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APPROPRIATIONS CALENDAR

HOUSE FILE

2455

BY COMMITTEE ON APPROPRIATIONS

Passed House, Date 3/26/92 (p. 868)

Passed Senate, Date 4/8/92 (P. 1293)

Vote: Ayes 56 Nays 42

Vote: Ayes 28 Nays 17

Approved *Item released* June 3, 1992

A BILL FOR

1 An Act relating to and making appropriations to regulatory bodies
 2 of state government, including the auditor of state, the
 3 campaign finance disclosure commission, the department of
 4 employment services, the department of inspections and
 5 appeals, the office of the state public defender, the
 6 department of commerce, public employment relations board, and
 7 the racing and gaming commission, allocating certain standing
 8 appropriations subject to certain procedures and conditions,
 9 and providing an effective date.

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

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HF 2455

1 Section 1. AUDITOR OF STATE. There is appropriated from
2 the general fund of the state to the office of the auditor of
3 state for the fiscal year beginning July 1, 1992, and ending
4 June 30, 1993, the following amount, or so much thereof as is
5 necessary, to be used for the purposes designated:

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

9	\$	1,037,678
10	FTEs	109.78

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

21 Sec. 2. CAMPAIGN FINANCE DISCLOSURE COMMISSION. There is
22 appropriated from the general fund of the state to the
23 campaign finance disclosure commission for the fiscal year
24 beginning July 1, 1992, and ending June 30, 1993, the
25 following amount, or so much thereof as is necessary, for the
26 purposes designated:

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

30	\$	256,420
31	FTEs	6.75

32 Sec. 3. DEPARTMENT OF EMPLOYMENT SERVICES. There is
33 appropriated from the general fund of the state to the
34 department of employment services for the fiscal year
35 beginning July 1, 1992, and ending June 30, 1993, the

1 following amounts, or so much thereof as is necessary, for the
2 purposes designated:

3 1. DIVISION OF LABOR SERVICES

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

7 \$ 2,222,743
8 FTEs 90.00

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

13 2. DIVISION OF INDUSTRIAL SERVICES

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

17 \$ 1,828,127
18 FTEs 35.00

19 Sec. 4. ADMINISTRATIVE CONTRIBUTION SURCHARGE FUND. There
20 is appropriated from the administrative contribution surcharge
21 fund of the state to the department of employment services for
22 the fiscal year beginning July 1, 1992, and ending June 30,
23 1993, the following amount, or so much thereof as is
24 necessary, for the purposes designated:

25 DIVISION OF JOB SERVICE

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

30 \$ 6,259,913
31 FTEs 155.50

32 1. The department of employment services shall provide
33 services throughout the fiscal year beginning July 1, 1992,
34 and ending June 30, 1993, in all communities in which job
35 service offices are operating on July 1, 1992. However, this

1 provision shall not prevent the consolidation of multiple
2 offices within the same city or the colocation of job service
3 offices with another public agency.

4 2. The division of industrial services shall not reduce
5 the number of scheduled hearings of contested cases or
6 eliminate the venue of such hearings, as established by the
7 division for the period beginning January 1, 1992, and ending
8 January 20, 1993. The division shall also establish a
9 substantially similar schedule for such hearings for the
10 period beginning January 20, 1993, and ending June 30, 1993.
11 The division shall report to the legislative fiscal bureau
12 concerning any modification of the established schedule, or
13 any changes which the division determines are necessary in
14 establishing the schedule for the period beginning January 20,
15 1993, and ending June 30, 1993.

16 3. The division shall continue charging a \$65 filing fee
17 for workers' compensation cases. The filing fee shall be paid
18 by the petitioner of a claim. However, the fee can be taxed
19 as a cost and paid by the losing party, except in cases where
20 it would impose an undue hardship or be unjust under the
21 circumstances.

22 4. The department of employment services, the department
23 of personnel, and the department of management shall work
24 together to ensure that as nearly as possible all full-time
25 equivalent positions authorized and funded for the department
26 of employment services will be utilized during the fiscal year
27 beginning July 1, 1992, and ending June 30, 1993, and future
28 fiscal years, to ensure that the backlog of cases in that
29 department will be reduced as rapidly as possible.

30 Sec. 5. EMPLOYMENT SECURITY CONTINGENCY FUND. There is
31 appropriated from the special employment security contingency
32 fund to the department of employment services for the fiscal
33 year beginning July 1, 1992, and ending June 30, 1993, the
34 following amounts, or so much thereof as is necessary, for the
35 purposes designated:

1 1. DIVISION OF LABOR SERVICES

2 For salaries, support, maintenance, and miscellaneous
3 purposes:

4 \$ 296,508

5 2. DIVISION OF INDUSTRIAL SERVICES

6 For salaries, support, maintenance, and miscellaneous
7 purposes:

8 \$ 175,494

9 3. DIVISION OF JOB SERVICE

10 For asbestos removal and remodeling:

11 \$ 75,000

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

18 1. FINANCE AND SERVICES DIVISION

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

22 \$ 467,307

23 FTEs 24.00

24 2. AUDITS DIVISION

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

28 \$ 416,731

29 FTEs 15.00

30 3. APPEALS AND FAIR HEARINGS DIVISION

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

34 \$ 197,547

35 FTEs 24.00

1 4. INVESTIGATIONS DIVISION

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

5	\$	458,808
6	FTEs	35.00

7 5. HEALTH FACILITIES DIVISION

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

11	\$	1,367,682
12	FTEs	115.00

13 6. INSPECTIONS DIVISION

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

17	\$	711,017
18	FTEs	20.00

19 7. EMPLOYMENT APPEAL BOARD

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

23	\$	42,764
24	FTEs	16.80

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

34 8. FOSTER CARE REVIEW BOARD

35 For salaries, support, maintenance, and miscellaneous

1 purposes for conducting foster care review services in the
2 sixth and eighth judicial districts, and for not more than the
3 following full-time equivalent positions:

4	\$	131,831
5	FTEs	3.50

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

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

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

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

26 10. The department of human services shall reimburse the
27 state foster care review board \$160,997 for clerical and
28 administrative support cost savings from state foster care
29 review board administrative reviews conducted from 1986
30 through 1991. Of this amount, \$50,690 shall be reimbursed
31 from federal funds received as a result of claims made
32 pursuant to Title IV-E of the federal Social Security Act.

33 11. Notwithstanding the provisions of chapter 10A or 135C,
34 the department of inspections and appeals shall not adopt
35 rules relating to the frequency of inspection of nursing

1 facilities which are more stringent than the requirements
2 adopted by the federal government.

3 Sec. 7. STATE PUBLIC DEFENDER. There is appropriated from
4 the general fund of the state to the office of the state
5 public defender for the fiscal year beginning July 1, 1992,
6 and ending June 30, 1993, the following amounts, or so much
7 thereof as is necessary, for the purposes designated:

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

11	\$	6,271,741
12	FTEs	144.75

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

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

23 a. By county.

24 b. By case type in the following categories:

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

28 (2) Adult cases involving misdemeanor or felony
29 prosecutions.

30 2. For indigent court-appointed attorney fees for adults
31 and juveniles, notwithstanding section 232.141 and chapter
32 815:

33	\$	8,445,465
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34 Sec. 8. The department of inspections and appeals may
35 charge state departments, agencies, and commissions for

1 services rendered and the payment received shall be considered
2 repayment receipts as defined in section 8.2.

3 Sec. 9. ROAD USE TAX FUND. There is appropriated from the
4 road use tax fund from the fuel tax portion to the department
5 of inspections and appeals for the fiscal year beginning July
6 1, 1992, and ending June 30, 1993, the following amount, or so
7 much thereof as is necessary, for the purposes designated:

8 For salaries, support, maintenance, and miscellaneous
9 purposes:

10 \$ 821,929

11 Sec. 10. PUBLIC EMPLOYMENT RELATIONS BOARD. There is
12 appropriated from the general fund of the state to the public
13 employment relations board for the fiscal year beginning July
14 1, 1992, and ending June 30, 1993, the following amount, or so
15 much thereof as is necessary, for the purposes designated:

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

19 \$ 643,998

20 FTEs 13.00

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

26 1. PROFESSIONAL LICENSING AND REGULATION DIVISION

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

30 \$ 802,762

31 FTEs 11.00

32 2. ADMINISTRATIVE SERVICES DIVISION

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

1 \$ 1,195,532

2 FTEs 30.50

3 3. ALCOHOLIC BEVERAGES DIVISION

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

7 \$ 2,706,848

8 FTEs 27.00

9 4. BANKING DIVISION

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

13 \$ 4,957,650

14 FTEs 90.00

15 The banking division may expend additional funds, including
16 funds for additional personnel, if those additional
17 expenditures are actual expenses which exceed the funds
18 budgeted for bank examinations and directly result from
19 examinations of banks. Before the division expends or
20 encumbers an amount in excess of the funds budgeted for
21 examinations, the director of the department of management
22 shall approve the expenditure or encumbrance. Before approval
23 is given, the director of the department of management shall
24 determine that the examination expenses exceed the funds
25 budgeted by the general assembly to the division and that the
26 division does not have other funds from which examination
27 expenses can be paid. Upon approval of the director of the
28 department of management the division may expend and encumber
29 funds for excess examination expenses. The amounts necessary
30 to fund the excess examination expenses shall be collected
31 from those banks being regulated which caused the excess
32 expenditures, and the collections shall be treated as
33 repayment receipts as defined in section 8.2.

34 5. CREDIT UNION DIVISION

35 For salaries, support, maintenance, miscellaneous purposes,

1 and for not more than the following full-time equivalent
2 positions:

3	\$	858,333
4	FTEs	18.00

5 6. INSURANCE DIVISION

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

9	\$	4,312,118
10	FTEs	91.00

11 The division of insurance may reallocate authorized full-
12 time equivalent positions as necessary to respond to
13 accreditation criticisms or requirements as determined by the
14 national association of insurance commissioners.

15 The insurance division may expend additional funds,
16 including funds for additional personnel, if those additional
17 expenditures are actual expenses which exceed the funds
18 budgeted for insurance company examinations or accreditation
19 purposes, directly result from examinations of insurance
20 companies or accreditation purposes, and the additional funds
21 expended for such purposes are fully reimburseable from
22 insurance companies. Before the division expends or encumbers
23 an amount in excess of the funds budgeted for examinations or
24 accreditation, the director of the department of management
25 shall approve the expenditure or encumbrance. Before approval
26 is given, the director of the department of management shall
27 determine that the examination or accreditation expenses
28 exceed the funds budgeted by the general assembly to the
29 division and that the division does not have other funds from
30 which examination or accreditation expenses can be paid. Upon
31 approval of the director of the department of management the
32 division may expend and encumber funds for excess examination
33 or accreditation expenses. The amounts necessary to fund the
34 excess examination or accreditation expenses shall be
35 collected from those insurance companies being regulated which

1 caused the excess expenditures, and the collections shall be
2 treated as repayment receipts as defined in section 8.2.

