1, 1972 and ending June 30, 1973, the  
28 sum of fifty-two thousand (52,000) dollars, or so much thereof  
29 as may be necessary, for the purpose of carrying out the  
30 provisions of this Act.

31 Sec. 24. This Act shall be known and may be cited as  
32 the "Iowa Citizens' Aide Act".

33 EXPLANATION

34 This bill provides for the office of citizens' aide who  
35 is appointed by the governor and confirmed by the senate and

1 house of representatives.

2 The bill provides for powers and duties and appropriates  
3 \$52,000.

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HOUSE FILE 1291

- 1 Amend House File 1291 as follows:
- 2 1. Page 2, line 21, by striking the words "legisla-
- 3 tive council" and inserting in lieu thereof the words
- 4 "Iowa League of Women Voters".
- 5 2. Page 2, line 24, by striking the words "legisla-
- 6 tive council" and inserting in lieu thereof the words
- 7 "Iowa League of Women Voters".
- 8 3. Page 3, line 2, by striking the words "legisla-
- 9 tive council" and inserting in lieu thereof the words
- 10 "Iowa League of Women Voters".

Offered from the floor and rules out of order  
March 15, 1972 By SKINNER of Polk

HOUSE FILE 1291

- 1 Amend the Fischer, Kehe, et al., amendment to
- 2 House File 1291, filed March 9, 1972, by striking
- 3 all after the word "council" in line 4 and all of
- 4 lines 5 and 6.

Offered from the floor and lost By LIPSKY of Linn  
March 15, 1972

HOUSE FILE 1291

- 1 Amend the Small, Hansen, et al., amendment to
- 2 House File 1291, filed March 8, 1972, line 5, by
- 3 inserting after the word "media" the following:
- 4 "or others who may be concerned".

Offered from the floor and adopted  
March 15, 1972 By WINKELMAN of Calhoun

HOUSE FILE 1291

- 1 Amend the Small, Hansen, et al., amendment to
- 2 House File 1291, filed March 8, 1972, by striking from
- 3 line 4 the word "shall" and inserting in lieu thereof
- 4 the word "may".

Offered from the floor and adopted  
March 15, 1972 By LIPSKY of Linn

1 Amend House File 1291, page 4, by striking  
2 all of lines 1 through 5 and inserting in lieu  
3 thereof the following: "any administrative action  
4 which affects the general public or any member  
5 thereof, without regard to the finality of the  
6 administrative action. He shall not investigate  
7 the complaint of an employee of an agency in regard  
8 to that employee's employment relationship with  
9 the agency or concern himself with any matter involving  
10 the internal management of an agency which does not  
11 relate to the rights and procedures available to  
12 the public."

Filed - *Lost 3/15/72 (1131)*  
March 7, 1972

By SHAW of Scott  
GRASSLEY of Butler

1 Amend House File 1291 as follows:  
2 1. Page 2, line 21, by striking the words "legis-  
3 lative council" and inserting in lieu thereof the word  
4 "governor".  
5 2. Page 2, line 24, by striking the words "legis-  
6 lative council" and inserting in lieu thereof the word  
7 "governor".  
8 3. Page 3, line 2, by striking the words "legis-  
9 lative council" and inserting in lieu thereof the word  
10 "governor".

Filed  
March 7, 1972

*Lost  
as  
amended  
3/10*

By CAMP of Clinton  
VARLEY of Adair  
LIPSKY of Linn  
PELTON of Clinton  
KREAMER of Polk  
SHAW of Scott  
SCHROEDER of Pottawattamie  
HILL of Polk

1 Amend House File 1291, page 7, by inserting after  
2 line 16 the following:  
3 "Any conclusions, recommendations, and suggestions  
4 so published shall at the same time be made available  
5 to the news media."