3 7. UTILITIES DIVISION

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

7	\$	4,391,833
8	FTEs	84.00

9 The utilities division may expend additional funds,
10 including funds for additional personnel, if those additional
11 expenditures are actual expenses which exceed the funds
12 budgeted for utility regulation. Before the division expends
13 or encumbers an amount in excess of the funds budgeted for
14 regulation, the director of the department of management shall
15 approve the expenditure or encumbrance. Before approval is
16 given, the director of the department of management shall
17 determine that the regulation expenses exceed the funds
18 budgeted by the general assembly to the division and that the
19 division does not have other funds from which regulation
20 expenses can be paid. Upon approval of the director of the
21 department of management the division may expend and encumber
22 funds for excess regulation expenses. The amounts necessary
23 to fund the excess regulation expenses shall be collected from
24 those utility companies being regulated which caused the
25 excess expenditures, and the collections shall be treated as
26 repayment receipts as defined in section 8.2.

27 Sec. 12. RACING AND GAMING COMMISSION. There is
28 appropriated from the general fund of the state to the racing
29 and gaming commission of the department of inspections and
30 appeals for the fiscal year beginning July 1, 1992, and ending
31 June 30, 1993, the following amount, or so much thereof as is
32 necessary, to be used for the purposes designated:

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

1 \$ 1,655,339
2 FTEs 18.71

3 Sec. 13. EXCURSION BOAT REGULATION. There is appropriated
4 from the general fund of the state to the racing and gaming
5 commission of the department of inspections and appeals for
6 the fiscal year beginning July 1, 1992, and ending June 30,
7 1993, the following amount, or so much thereof as is
8 necessary, to be used for the purposes designated:

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

13 \$ 619,513
14 FTEs 12.84

15 Sec. 14. Section 11.4, subsection 6, unnumbered paragraph
16 3, Code 1991, is amended to read as follows:

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

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

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

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

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

35 Sec. 17. Section 11.6, subsection 11, Code Supplement

1 1991, is amended by striking the subsection.

2 Sec. 18. Section 13B.4, subsection 3, Code Supplement
3 1991, is amended to read as follows:

4 3. The state public defender may contract with persons
5 admitted to practice law in this state for the provision of
6 legal services to indigent persons ~~where there is no local~~
7 ~~public defender available to provide such services.~~ The state
8 public defender shall file, with the court in each county
9 served under one or more contracts for the provision of legal
10 services to indigent persons, a designation of which contract
11 attorneys shall receive notice of appointment of cases.

12 Sec. 19. Section 13B.9, subsection 5, Code Supplement
13 1991, is amended by striking the subsection and inserting in
14 lieu thereof the following:

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

20 a. If the state public defender has contracted for the
21 provision of legal services to indigent persons in the county
22 where the case is pending, the court shall, subject to
23 paragraph "b", appoint an attorney designated by the state
24 public defender as a contract attorney in the county to handle
25 the case. Appointment of contract attorneys shall be on a
26 rotational or equalizational basis, while taking into
27 consideration the experience of the contract attorneys and the
28 difficulty of the case.

29 b. If the court determines that the nature of the charge
30 or the complexity of the issues in a case requires that an
31 attorney, other than the attorney or attorneys who have
32 contracted with the state public defender, be appointed, the
33 court may appoint a noncontract attorney that the court deems
34 appropriate to provide legal services to the indigent person.
35 If the court appoints a noncontract attorney under this

1 paragraph, the court shall state in the order of appointment
2 the reasons for not appointing the attorney specified in the
3 state public defender contract for legal services to indigent
4 persons and submit a copy of the order to the state public
5 defender within five working days of the date of the
6 appointment of other counsel.

7 c. If the state public defender has not contracted for the
8 provision of legal services to indigent persons in the county
9 where the case is pending, the court shall appoint a
10 noncontract attorney that the court deems appropriate to
11 provide legal services to the indigent person.

12 Sec. 20. Section 96.13, subsection 3, Code Supplement
13 1991, is amended to read as follows:

14 3. Special employment security contingency fund.

15 a. There is created in the state treasury a special fund
16 to be known as the special employment security contingency
17 fund. All interest, fines, and penalties, regardless of when
18 they become payable, collected from employers under section
19 96.14 shall be paid into the fund. The moneys shall not be
20 expended or available for expenditure in any manner which
21 would permit their substitution for federal funds which would
22 in the absence of the moneys be available to finance
23 expenditures for the administration of the employment-security
24 law department. However, the moneys may be used as a
25 revolving fund to cover expenditures for which federal funds
26 have been duly requested but not yet received, subject to the
27 charging of the expenditures against the funds when received.
28 The moneys may be used for the payment of costs of
29 administration which are found not to have been properly and
30 validly chargeable against federal grants or other funds,
31 received for ~~or-in-the-employment-security-administration-fund~~
32 the department. The moneys in the fund are specifically made
33 available to replace, within a reasonable time, any moneys
34 received by this state in the form of grants from the federal
35 government for administrative expenses which because of any

1 action or contingency have been expended for purposes other
2 than, or in excess of, those necessary for the proper
3 administration of the employment-security-law department. All
4 moneys in the fund shall be deposited, administered, and
5 disbursed in the same manner and under the same conditions and
6 requirements as are provided by law for other special funds in
7 the state treasury. Interest earned upon moneys in the fund
8 shall be deposited in and credited to the fund.

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

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

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

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

33 Sec. 21. Section 117.29, Code 1991, is amended by adding
34 the following new subsection:

35 NEW SUBSECTION. 10. Noncompliance with the trust account

1 requirements under section 117.46.

2 Sec. 22. Section 117.34, unnumbered paragraph 1, Code
3 1991, is amended to read as follows:

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

17 Sec. 23. Section 117.46, subsections 3 and 5, Code 1991,
18 are amended to read as follows:

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

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

35 Sec. 24. Section 117.46, Code 1991, is amended by adding

1 the following new subsections:

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

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

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

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

26 Sec. 25. Section 237.16, unnumbered paragraph 2, Code
27 1991, is amended to read as follows:

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

1 Sec. 26. Section 237.18, subsection 5, unnumbered
2 paragraph 1, Code 1991, is amended to read as follows:

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

7 Sec. 27. Section 237.23, Code 1991, is amended to read as
8 follows:

9 237.23 AUTOMATIC REPEAL.

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

12 Sec. 28. 1989 Iowa Acts, chapter 272, sections 34, 35, and
13 36, are repealed.

14 Sec. 29. 1989 Iowa Acts, chapter 272, section 42, as
15 amended by 1990 Iowa Acts, chapter 1261, section 43, and 1991
16 Iowa Acts, chapter 268, section 442, is repealed.

17 Sec. 30. 1990 Iowa Acts, chapter 1234, section 76, as
18 amended by 1991 Iowa Acts, chapter 213, section 35, is
19 repealed.

20 Sec. 31. 1991 Iowa Acts, chapter 268, section 404,
21 subsection 2, unnumbered paragraph 2, is amended to read as
22 follows:

23 The division shall expend up to \$550,000 for the following:
24 \$50,000, or so much thereof as is necessary, for the removal
25 of 2 chillers and 1 underground storage tank, and \$100,000, or
26 so much thereof as is necessary, for asbestos removal or
27 encapsulation at the job service site located at 1000 East
28 Grand, Des Moines, Iowa, and \$400,000, or so much thereof as
29 is necessary, for the support of the labor survey, economic
30 development teams to assist in conducting "labor availability
31 surveys". Notwithstanding section 8.33 or this section,
32 unencumbered and unobligated funds remaining on June 30, 1992,
33 from the appropriations in this subsection for asbestos
34 removal or encapsulation at the job service site located at
35 1000 East Grand, Des Moines, shall not revert but shall be

1 available for expenditure for the same purpose for the fiscal
2 year beginning July 1, 1992.

3 Sec. 32. FEDERAL GRANTS. All federal grants to and the
4 federal receipts of agencies appropriated funds under this
5 Act, not otherwise appropriated, are appropriated for the
6 purposes set forth in the federal grants or receipts unless
7 otherwise provided by the general assembly.

8 Sec. 33. EFFECTIVE DATES. Section 6, subsection 9,
9 paragraph "a" and sections 27 through 31 of this Act, being
10 deemed of immediate importance, are effective upon enactment.

11 EXPLANATION

12 The bill makes appropriations for the fiscal year beginning
13 July 1, 1992, to regulatory bodies of the state, including the
14 auditor of state, campaign finance disclosure commission,
15 department of employment services, department of inspections
16 and appeals, office of the state public defender, public
17 employment relations board, the divisions of the department of
18 commerce, and the racing and gaming commission.

19 Section 11.4 is amended to eliminate the requirement that
20 machinery under the state auditor's control for printing
21 confidential reports and other documents be an offset printer.

22 Section 11.5B is amended to require that the state auditor
23 charge for auditing agencies whose source of funding is other
24 than the state general fund.

25 Section 11.6 is amended to conform with other statutory
26 changes. Subsection 5 of that section is amended to allow the
27 auditor of state to review any work papers prepared in the
28 performance of an audit, and not just those prepared by a
29 certified public accountant. Subsection 11 is struck which
30 limited who would be charged a filing fee related to the
31 filing of a report of examination.

32 Sections 13B.4 and 13B.9 are amended to insert language
33 allowing for increased contracting with private attorneys by
34 the public defender.

35 Section 96.13 is amended to allow the department of

1 employment services to use penalty and interest fund money for
2 operations and capital expenditures.

3 Section 117.29 is amended by providing that a license to
4 practice the profession of real estate broker and salesperson
5 may be revoked or suspended as a result of the person's
6 failing to comply with trust requirements under section
7 117.46.

8 Sections 117.34 and 117.46 are amended to transfer from the
9 department of inspections and appeals responsibility for
10 investigation and examination of real estate brokers and
11 brokers' trust accounts to the real estate commission.

12 Section 237.23 is amended to extend the date of repeal for
13 foster care review from 1992 to 1996.

14 Sections 28 and 29 repeal language providing for the
15 privatization of the distribution of liquor.

16 Section 30 repeals 1990 Iowa Acts, chapter 1234, as
17 amended. This provision repeals the sunset of workers'
18 compensation rate regulation by the division of insurance.

19 Section 31 provides that funds appropriated to job service
20 for asbestos removal or encapsulation at the job service site
21 at 1000 East Grand, Des Moines, are not to revert on June 30,
22 1992.

23 Sections 27 through 31 are effective upon enactment.

24 This bill appropriates federal grants and receipts not
25 otherwise appropriated.

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HOUSE FILE 2455

H-5358

- 1 Amend House File 2455 as follows:
2 1. Page 12, by inserting after line 14 the fol-
3 lowing:
4 "Sec. _____. Upon a determination that there is an
5 insufficient balance in the special employment
6 security contingency fund established in section
7 96.13, subsection 3, to satisfy all amounts
8 appropriated from that fund, all appropriated amounts
9 shall be reduced proportionately by the department to
10 a total amount equal to the available funds."
11 2. Renumber as necessary.

By BEATTY of Warren

H-5358 FILED MARCH 18, 1992
w/d 3/26 (p. 857)

HOUSE FILE 2455

H-5370

- 1 Amend House File 2455 as follows:
2 1. Page 6, by striking lines 26 through 32.
3 2. Renumber as necessary.

By HAMMOND of Story
BEATTY of Warren

H-5370 FILED MARCH 18, 1992
Adopted 3/26 (p. 856)

HOUSE FILE 2455

H-5378

- 1 Amend House File 2455 as follows:
- 2 1. Page 12, by inserting after line 14 the
- 3 following:
- 4 "Sec. _____. Use of moneys for line item
- 5 appropriations from the road use tax fund in this Act
- 6 shall be limited only to expenditures which are
- 7 directly attributed to the costs of administration,
- 8 construction, maintenance, and supervision of public
- 9 highways or for the payment of bonds issued for the
- 10 construction of public highways and the payment of
- 11 interest on the bonds."
- 12 2. Renumber as necessary.

By HALVORSON of Clayton

H-5378 FILED MARCH 19, 1992

w/d 3/26 (p. 857)

HOUSE FILE 2455

H-5384

- 1 Amend House File 2455 as follows:
- 2 1. Page 12, by inserting after line 14 the
- 3 following:
- 4 "Sec. _____. Use of moneys for line item
- 5 appropriations from the road use tax fund in this Act
- 6 shall be limited only to expenditures which are
- 7 directly attributed to the costs of administration,
- 8 construction, maintenance, and supervision of
- 9 transportation programs or for the payment of bonds
- 10 issued for the construction of public highways and the
- 11 payment of interest on the bonds."
- 12 2. Renumber as necessary.

By HALVORSON of Clayton
GARMAN of Story

H-5384 FILED MARCH 19, 1992

lost 3/26 (p. 858)

HOUSE FILE 2455

H-5405

- 1 Amend House File 2455 as follows:
- 2 1. Page 7, line 16, by inserting after the word
- 3 "expansion" the following: ", including the amount
- 4 recovered as attorney fees and used to defray the
- 5 costs of operating the office by county and by case
- 6 type in the categories identified in subparagraphs (1)
- 7 and (2) of this subsection."

By MILLAGE of Scott

H-5405 FILED MARCH 19, 1992

lost 3/26 (p. 867)

HOUSE FILE 2455

H-5450

1 Amend House File 2455 as follows:

2 1. Page 2, line 6, by inserting after the word
3 "positions" the following: ", contingent upon the
4 enactment of section 5 of this Act and the provision
5 which requires moneys appropriated from the special
6 employment security contingency fund to first be used
7 to fully fund the appropriation of \$296,508 to the
8 division of labor services in subsection 1 of section
9 5 of this Act prior to funding the appropriations in
10 section 5 of this Act to the division of industrial
11 services and the division of job service".

12 2. Page 3, line 35, by inserting after the word
13 "designated" the following: "and subject to the
14 requirement that the appropriation to the division of
15 labor services under this section be fully funded from
16 the special employment security contingency fund prior
17 to any amounts being used to fund the appropriations
18 made to the division of industrial services and the
19 division of job service under this section".

20 3. Page 8, by striking lines 3 and 4, and
21 inserting the following:

22 "Sec. ____ . ROAD USE TAX FUND. There is
23 appropriated from the use tax receipts collected under
24 chapter 423 prior to deposit in the road use tax fund,
25 to the department".

26 4. Page 9, line 14, by striking the figure
27 "90.00" and inserting the following: "99.00".

28 5. Page 9, by striking lines 19 through 29 and
29 inserting the following: "examinations of banks.
30 Notwithstanding the provisions of chapter 8, the
31 banking division may expend additional funds for the
32 additional personnel. The division shall promptly
33 notify in writing the legislative fiscal bureau and
34 the department of management of any personnel hired
35 pursuant to this paragraph. The notification shall
36 also provide the justification for hiring such
37 personnel. The amounts necessary".

38 6. By renumbering as necessary.

By BEATTY of Warren

H-5450 FILED MARCH 23, 1992

Adopted as amended 3/26 (p. 855)

HOUSE FILE 2455

H-5509

- 1 Amend House File 2455 as follows:
2 1. Page 18, by striking lines 12 through 16 and
3 inserting the following:
4 "Sec. ____ . 1989 Iowa Acts, chapter 272, section
5 42, as amended by 1990 Iowa Acts, chapter 1261,
6 section 43, and 1991 Iowa Acts, chapter 268, section
7 442, is amended to read as follows:
8 SEC. 42. Sections 34, 35, and 36 of this Act are
9 effective July 1, ~~1992~~ 1993."
10 2. Renumber as necessary.

By OSTERBERG of Linn

H-5509 FILED MARCH 24, 1992

Adopted 3/26 (p. 866)

HOUSE FILE 2455

H-5471

- 1 Amend the amendment, H-5450, to House File 2455 as
2 follows:
3 1. Page 1, by inserting after line 11 the
4 following:
5 " ____ . Page 2, line 27, by inserting after the
6 word "maintenance," the following: "conducting labor
7 availability surveys,".
8 ____ . Page 2, line 31, by striking the figure
9 "155.50" and inserting the following: "161.50".
10 ____ . Page 2, by inserting after line 31 the fol-
11 lowing:
12 "Of the amount appropriated under this section,
13 \$150,000 shall be used by the department to conduct
14 labor availability surveys."
15 2. Renumber as necessary.

By PETERSON OF Carroll

H-5471 FILED MARCH 24, 1992

Adopted 3/26 (p. 855)

HOUSE FILE 2455

H-5477

- 1 Amend House File 2455 as follows:
- 2 1. Page 1, line 9, by striking the figure
- 3 "1,037,678" and inserting the following: "1,548,761".
- 4 2. Page 1, line 30, by striking the figure
- 5 "256,420" and inserting the following: "264,127".
- 6 3. Page 2, line 7, by striking the figure
- 7 "2,222,743" and inserting the following: "2,402,086".
- 8 4. Page 2, line 17, by striking the figure
- 9 "1,828,127" and inserting the following: "1,967,621".
- 10 5. Page 2, line 30, by striking the figure
- 11 "6,259,913" and inserting the following: "5,916,050".
- 12 6. Page 4, by striking lines 1 through 8.
- 13 7. Page 4, line 11, by striking the figure
- 14 "75,000" and inserting the following: "550,000".
- 15 8. Page 4, line 22, by striking the figure
- 16 "467,307" and inserting the following: "538,967".
- 17 9. Page 4, line 28, by striking the figure
- 18 "416,731" and inserting the following: "455,177".
- 19 10. Page 4, line 34, by striking the figure
- 20 "197,547" and inserting the following: "348,672".
- 21 11. Page 5, line 5, by striking the figure
- 22 "458,808" and inserting the following: "441,474".
- 23 12. Page 5, line 11, by striking the figure
- 24 "1,367,682" and inserting the following: "1,510,128".
- 25 13. Page 5, line 17, by striking the figure
- 26 "711,017" and inserting the following: "797,362".
- 27 14. Page 5, line 23, by striking the figure
- 28 "42,764" and inserting the following: "45,015".
- 29 15. Page 6, line 4, by striking the figure
- 30 "131,831" and inserting the following: "257,268".
- 31 16. Page 7, line 11, by striking the figure
- 32 "6,271,741" and inserting the following: "6,176,659".
- 33 17. Page 7, line 33, by striking the figure
- 34 "8,445,465" and inserting the following: "9,095,465".
- 35 18. Page 8, line 10, by striking the figure
- 36 "821,929" and inserting the following: "626,837".
- 37 19. Page 8, line 19, by striking the figure
- 38 "643,998" and inserting the following: "656,438".
- 39 20. Page 8, line 30, by striking the figure
- 40 "802,762" and inserting the following: "809,688".
- 41 21. Page 9, line 1, by striking the figure
- 42 "1,195,532" and inserting the following: "1,359,944".
- 43 22. Page 9, line 7, by striking the figure
- 44 "2,706,848" and inserting the following: "3,254,863".
- 45 23. Page 9, line 13, by striking the figure
- 46 "4,957,650" and inserting the following: "5,547,372".
- 47 24. Page 10, line 3, by striking the figure
- 48 "858,333" and inserting the following: "890,375".
- 49 25. Page 10, line 9, by striking the figure
- 50 "4,312,118" and inserting the following: "4,114,571".

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1 26. Page 11, line 7, by striking the figure
2 "4,391,833" and inserting the following: "4,527,261".

3 27. Page 12, line 1, by striking the figure
4 "1,655,339" and inserting the following: "1,709,879".

5 28. Page 12, line 13, by striking the figure
6 "619,513" and inserting the following: "544,513".

7 29. Page 12, by inserting after line 14 the
8 following:

9 "Sec. ____ . In addition to the amounts appropriated
10 from the general fund of the state to each department,
11 commission, board, or agency in this Act, there is
12 appropriated from the general fund of the state to
13 such department, commission, board, or agency for the
14 fiscal year beginning July 1, 1992, and ending June
15 30, 1993, an additional amount equal to one and one-
16 half percent of the amounts appropriated in this Act
17 from the general fund of the state to such department,
18 commission, board, or agency. The additional amount
19 appropriated in this section for each department,
20 commission, board, or agency may be used by that
21 department, commission, board, or agency for any
22 purpose for which moneys are appropriated in this Act
23 from the general fund of the state to such department,
24 commission, board, or agency.

25 Sec. ____ . APPROPRIATIONS.

26 1. There is appropriated from the general fund of
27 the state to each department and establishment, as
28 defined in section 8.2, of the executive branch, to
29 each unit within the judicial branch, to each unit
30 within the legislative branch, and for standing
31 limited and unlimited appropriations, from the general
32 fund of the state for the fiscal year beginning July
33 1, 1992, and ending June 30, 1993, the amount
34 appropriated to that department, establishment, or
35 unit, or for that standing limited or unlimited
36 appropriation from the general fund of the state for
37 the fiscal year beginning July 1, 1991, as reduced by
38 any item vetoes of the governor and by the execution
39 of the governor's executive order number 42, to be
40 used for the purposes for which the moneys were
41 appropriated for the fiscal year beginning July 1,
42 1991.