Filed - *Adopted as amended 3/15 (1131)*  
March 8, 1972

By SMALL of Johnson  
HANSEN of Black Hawk  
SCHWIEGER of Black Hawk  
GLUBA of Scott  
RADL of Linn

- 1 *Lost* Amend House File 1291 as follows:  
2 *3/10* 1. Page 2, by striking all of lines 19 and 20  
3 and inserting in lieu thereof the following:  
4 "Sec. 2. A citizens aide shall be appointed by  
5 the".  
6 2. By renumbering the following sections:  
7 3. Page 2, by adding after line 30 the following  
8 new paragraph:  
9 "The citizens aide shall employ and supervise  
10 all employees under his direction in such positions  
11 and at such salaries as shall be authorized by the  
12 legislative council." *Adopted 3/15 (1130)*  
13 4. Page 7, by striking all of line 32 after  
14 the second period and all of lines 33 and 34. *Adopted 3/10*  
15 5. Page 7, by striking all of line 35. *Lost 3/10*  
16 6. Page 8, by striking all of lines 1 through 8. *3/10*

Filed  
March 8, 1972

By WELDEN of Hardin

- 1 Amend House File 1291, page 8, by inserting  
2 the following after the period in line 30: "The  
3 salary of the citizens' aid shall be set by the  
4 legislative council and shall not exceed eighty  
5 percent of the salary appropriated for the attorney  
6 general."

Filed - *Lost 3/15/72 (1132)*  
March 9, 1972

By FISCHER of Grundy  
KEHE of Bremer  
HOLDEN of Scott  
STANLEY of Linn  
MILLEN of Van Buren  
FREEMAN of Buena Vista

- 1 Amend the Camp, et al., amendment to House File  
2 1291, filed March 7, 1972, by inserting after line 10  
3 the following:  
4 "4. Page 3, by striking from lines 9 and 10 the  
5 words 'legislative council' and inserting in lieu  
6 thereof the word 'governor'.

Offered from the floor and adopted  
March 10, 1972 By CAMP of Clinton

- 1 Amend House File 1291, page 8, line 4, by insert-  
2 ing after the word "Act" the following:  
3 "unless the act or omission is actuated by malice  
4 or is grossly negligent,".

Filed - *Adopted 3/15/72 (1132)* By JESSE of Polk  
March 10, 1972

1 Amend the Camp et al., amendment to House File 1291  
2 filed March 7 as follows:  
3 1. Line 4, by striking the word "governor" and  
4 inserting in lieu thereof the words "league of women  
5 voters"  
6 2. Line 7, by striking the word "governor" and  
7 inserting in lieu thereof the words "league of women  
8 voters"  
9 3. Line 10, by striking the word "governor" and  
10 inserting in lieu thereof the words "league of women  
11 voters"

Filed *w. d. 3/15*  
March 14, 1972

By SKINNER of Polk

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1 Amend House File 1291, page 2, by striking lines 20 and  
2 21 and by inserting in lieu thereof the following:  
3 "Sec. 3. The minority party in each house of the  
4 General Assembly, in the year of appointment, while the  
5 General Assembly is in session shall meet in joint caucus  
6 upon call of their respective leaders, with the approval  
7 and confirmation of".

Filed and lost  
March 23, 1972

By GAUDINEER

*Senate*

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1 Amend the Shaff amendment filed March 23, 1972 to House File 1291  
2 by adding after line 8 the following new division:  
3 "4. Page 3, lines 9 and 10, by striking the words  
4 "legislative council" and inserting in lieu thereof the  
5 word "governor".

Filed and adopted  
March 23, 1972

By COLEMAN

*Senate*

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1 Amend House File 1291 as follows:  
2 1. Page 2, line 21, by striking the words "legis-  
3 lative council" and inserting in lieu thereof the word  
4 "governor".  
5 2. Page 2, line 24, by striking the words "legislative  
6 council" and inserting in lieu thereof the word "governor".  
7 3. Page 3, line 2, by striking the words "legislative  
8 council" and inserting in lieu thereof the word "governor".

Filed, amended and lost  
March 23, 1972

By SHAFF

*Senate*