43 2. Notwithstanding subsection 1, a state
44 department or establishment of the executive branch,
45 unit within the judicial branch, or unit within the
46 legislative branch may apply to the state appeal board
47 for an increase in its appropriation for the fiscal
48 year beginning July 1, 1992, if there is an
49 outstanding need for such increase because of any of
50 the following reasons:

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- 1 a. Risk of losing federal funds.
- 2 b. Natural disaster or other emergency.
- 3 c. Inability to fully fund entitlement programs or
- 4 health and retirement benefits.
- 5 d. Inability of the department of corrections to
- 6 staff, equip, and operate any new authorized beds in a
- 7 correctional facility.

8 The appeal board may approve or modify and approve
9 the request for an increase in appropriations. There
10 is appropriated from the general fund of the state for
11 the fiscal year beginning July 1, 1992, an amount
12 sufficient to fund any approved or modified and
13 approved request for an increase in appropriation
14 under this subsection.

15 3. Notwithstanding subsection 1, there is
16 appropriated from the appropriate state fund, as
17 designated in 1991 Iowa Acts, chapter 266, to the
18 salary adjustment fund for the fiscal year beginning
19 July 1, 1992, amounts sufficient to fund any salary
20 increases, pay adjustments, expense reimbursements and
21 related benefits resulting from any favorable decree
22 for the plaintiffs in the case of AFSCME/Iowa Council
23 61 et al. v. State of Iowa et al. if a final decree is
24 issued during the fiscal year beginning July 1, 1991.

25 4. Notwithstanding subsection 1, and the
26 allocation of phase III moneys under sections 294A.14
27 and 294A.25, for the fiscal year beginning July 1,
28 1992, all moneys to be allocated as part of phase III
29 shall be paid to school districts and area education
30 agencies and shall only be used by the school
31 districts and area education agencies for teacher
32 salary increases.

33 Sec. ____ . PROPERTY TAX LIMITATION. If a program
34 or service is required by law to be provided by a
35 city, county, or school corporation, and the state
36 provides any financial assistance to the city, county,
37 or school corporation for that program or service, the
38 amount of property tax revenues the city, county, or
39 school corporation may spend for that program or
40 service for the fiscal year beginning July 1, 1992,
41 shall not exceed the amount of property tax revenues
42 spent by the city, county, or school corporation
43 during the fiscal year beginning July 1, 1991, for
44 mandated state programs.

45 If as a result of the property tax limitation in
46 this section, a city, county, or school corporation is
47 unable to fully fund the mandated program or service,
48 no fines, penalties, reductions in financial
49 assistance, or other sanctions shall be imposed on the
50 city, county, or school corporation.

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1 Sec. _____. For the fiscal year beginning July 1,
2 1992, the mental health, mental retardation, and
3 developmental disabilities services expenditures of
4 each county is frozen at the amount that county
5 expended for those services in the fiscal year
6 beginning July 1, 1991.

7 Sec. _____. Upon the effective date of this Act,
8 contract negotiations between teachers,
9 administrators, and other employees and a school
10 corporation shall cease for the budget year beginning
11 July 1, 1992. If such contracts have been entered
12 into, those contracts shall be honored. Any such
13 contract negotiations for budget years beginning on or
14 after July 1, 1993, shall not take into consideration
15 the halting of contract negotiations required under
16 this section.

17 Sec. _____. NEW SECTION. 2.110 GENERAL FUND
18 EXPENDITURE LIMIT.

19 1. For the fiscal year beginning July 1, 1993,
20 total expenditures from the general fund of the state
21 during the fiscal year beginning July 1, 1993, shall
22 not exceed the sum of the latest estimated general
23 fund revenue for the fiscal year beginning July 1,
24 1992, plus one-half of the estimated increase in
25 general fund revenues during the fiscal year beginning
26 July 1, 1993, and after estimated tax refunds due for
27 these fiscal years are subtracted, as both estimates
28 are made by the revenue estimating conference prior to
29 January 1, 1993.

30 For fiscal years beginning on or after July 1,
31 1994, total expenditures from the general fund of the
32 state during a fiscal year shall not exceed the sum of
33 the latest estimated general fund revenue, after
34 estimated tax refunds due for that fiscal year are
35 subtracted, for the previous fiscal year plus one-half
36 of the estimated increase in general fund revenues,
37 after estimated tax refunds are subtracted, for the
38 fiscal year, as both estimates are made by the revenue
39 estimating conference prior to January 1 of that
40 previous fiscal year.

41 The limitation provided in this subsection shall
42 only be exceeded in a fiscal year by passage by a two-
43 thirds vote of each house and approval by the
44 governor, of a joint resolution that provides that the
45 limitation shall not apply for the ensuing fiscal year
46 only.

47 2. Unless a joint resolution has been passed and
48 approved which authorizes exceeding the limitation on
49 general fund expenditures as provided in subsection 1,
50 before the general assembly shall adjourn the year's

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1 session, the department of management and the
2 legislative fiscal bureau shall certify that the
3 expenditure limit in subsection 1 has not been
4 exceeded. If the department of management and the
5 legislative fiscal bureau certify that the limitation
6 has been exceeded, the general assembly shall pass a
7 bill reducing appropriations made previously in
8 enacted appropriations bills so that the limitation is
9 not exceeded.

10 Sec. ____ . NEW SECTION. 2.111 PROGRAMS --
11 APPROPRIATIONS -- LIMITS.

12 Beginning with the fiscal year beginning July 1,
13 1993, the general assembly shall not establish new
14 programs to be administered by a state agency unless
15 the Act in which the new program is established
16 contains an appropriation for the administration and
17 operating costs of the program for the first fiscal
18 year. In addition, such program shall only begin on
19 July 1 unless the program is required by the federal
20 government and it is not possible to begin the program
21 at the beginning of the fiscal year. In making
22 appropriations for a fiscal year, the general assembly
23 shall not make the appropriations contingent upon the
24 occurrence of some event, including but not limited
25 to, the passage of a bill by the general assembly,
26 establishment of a program, or unexpected increase in
27 state revenues.

28 Sec. ____ . NEW SECTION. 2.112 STANDING
29 APPROPRIATIONS.

30 1. For purposes of this section, "standing
31 unlimited appropriation" means an appropriation made
32 from any state fund for more than one fiscal year
33 where the law making the appropriation does not
34 specify the exact dollar amount to be appropriated.
35 "Standing unlimited appropriation" includes, but is
36 not limited to, an appropriation under phase II in
37 section 294A.9, phase III in section 294A.14, school
38 foundation aid under section 257.16, programs for at-
39 risk children under section 279.51, and transportation
40 for nonpublic students in section 285.2.

41 2. Notwithstanding the law authorizing a standing
42 unlimited appropriation for fiscal years beginning on
43 or after July 1, 1994, allotments of a standing
44 unlimited appropriation shall not exceed the amount of
45 the appropriation actually expended for the previous
46 fiscal year unless the general assembly by a
47 constitutional majority agrees to increase the
48 allotments and the governor approves the increase.

49 Sec. ____ . Section 8.6, Code Supplement 1991, is
50 amended by adding the following new subsections:

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1 NEW SUBSECTION. 16. To review the treasurer of
2 state's report concerning the bonding levels and
3 activities of the state board of regents and to
4 monitor the lease-purchase and lease agreements of
5 state agencies, and the purchases made by state
6 agencies. An annual report shall be provided to the
7 general assembly within the first month of the
8 convening of a regular session which report covers the
9 fiscal year ending prior to the convening of the
10 session.

11 NEW SUBSECTION. 17. To analyze the cost to the
12 state and local governments of federal mandates. The
13 analysis shall include, in addition to the actual
14 cost, benefits and matching moneys received by the
15 state.

16 Sec. _____. Section 8.22, part II, Code 1991, is
17 amended by adding the following new unnumbered
18 paragraph:

19 NEW UNNUMBERED PARAGRAPH. For fiscal years
20 beginning on or after July 1, 1993, the sum of the
21 governor's recommendations for appropriations from the
22 general fund of the state plus all standing
23 appropriations from the general fund of the state for
24 the ensuing fiscal year shall not exceed the latest
25 estimated general fund revenue for the year in
26 progress as adjusted by subtracting the estimated tax
27 refunds due on that revenue, as made by the revenue
28 estimating conference prior to January 1 of that year
29 in progress.

30 "Sec. _____. Section 8.22A, unnumbered paragraph 3,
31 Code 1991, is amended to read as follows:

32 By December 15, 1986, and each succeeding year the
33 conference shall agree to a revenue estimate for the
34 fiscal year in progress and for the fiscal year
35 beginning the following July 1. That The estimate for
36 the fiscal year in progress shall be used by the
37 governor in the preparation of the budget message
38 under section 8.22 and by the legislature in the
39 budget process.

40 Sec. _____. Section 8.23, Code Supplement 1991, is
41 amended to read as follows:

42 8.23 ANNUAL DEPARTMENTAL ESTIMATES.

43 1. a. On or before September 1, prior to each
44 legislative session, all departments and
45 establishments of the government shall transmit to the
46 director, on blanks to be furnished by the director,
47 estimates of their expenditure requirements, including
48 every proposed expenditure, for the ensuing fiscal
49 year, classified so as to distinguish between
50 expenditures estimated for administration, operation,

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1 and maintenance, and the cost of each project
2 involving the purchase of land or the making of a
3 public improvement or capital outlay of a permanent
4 character, together with supporting data and
5 explanations as called for by the director. The
6 budget estimates shall include for those agencies
7 which pay for energy directly a line item for energy
8 expenses itemized by type of energy and location. The
9 For those designated departments and establishments of
10 the government and for the designated fiscal years as
11 provided in subsection 2, the estimates of expenditure
12 requirements shall be based upon seventy-five zero
13 percent of the funding provided for the current fiscal
14 year accounted for by program reduced-by-the
15 historical-employee-vacancy-factor-in-form-specified
16 by-the-director and the remainder-of-the estimate of
17 expenditure requirements prioritized by program. If
18 the budget for the current year includes a one-time
19 capital appropriation, it shall not be included in any
20 budget estimates for the following fiscal year. The
21 estimates shall be accompanied with performance
22 measures for evaluating the effectiveness of the
23 program. If a department or establishment fails to
24 submit estimates within the time specified, the
25 governor shall cause estimates to be prepared for that
26 department or establishment as in the governor's
27 opinion are reasonable and proper. The director shall
28 furnish standard budget request forms to each
29 department or agency of state government.

30 b. On or before November 15 all departments and
31 establishments of government and the judicial
32 department shall transmit to the department of
33 management and the legislative fiscal bureau estimates
34 of their receipts and expenditure requirements from
35 federal or other nonstate grants, receipts, and funds
36 for the ensuing fiscal year. The transmittal shall
37 include the names of the grantor and the grant or the
38 source of the funds, the estimated amount of the
39 funds, and the planned expenditures and use of the
40 funds. The format of the transmittal shall be
41 specified by the legislative fiscal bureau. In the
42 case where federal grants, receipts, or funds are
43 involved, the transmittal shall also include the
44 amount of any required state match.

45 2. The following departments and establishments of
46 the government, beginning with the designated fiscal
47 year and for every sixth fiscal year thereafter, shall
48 provide budget estimates under subsection 1 based upon
49 zero percent of the funding provided for the current
50 fiscal year and shall provide for each program an

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1 evaluation concerning the program demand, employee
2 workload, productivity effectiveness, and other
3 relevant information concerning the program's
4 performance:

5 a. For the fiscal year beginning July 1, 1993, the
6 state departments of agriculture and land stewardship,
7 economic development, education, and human rights, and
8 the office of auditor of state.

9 b. For the fiscal year beginning July 1, 1994, the
10 state departments of commerce, elder affairs, human
11 services, and public health, and the offices of
12 governor's substance abuse prevention coordinator,
13 secretary of state, and state-federal relations.

14 c. For the fiscal year beginning July 1, 1995, the
15 state departments for the blind, inspections and
16 appeals, public defense, and public safety, campaign
17 finance disclosure commission, public employment
18 relations board, and state board of regents.

19 d. For the fiscal year beginning July 1, 1996, the
20 state departments of general services, justice, and
21 revenue and finance, the college student aid
22 commission, the office of governor, and the board of
23 parole.

24 e. For the fiscal year beginning July 1, 1997, the
25 state departments of cultural affairs, employment
26 services, natural resources, and transportation, Iowa
27 state civil rights commission, and the Iowa law
28 enforcement academy.

29 f. For the fiscal year beginning July 1, 1998, the
30 state departments of corrections, management, and
31 personnel, executive council, judicial department, and
32 office of treasurer of state."

33 30. Page 14, by inserting after line 11 the
34 following:

35 "Sec. ____ . NEW SECTION. 17A.4A FISCAL REVIEW.

36 1. If the administrative rules review committee
37 determines that a proposed rule may cost the state
38 more than one hundred thousand dollars in a fiscal
39 year or more than five hundred thousand dollars over a
40 five-year period, a fiscal note shall be prepared on
41 that rule. Notwithstanding the provisions of section
42 17A.4, the effective date of a proposed rule for which
43 a fiscal note is required shall be delayed and the
44 procedure under section 17A.8, subsection 9, relating
45 to the effective date of a rule that has been delayed
46 shall apply.

47 2. If the proposed rule is approved and adopted,
48 following the first complete fiscal year after its
49 adoption, the agency which proposed the rule shall
50 submit a report of the actual expenses incurred by the

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- 1 state and agencies and entities which contract with
- 2 the state in implementing the rule."
- 3 31. Title page, line 8, by inserting after the
- 4 word "conditions," the following: "providing other
- 5 budget measures and financial practices, limiting the
- 6 appropriation of state general fund moneys for the
- 7 fiscal year beginning July 1, 1992, and limiting the
- 8 amount that may be spent by local governments for
- 9 mandated programs and services receiving state
- 10 financial assistance for the fiscal year beginning
- 11 July 1, 1992, and halting contract negotiations by
- 12 school corporations, providing that future state
- 13 general fund budgets be based upon previous year's
- 14 revenues,".
- 15 32. Renumber as necessary.

By SVOBODA of Tama
MERTZ of Kossuth
BRANSTAD of Winnebago

H-5477 FILED MARCH 24, 1992

Not germane 3/26 (p. 854)

HOUSE FILE 2455

H-5495

- 1 Amend the amendment, H-5450, to House File 2455 as
- 2 follows:
- 3 1. Page 1, by striking line 34, and inserting the
- 4 following: "with the approval of the department of
- 5 management may hire personnel".

By GARMAN of Story

H-5495 FILED MARCH 24, 1992

Adopted 3/26 (p. 855)

HOUSE FILE 2455

H-5496

- 1 Amend House File 2455 as follows:
- 2 1. Page 10, by striking lines 13 and 14, and
- 3 inserting the following: "accreditation criticisms or
- 4 requirements."

By DODERER of Johnson
BEATTY of Warren

H-5496 FILED MARCH 24, 1992

Adopted 3/26 (p. 857)

HOUSE FILE 2455

H-5511

1 Amend House File 2455 as follows:

2 1. By striking page 13, line 2, through page 14,
3 line 11, and inserting the following:

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

6 NEW SUBSECTION. 5A. The state public defender,
7 after review and consideration of the recommendations
8 made by the indigent defense advisory commission,
9 shall establish uniform statewide client indigency
10 criteria which shall be used in making determinations
11 of indigency.

12 NEW SUBSECTION. 5B. The state public defender
13 shall establish and implement recoupment and
14 collection procedures in all indigent defense cases
15 which shall include, but not be limited to, all of the
16 following:

17 a. Petitioning the district court to condition
18 probation on the payment of fees owed by the indigent
19 defendant.

20 b. Petitioning the district court for the
21 imposition of a civil judgment against the indigent
22 defendant which shall be assigned to private counsel
23 for collection.

24 c. Petitioning the district court for an
25 assignment of wages of the indigent defendant.

26 d. Adoption of rules under chapter 17A necessary
27 to assist the department of revenue and finance in the
28 implementation of the setoff under section 421.17,
29 subsection 21, in regard to money owed to the state
30 for public defender services provided to the indigent
31 defendant.

32 NEW SUBSECTION. 5C. The state public defender
33 shall report in writing to the general assembly on
34 January 20 of each year regarding any funds recouped
35 or collected pursuant to subsection 5B during the
36 previous calendar year."

37 2. Page 18, by inserting after line 11, the
38 following:

39 "Sec. ____ . Section 421.17, subsection 21, Code
40 Supplement 1991, is amended to read as follows:

41 21. To establish and maintain a procedure to set
42 off against a debtor's income tax refund or rebate any
43 debt, which is assigned to the department of human
44 services, which the state public defender is
45 attempting to recover pursuant to section 13B.4, which
46 the child support recovery unit is attempting to
47 collect on behalf of an individual not eligible as a
48 public assistance recipient, or which the foster care
49 recovery unit of the department of human services is
50 attempting to collect on behalf of a child receiving

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1 foster care provided by the department of human
2 services, which has accrued through written contract,
3 subrogation, or court judgment and which is in the
4 form of a liquidated sum due and owing for the care,
5 support or maintenance of a child or which is owed to
6 the state for public assistance overpayments to
7 recipients or to providers of services to recipients
8 or to indigent defendants which the investigations
9 division of the department of inspections and appeals
10 or state public defender is attempting to collect on
11 behalf of the state. For purposes of this subsection,
12 "public assistance" means aid to dependent children,
13 medical assistance, food stamps, foster care, and
14 state supplementary assistance. The procedure shall
15 meet the following conditions:

16 a. Before setoff all outstanding tax liabilities
17 collectible by the department of revenue and finance
18 shall be satisfied except that no portion of a refund
19 or rebate shall be credited against tax liabilities
20 which are not yet due.

21 b. Before setoff the state public defender, the
22 child support recovery unit established pursuant to
23 section 252B.2, the foster care recovery unit, and the
24 investigations division of the department of
25 inspections and appeals shall obtain and forward to
26 the department of revenue and finance the full name
27 and social security number of the debtor. The
28 department of revenue and finance shall co-operate in
29 the exchange of relevant information with the state
30 public defender, the child support recovery unit as
31 provided in section 252B.9, with the foster care
32 recovery unit, and with the investigations division of
33 the department of inspections and appeals. However,
34 only relevant information required by the state public
35 defender, the child support unit, by the foster care
36 recovery unit, or by the investigations division of
37 the department of inspections and appeals shall be
38 provided by the department of revenue and finance.
39 The information shall be held in confidence and shall
40 be used for purposes of setoff only.

41 c. The state public defender, the child support
42 recovery unit, the foster care recovery unit, and the
43 investigations division of the department of
44 inspections and appeals shall, at least annually,
45 submit to the department of revenue and finance for
46 setoff the debts described in this subsection, which
47 are at least fifty dollars, on a date to be specified
48 by the department of human services and the department
49 of inspections and appeals by rule.

50 d. Upon submission of a claim the department of

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1 revenue and finance shall notify the state public
2 defender, the child support recovery unit, the foster
3 care recovery unit, or the investigations division of
4 the department of inspections and appeals as to
5 whether the debtor is entitled to a refund or rebate
6 and if so entitled shall notify the unit or division
7 of the amount of the refund or rebate and of the
8 debtor's address on the income tax return.

9 e. Upon notice of entitlement to a refund or
10 rebate, the state public defender, the child support
11 recovery unit, the foster care recovery unit, or the
12 investigations division of the department of
13 inspections and appeals shall send written
14 notification to the debtor, and a copy of the notice
15 to the department of revenue and finance, of the state
16 public defender's, unit's, or division's assertion of
17 its rights, or the rights of the department of human
18 services, or the rights of an individual not eligible
19 as a public assistance recipient to all or a portion
20 of the debtor's refund or rebate and the entitlement
21 to recover the debt through the setoff procedure, the
22 basis of the assertion, the opportunity to request
23 that a joint income tax refund or rebate be divided
24 between spouses, the debtor's opportunity to give
25 written notice of intent to contest the claim, and the
26 fact that failure to contest the claim by written
27 application for a hearing will result in a waiver of
28 the opportunity to contest the claim, causing final
29 setoff by default. Upon application filed with the
30 state public defender or the department of human
31 services, as appropriate, within fifteen days from the
32 mailing of the notice of entitlement to a refund or
33 rebate, the department of human services shall grant a
34 hearing pursuant to chapters 10A and 17A. An appeal
35 taken from the decision of an administrative law judge
36 and subsequent appeals shall be taken pursuant to
37 chapter 17A.

38 f. Upon the request of a debtor or a debtor's
39 spouse to the state public defender, the child support
40 recovery unit, the foster care recovery unit, or the
41 investigations division of the department of
42 inspections and appeals, filed within fifteen days
43 from the mailing of the notice of entitlement to a
44 refund or rebate, and upon receipt of the full name
45 and social security number of the debtor's spouse, the
46 public defender, unit, or division shall notify the
47 department of revenue and finance of the request to
48 divide a joint income tax refund or rebate. The
49 department of revenue and finance shall upon receipt
50 of the notice divide a joint income tax refund or

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1 rebate between the debtor and the debtor's spouse in
2 proportion to each spouse's net income as determined
3 under section 422.7.
4 g. The department of revenue and finance shall,
5 after notice has been sent to the debtor by the state
6 public defender, the child support recovery unit, the
7 foster care recovery unit, or the investigations
8 division of the department of inspections and appeals,
9 set off the debt against the debtor's income tax
10 refund or rebate. However, if a debtor has made all
11 current child support or foster care payments in
12 accordance with a court order or an assessment of
13 foster care liability for the twelve months preceding
14 the proposed setoff and has regularly made delinquent
15 child support or foster care payments during those
16 twelve months, the child support or foster care
17 recovery unit shall notify the department of revenue
18 and finance not to set off the debt against the
19 debtor's income tax refund or rebate. If a debtor has
20 made all current repayment of public assistance in
21 accordance with a court order or voluntary repayment
22 agreement for the twelve months preceding the proposed
23 setoff and has regularly made delinquent payments
24 during those twelve months, the investigations
25 division of the department of inspections and appeals
26 shall notify the department of revenue and finance not
27 to set off the debt against the debtor's income tax
28 refund or rebate. The department of revenue and
29 finance shall refund any balance of the income tax
30 refund or rebate to the debtor. The department of
31 revenue and finance shall periodically transfer the
32 amount set off to the child support recovery unit, the
33 foster care recovery unit, or the investigations
34 division of the department of inspections and appeals.
35 If the debtor gives timely written notice of intent to
36 contest the claim the department of revenue and
37 finance shall hold the refund or rebate until final
38 disposition of the contested claim pursuant to chapter
39 17A or by court judgment. The state public defender,
40 the child support recovery unit, the foster care
41 recovery unit, or the investigations division of the
42 department of inspections and appeals shall notify the
43 debtor in writing upon completion of setoff."
44 3. By renumbering as necessary.

By BEATTY of Warren
JAY of Appanoose
BURKE of Marshall

H-5511 FILED MARCH 24, 1992

Not germane (p. 563) 3/24
Rules Suspended (p. 836)
Adopted as amended.

HOUSE FILE 2455

H-5532

- 1 Amend amendment, H-5511, to House File 2455 as
2 follows:
3 1. Page 1, by striking lines 2 and 3 and
4 inserting the following:
5 "____. Page 13, by inserting after line 11 the
6 following: "."
7 2. Page 1, line 5, by striking the word
8 "subsections" and inserting the following:
9 "subsection".
10 3. Page 1, by striking lines 11 through 36 and
11 inserting the following: "of indigency."
12 4. By renumbering as necessary.

By GARMAN of Story
HALVORSON of Clayton

H-5532 FILED MARCH 25, 1992

Last 3/26 (p 862)

HOUSE FILE 2455

H-5533

- 1 Amend amendment, H-5511, to House File 2455 as
2 follows:
3 1. Page 4, by striking line 43 and inserting the
4 following: "debtor in writing upon completion of
5 setoff.
6 Sec. _____. Section 421.17, subsection 26, Code
7 Supplement 1991, is amended to read as follows:
8 26. To provide that in the case of multiple claims
9 to payments filed under subsections 21, 23, 25, and 29
10 that priority shall be given to claims filed by the
11 child support recovery unit or the foster care
12 recovery unit under subsection 21, next priority shall
13 be given to claims filed by the college student aid
14 commission under subsection 23, next priority shall be
15 given to claims filed by the investigations division
16 of the department of inspections and appeals under
17 subsection 21, next priority shall be given to claims
18 filed by a clerk of the district court under
19 subsection 25, next priority shall be given to claims
20 filed by the state public defender under subsection
21 21, and last priority shall be given to claims filed
22 by other state agencies under subsection 29. In the
23 case of multiple claims under subsection 29, priority
24 shall be determined in accordance with rules to be
25 established by the director."

By HURLEY of Fayette
GARMAN of Story

HALVORSON of Clayton
JAY of Appanoose

H-5533 FILED MARCH 25, 1992

Adapted 3/26 (p 863)

HOUSE FILE 2455

H-5529

1 Amend House File 2455 as follows:
2 1. Page 14, by inserting after line 11, the
3 following:
4 "Sec. ____ . Section 20.6, Code Supplement 1991, is
5 amended by adding the following new subsection:
6 NEW SUBSECTION. 4A. Collect an annual fee of
7 fifty dollars for each affected bargaining unit from
8 the certified employee organization or public employer
9 making a request for mediation of an impasse pursuant
10 to section 20.20 or from the party first requesting
11 the board's provision of any service contemplated by
12 an impasse agreement entered between the parties
13 pursuant to section 20.19. The board shall not
14 provide any service contemplated by section 20.20, or
15 by an impasse agreement entered between the parties
16 pursuant to section 20.19, until the fee has been
17 collected. The party from which the fee is collected
18 shall be reimbursed twenty-five dollars by the other
19 party to the impasse.
20 Notwithstanding section 8.33, any fees collected
21 pursuant to this subsection shall not be deposited in
22 or revert to the general fund of the state but shall
23 remain with the board to be used for the performance
24 of its functions."
25 2. Renumber as necessary.

By BEATTY of Warren
RENAUD of Polk

H-5529 FILED MARCH 25, 1992

Adopted 3/26 (p. 864)

HOUSE FILE 2455

H-5530

1 Amend the amendment, H-5477, to House File 2455, as
2 follows:
3 1. Page 4, by striking lines 7 through 16.

By SVOBODA of Tama
MERTZ of Kossuth

H-5530 FILED MARCH 25, 1992

Adopted 3/26 (p. 854)

HOUSE FILE 2455

H-5536

1 Amend House File 2455 as follows:

2 1. Page 5, by striking lines 17 and 18, and
3 inserting the following:

4 "..... \$ 891,703
5 FTEs 24.50

6 The inspections division shall employ a minimum of
7 14 food and sanitation inspectors and shall void any
8 contracts entered into with any local government or
9 agency of a local government during the fiscal year
10 beginning July 1, 1991, and ending June 30, 1992, and
11 shall reassume those inspections which were the
12 subject of those contracts."

By HANSON of Delaware

H-5536 FILED MARCH 25, 1992
Last as amended 3/26 (p. 856)

HOUSE FILE 2455

H-5537

1 Amend the amendment, H-5450, to House File 2455 as
2 follows:

3 1. Page 1, by inserting after line 19, the
4 following:

5 "..... Page 5, by striking lines 17 and 18, and
6 inserting the following:
7 "..... \$ 891,703
8 FTEs 24.50

9 The inspections division shall employ a minimum of
10 14 food and sanitation inspectors and shall void any
11 contracts entered into with any local government or
12 agency of a local government during the fiscal year
13 beginning July 1, 1991, and ending June 30, 1992, and
14 shall reassume those inspections which were the
15 subject of those contracts.""

By HANSON of Delaware

H-5537 FILED MARCH 25, 1992
w/d 3/26 (p. 855)

HOUSE FILE 2455

H-5546

1 Amend the amendment, H-5509, to House File 2455 as
2 follows:

3 1. Page 1, by inserting after line 1, the
4 following:

5 "____. Page 17, by inserting after line 25, the
6 following:

7 "Sec. ____ . Section 123.24, Code 1991, is amended
8 by adding the following new subsection:

9 NEW SUBSECTION. 5. Notwithstanding subsection 4,
10 the division shall assess a bottle surcharge to be
11 included in the price of alcoholic liquor of five
12 cents for each container sold. The amount collected
13 pursuant to this subsection shall be deposited in the
14 beer and liquor control fund established under section
15 123.53.

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

18 NEW SUBSECTION. 4. The treasurer of state, after
19 making the transfer provided in subsection 3, shall
20 transfer to the division from the beer and liquor
21 control fund and before any other transfer to the
22 general fund, an amount sufficient to pay the costs of
23 properly disposing of liquor containers returned to
24 the division."

25 ____ . Page 18, by inserting after line 11, the
26 following:

27 "Sec. ____ . Section 455C.3, subsection 2, Code
28 Supplement 1991, is amended to read as follows:

29 2. A distributor shall accept and pick up from a
30 dealer served by the distributor or a redemption
31 center for a dealer served by the distributor at least
32 weekly, or when the distributor delivers the beverage
33 product if deliveries are less frequent than weekly,
34 any empty beverage container of the kind, size, and
35 brand sold by the distributor, and shall pay to the
36 dealer or person operating a redemption center the
37 refund value of a beverage container and the
38 reimbursement as provided under section 455C.2, except
39 that no refund or reimbursement shall be paid by a
40 distributor for a beverage container used for
41 alcoholic liquor as defined in section 123.3,
42 subsection 8, within one week following pickup of the
43 containers or when the dealer or redemption center
44 normally pays the distributor for the deposit on
45 beverage products purchased from the distributor if
46 less frequent than weekly. A distributor or employee
47 or agent of a distributor is not in violation of this
48 subsection if a redemption center is closed when the
49 distributor attempts to make a regular delivery or a
50 regular pickup of empty beverage containers. This

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1 subsection does not apply to a distributor selling
2 alcoholic liquor to the alcoholic beverages division
3 of the department of commerce.

4 Sec. ____ . Section 455C.4, subsection 4, Code 1991,
5 is amended to read as follows:

6 4. A class "E" liquor control licensee may refuse
7 to accept and to pay the refund value on an empty
8 alcoholic liquor container from a dealer or a
9 redemption center or from a person acting on behalf of
10 or who has received empty alcoholic liquor containers
11 from a dealer or a redemption center. However, a
12 class "E" liquor control licensee shall not refuse to
13 accept an empty alcoholic liquor container from
14 holders of class "A", "B", and "C" liquor control
15 licenses, if returned. The class "E" liquor control
16 licensee shall not pay a refund for such containers,
17 but shall hold such containers for pickup by the
18 distributor. The class "E" liquor control licensee
19 shall inform all liquor control licensees served by
20 the class "E" liquor control licensee that the
21 containers will be accepted."

22 ____ . Page 18, line 12, by striking the figures
23 "34, 35," and inserting the following: "35".

24 2. Page 1, line 2, by striking the figure "12"
25 and inserting the following: "14".

26 3. Page 1, by striking lines 8 and 9 and
27 inserting the following:

28 "SEC. 42. ~~Sections~~ Section 34~~7~~-35~~7~~-and-36 of this
29 Act ~~are~~ is effective July 1, 1992."

By OSTERBERG of Linn

H-5546 FILED MARCH 26, 1992
NOT GERMANE (p 866)

HOUSE FILE 2455

H-5557

1 Amend the amendment, H-5536, to House File 2455, as
2 follows:

3 1. Page 1, by striking lines 4 and 5, and
4 inserting the following:

5 ""..... \$ 1,012,160
6 FTEs 27.50".

By HANSON of Delaware

H-5557 FILED MARCH 26, 1992
ADOPTED (p 856)

Approp. 3/27, Amend + Do Pass 4/2 (S-5513)

HOUSE FILE 2455
BY COMMITTEE ON APPROPRIATIONS

(As Amended and Passed by the House March 26, 1992)

Passed House, Date 4/14/92 (p.1381) Passed Senate, Date 4/8/92 (p.1293)

Vote: Ayes 53 Nays 45 Vote: Ayes 28 Nays 17

Approved Ken Vetsch June 3, 1992

Repassed Senate 4/14/92 (p.1401)
aye 36, Nays 11

A BILL FOR

Motion to reconsider (p.1405)
" " " w/d (p.1759)

1 An Act relating to and making appropriations to regulatory bodies
2 of state government, including the auditor of state, the
3 campaign finance disclosure commission, the department of
4 employment services, the department of inspections and
5 appeals, the office of the state public defender, the
6 department of commerce, public employment relations board, and
7 the racing and gaming commission, allocating certain standing
8 appropriations subject to certain procedures and conditions,
9 and providing an effective date.

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

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House Amendments _____
Deleted Language *

1 Section 1. AUDITOR OF STATE. There is appropriated from
2 the general fund of the state to the office of the auditor of
3 state for the fiscal year beginning July 1, 1992, and ending
4 June 30, 1993, the following amount, or so much thereof as is
5 necessary, to be used for the purposes designated:

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

9 \$ 1,037,678
10 FTEs 109.78

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

21 Sec. 2. CAMPAIGN FINANCE DISCLOSURE COMMISSION. There is
22 appropriated from the general fund of the state to the
23 campaign finance disclosure commission for the fiscal year
24 beginning July 1, 1992, and ending June 30, 1993, the
25 following amount, or so much thereof as is necessary, for the
26 purposes designated:

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

30 \$ 256,420
31 FTEs 6.75

32 Sec. 3. DEPARTMENT OF EMPLOYMENT SERVICES. There is
33 appropriated from the general fund of the state to the
34 department of employment services for the fiscal year
35 beginning July 1, 1992, and ending June 30, 1993, the

1 following amounts, or so much thereof as is necessary, for the
2 purposes designated:

3 1. DIVISION OF LABOR SERVICES

4 For salaries, support, maintenance, miscellaneous purposes,
5 and for not more than the following full-time equivalent
6 positions, contingent upon the enactment of section 5 of this
7 Act and the provision which requires moneys appropriated from
8 the special employment security contingency fund to first be
9 used to fully fund the appropriation of \$296,508 to the
10 division of labor services in subsection 1 of section 5 of
11 this Act prior to funding the appropriations in section 5 of
12 this Act to the division of industrial services and the
13 division of job service:

14 \$ 2,222,743
15 FTEs 90.00

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

20 2. DIVISION OF INDUSTRIAL SERVICES

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

24 \$ 1,828,127
25 FTEs 35.00

26 Sec. 4. ADMINISTRATIVE CONTRIBUTION SURCHARGE FUND. There
27 is appropriated from the administrative contribution surcharge
28 fund of the state to the department of employment services for
29 the fiscal year beginning July 1, 1992, and ending June 30,
30 1993, the following amount, or so much thereof as is
31 necessary, for the purposes designated:

32 DIVISION OF JOB SERVICE

33 Notwithstanding section 96.7, subsection 12, paragraph "c",
34 for salaries, support, maintenance, conducting labor
35 availability surveys, miscellaneous purposes, and for not more

1 than the following full-time equivalent positions:

2	\$	6,259,913
3	FTEs	<u>161.50</u>

4 Of the amount appropriated under this section, \$150,000
5 shall be used by the department to conduct labor availability
6 surveys.

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

14 2. The division of industrial services shall not reduce
15 the number of scheduled hearings of contested cases or
16 eliminate the venue of such hearings, as established by the
17 division for the period beginning January 1, 1992, and ending
18 January 20, 1993. The division shall also establish a
19 substantially similar schedule for such hearings for the
20 period beginning January 20, 1993, and ending June 30, 1993.
21 The division shall report to the legislative fiscal bureau
22 concerning any modification of the established schedule, or
23 any changes which the division determines are necessary in
24 establishing the schedule for the period beginning January 20,
25 1993, and ending June 30, 1993.

26 3. The division shall continue charging a \$65 filing fee
27 for workers' compensation cases. The filing fee shall be paid
28 by the petitioner of a claim. However, the fee can be taxed
29 as a cost and paid by the losing party, except in cases where
30 it would impose an undue hardship or be unjust under the
31 circumstances.

32 4. The department of employment services, the department
33 of personnel, and the department of management shall work
34 together to ensure that as nearly as possible all full-time
35 equivalent positions authorized and funded for the department

1 of employment services will be utilized during the fiscal year
2 beginning July 1, 1992, and ending June 30, 1993, and future
3 fiscal years, to ensure that the backlog of cases in that
4 department will be reduced as rapidly as possible.

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

16 1. DIVISION OF LABOR SERVICES

17 For salaries, support, maintenance, and miscellaneous
18 purposes:

19 \$ 296,508

20 2. DIVISION OF INDUSTRIAL SERVICES

21 For salaries, support, maintenance, and miscellaneous
22 purposes:

23 \$ 175,494

24 3. DIVISION OF JOB SERVICE

25 For asbestos removal and remodeling:

26 \$ 75,000

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

33 1. FINANCE AND SERVICES DIVISION

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

1 positions:

2 \$ 467,307
3 FTEs 24.00

4 2. AUDITS DIVISION

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

8 \$ 416,731
9 FTEs 15.00

10 3. APPEALS AND FAIR HEARINGS DIVISION

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

14 \$ 197,547
15 FTEs 24.00

16 4. INVESTIGATIONS DIVISION

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

20 \$ 458,808
21 FTEs 35.00

22 5. HEALTH FACILITIES DIVISION

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

26 \$ 1,367,682
27 FTEs 115.00

28 6. INSPECTIONS DIVISION

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

32 \$ 711,017
33 FTEs 20.00

34 7. EMPLOYMENT APPEAL BOARD

35 For salaries, support, maintenance, miscellaneous purposes,

1 and for not more than the following full-time equivalent
2 positions:

3	\$	42,764
4	FTEs	16.80

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

14 8. FOSTER CARE REVIEW BOARD

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

19	\$	131,831
20	FTEs	3.50

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

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

32 a. For the fiscal year beginning July 1, 1991, and ending
33 June 30, 1992, for state foster care review board

34 administrative review costs. The department shall begin
35 making application for the costs upon the effective date of

1 this Act.

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

* 6 10. Notwithstanding the provisions of chapter 10A or 135C,
7 the department of inspections and appeals shall not adopt
8 rules relating to the frequency of inspection of nursing
9 facilities which are more stringent than the requirements
10 adopted by the federal government.

11 Sec. 7. STATE PUBLIC DEFENDER. There is appropriated from
12 the general fund of the state to the office of the state
13 public defender for the fiscal year beginning July 1, 1992,
14 and ending June 30, 1993, the following amounts, or so much
15 thereof as is necessary, for the purposes designated:

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

19	\$	6,271,741
20	FTEs	144.75

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

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

31 a. By county.

32 b. By case type in the following categories:

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

1 (2). Adult cases involving misdemeanor or felony
2 prosecutions.

3 2. For indigent court-appointed attorney fees for adults
4 and juveniles, notwithstanding section 232.141 and chapter
5 815:

6 \$ 8,445,465

7 Sec. 8. The department of inspections and appeals may
8 charge state departments, agencies, and commissions for
9 services rendered and the payment received shall be considered
10 repayment receipts as defined in section 8.2.

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

17 For salaries, support, maintenance, and miscellaneous
18 purposes:

19 \$ 821,929

20 Sec. 10. PUBLIC EMPLOYMENT RELATIONS BOARD. There is
21 appropriated from the general fund of the state to the public
22 employment relations board for the fiscal year beginning July
23 1, 1992, and ending June 30, 1993, the following amount, or so
24 much thereof as is necessary, for the purposes designated:

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

28 \$ 643,998

29 FTEs 13.00

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

35 1. PROFESSIONAL LICENSING AND REGULATION DIVISION

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

4 \$ 802,762
5 FTEs 11.00

6 2. ADMINISTRATIVE SERVICES DIVISION

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

10 \$ 1,195,532
11 FTEs 30.50

12 3. ALCOHOLIC BEVERAGES DIVISION

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

16 \$ 2,706,848
17 FTEs 27.00

18 4. BANKING DIVISION

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

22 \$ 4,957,650
23 FTEs 99.00

24 The banking division may expend additional funds, including
25 funds for additional personnel, if those additional
26 expenditures are actual expenses which exceed the funds
27 budgeted for bank examinations and directly result from
28 examinations of banks. Notwithstanding the provisions of
29 chapter 8, the banking division may expend additional funds
30 for the additional personnel. The division shall promptly
31 notify in writing the legislative fiscal bureau and with the
32 approval of the department of management may hire personnel
33 pursuant to this paragraph. The notification shall also
34 provide the justification for hiring such personnel. The
35 amounts necessary to fund the excess examination expenses

1 shall be collected from those banks being regulated which
2 caused the excess expenditures, and the collections shall be
3 treated as repayment receipts as defined in section 8.2.

4 5. CREDIT UNION DIVISION

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

8	\$	858,333
9	FTEs	18.00

10 6. INSURANCE DIVISION

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

14	\$	4,312,118
15	FTEs	91.00

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

19 The insurance division may expend additional funds,
20 including funds for additional personnel, if those additional
21 expenditures are actual expenses which exceed the funds
22 budgeted for insurance company examinations or accreditation
23 purposes, directly result from examinations of insurance
24 companies or accreditation purposes, and the additional funds
25 expended for such purposes are fully reimburseable from
26 insurance companies. Before the division expends or encumbers
27 an amount in excess of the funds budgeted for examinations or
28 accreditation, the director of the department of management
29 shall approve the expenditure or encumbrance. Before approval
30 is given, the director of the department of management shall
31 determine that the examination or accreditation expenses
32 exceed the funds budgeted by the general assembly to the
33 division and that the division does not have other funds from
34 which examination or accreditation expenses can be paid. Upon
35 approval of the director of the department of management the

1 division may expend and encumber funds for excess examination
2 or accreditation expenses. The amounts necessary to fund the
3 excess examination or accreditation expenses shall be
4 collected from those insurance companies being regulated which
5 caused the excess expenditures, and the collections shall be
6 treated as repayment receipts as defined in section 8.2.

7 7. UTILITIES DIVISION

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

11	\$ 4,391,833
12	FTEs 84.00

13 The utilities division may expend additional funds,
14 including funds for additional personnel, if those additional
15 expenditures are actual expenses which exceed the funds
16 budgeted for utility regulation. Before the division expends
17 or encumbers an amount in excess of the funds budgeted for
18 regulation, the director of the department of management shall
19 approve the expenditure or encumbrance. Before approval is
20 given, the director of the department of management shall
21 determine that the regulation expenses exceed the funds
22 budgeted by the general assembly to the division and that the
23 division does not have other funds from which regulation
24 expenses can be paid. Upon approval of the director of the
25 department of management the division may expend and encumber
26 funds for excess regulation expenses. The amounts necessary
27 to fund the excess regulation expenses shall be collected from
28 those utility companies being regulated which caused the
29 excess expenditures, and the collections shall be treated as
30 repayment receipts as defined in section 8.2.

31 Sec. 12. RACING AND GAMING COMMISSION. There is
32 appropriated from the general fund of the state to the racing
33 and gaming commission of the department of inspections and
34 appeals for the fiscal year beginning July 1, 1992, and ending
35 June 30, 1993, the following amount, or so much thereof as is

1 necessary, to be used for the purposes designated:

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

5 \$ 1,655,339
6 FTEs 18.71

7 Sec. 13. EXCURSION BOAT REGULATION. There is appropriated
8 from the general fund of the state to the racing and gaming
9 commission of the department of inspections and appeals for
10 the fiscal year beginning July 1, 1992, and ending June 30,
11 1993, the following amount, or so much thereof as is
12 necessary, to be used for the purposes designated:

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

17 \$ 619,513
18 FTEs 12.84

19 Sec. 14. Section 11.4, subsection 6, unnumbered paragraph
20 3, Code 1991, is amended to read as follows:

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

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

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

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

34 5. The auditor of state may, within three years of filing,
35 during normal business hours upon reasonable notice of at

1 least twenty-four hours, review the audit work papers prepared
2 ~~by a certified public accountant~~ in the performance of an
3 audit or examination conducted pursuant to this section.

4 Sec. 17. Section 11.6, subsection 11, Code Supplement
5 1991, is amended by striking the subsection.

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

8 NEW SUBSECTION. 5A. The state public defender, after
9 review and consideration of the recommendations made by the
10 indigent defense advisory commission, shall establish uniform
11 statewide client indigency criteria which shall be used in
12 making determinations of indigency.

13 NEW SUBSECTION. 5B. The state public defender shall
14 establish and implement recoupment and collection procedures
15 in all indigent defense cases which shall include, but not be
16 limited to, all of the following:

17 a. Petitioning the district court to condition probation
18 on the payment of fees owed by the indigent defendant.

19 b. Petitioning the district court for the imposition of a
20 civil judgment against the indigent defendant which shall be
21 assigned to private counsel for collection.

22 c. Petitioning the district court for an assignment of
23 wages of the indigent defendant.

24 d. Adoption of rules under chapter 17A necessary to assist
25 the department of revenue and finance in the implementation of
26 the setoff under section 421.17, subsection 21, in regard to
27 money owed to the state for public defender services provided
28 to the indigent defendant.

29 NEW SUBSECTION. 5C. The state public defender shall
30 report in writing to the general assembly on January 20 of
31 each year regarding any funds recouped or collected pursuant
32 to subsection 5B during the previous calendar year.

33 Sec. 19. Section 20.6, Code Supplement 1991, is amended by
34 adding the following new subsection:

35 NEW SUBSECTION. 4A. Collect an annual fee of fifty

1 dollars for each affected bargaining unit from the certified
2 employee organization or public employer making a request for
3 mediation of an impasse pursuant to section 20.20 or from the
4 party first requesting the board's provision of any service
5 contemplated by an impasse agreement entered between the
6 parties pursuant to section 20.19. The board shall not
7 provide any service contemplated by section 20.20, or by an
8 impasse agreement entered between the parties pursuant to
9 section 20.19, until the fee has been collected. The party
10 from which the fee is collected shall be reimbursed twenty-
11 five dollars by the other party to the impasse.

12 Notwithstanding section 8.33, any fees collected pursuant
13 to this subsection shall not be deposited in or revert to the
14 general fund of the state but shall remain with the board to
15 be used for the performance of its functions.

16 Sec. 20. Section 96.13, subsection 3, Code Supplement
17 1991, is amended to read as follows:

18 3. Special employment security contingency fund.

19 a. There is created in the state treasury a special fund
20 to be known as the special employment security contingency
21 fund. All interest, fines, and penalties, regardless of when
22 they become payable, collected from employers under section
23 96.14 shall be paid into the fund. The moneys shall not be
24 expended or available for expenditure in any manner which
25 would permit their substitution for federal funds which would
26 in the absence of the moneys be available to finance
27 expenditures for the administration of the ~~employment-security~~
28 law department. However, the moneys may be used as a
29 revolving fund to cover expenditures for which federal funds
30 have been duly requested but not yet received, subject to the
31 charging of the expenditures against the funds when received.
32 The moneys may be used for the payment of costs of
33 administration which are found not to have been properly and
34 validly chargeable against federal grants or other funds,
35 received for ~~or-in-the-employment-security-administration-fund~~

1 the department. The moneys in the fund are specifically made
2 available to replace, within a reasonable time, any moneys
3 received by this state in the form of grants from the federal
4 government for administrative expenses which because of any
5 action or contingency have been expended for purposes other
6 than, or in excess of, those necessary for the proper
7 administration of the employment-security-law department. All
8 moneys in the fund shall be deposited, administered, and
9 disbursed in the same manner and under the same conditions and
10 requirements as are provided by law for other special funds in
11 the state treasury. Interest earned upon moneys in the fund
12 shall be deposited in and credited to the fund.

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

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

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

35 c. The division department may appear before the executive

1 council and request funds to meet unanticipated emergencies.

2 Sec. 21. Section 117.29, Code 1991, is amended by adding
3 the following new subsection:

4 NEW SUBSECTION. 10. Noncompliance with the trust account
5 requirements under section 117.46.

6 Sec. 22. Section 117.34, unnumbered paragraph 1, Code
7 1991, is amended to read as follows:

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

21 Sec. 23. Section 117.46, subsections 3 and 5, Code 1991,
22 are amended to read as follows:

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

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

4 Sec. 24. Section 117.46, Code 1991, is amended by adding
5 the following new subsections:

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

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

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

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

30 Sec. 25. Section 237.16, unnumbered paragraph 2, Code
31 1991, is amended to read as follows:

32 The members of the state board shall annually select a
33 chairperson, vice chairperson, and other officers the members
34 deem necessary. The members are may be entitled to receive
35 reimbursement for actual and necessary expenses incurred in

1 the performance of their duties, subject to available funding.
2 Each member of the board may also be eligible to receive
3 compensation as provided in section 7E.6. The state board
4 shall meet at least twice a year.

5 Sec. 26. Section 237.18, subsection 5, unnumbered
6 paragraph 1, Code 1991, is amended to read as follows:

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

11 Sec. 27. Section 237.23, Code 1991, is amended to read as
12 follows:

13 237.23 AUTOMATIC REPEAL.

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

16 Sec. 28. Section 421.17, subsection 21, Code Supplement
17 1991, is amended to read as follows:

18 21. To establish and maintain a procedure to set off
19 against a debtor's income tax refund or rebate any debt, which
20 is assigned to the department of human services, which the
21 state public defender is attempting to recover pursuant to
22 section 13B.4, which the child support recovery unit is
23 attempting to collect on behalf of an individual not eligible
24 as a public assistance recipient, or which the foster care
25 recovery unit of the department of human services is
26 attempting to collect on behalf of a child receiving foster
27 care provided by the department of human services, which has
28 accrued through written contract, subrogation, or court
29 judgment and which is in the form of a liquidated sum due and
30 owing for the care, support or maintenance of a child or which
31 is owed to the state for public assistance overpayments to
32 recipients or to providers of services to recipients or to
33 indigent defendants which the investigations division of the
34 department of inspections and appeals or state public defender
35 is attempting to collect on behalf of the state. For purposes

1 of this subsection, "public assistance" means aid to dependent
2 children, medical assistance, food stamps, foster care, and
3 state supplementary assistance. The procedure shall meet the
4 following conditions:

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

9 b. Before setoff the state public defender, the child
10 support recovery unit established pursuant to section 252B.2,
11 the foster care recovery unit, and the investigations division
12 of the department of inspections and appeals shall obtain and
13 forward to the department of revenue and finance the full name
14 and social security number of the debtor. The department of
15 revenue and finance shall co-operate in the exchange of
16 relevant information with the state public defender, the child
17 support recovery unit as provided in section 252B.9, with the
18 foster care recovery unit, and with the investigations
19 division of the department of inspections and appeals.

20 However, only relevant information required by the state
21 public defender, the child support unit, by the foster care
22 recovery unit, or by the investigations division of the
23 department of inspections and appeals shall be provided by the
24 department of revenue and finance. The information shall be
25 held in confidence and shall be used for purposes of setoff
26 only.

27 c. The state public defender, the child support recovery
28 unit, the foster care recovery unit, and the investigations
29 division of the department of inspections and appeals shall,
30 at least annually, submit to the department of revenue and
31 finance for setoff the debts described in this subsection,
32 which are at least fifty dollars, on a date to be specified by
33 the department of human services and the department of
34 inspections and appeals by rule.

35 d. Upon submission of a claim the department of revenue

1 and finance shall notify the state public defender, the child
2 support recovery unit, the foster care recovery unit, or the
3 investigations division of the department of inspections and
4 appeals as to whether the debtor is entitled to a refund or
5 rebate and if so entitled shall notify the unit or division of
6 the amount of the refund or rebate and of the debtor's address
7 on the income tax return.

8 e. Upon notice of entitlement to a refund or rebate, the
9 state public defender, the child support recovery unit, the
10 foster care recovery unit, or the investigations division of
11 the department of inspections and appeals shall send written
12 notification to the debtor, and a copy of the notice to the
13 department of revenue and finance, of the state public
14 defender's, unit's, or division's assertion of its rights, or
15 the rights of the department of human services, or the rights
16 of an individual not eligible as a public assistance recipient
17 to all or a portion of the debtor's refund or rebate and the
18 entitlement to recover the debt through the setoff procedure,
19 the basis of the assertion, the opportunity to request that a
20 joint income tax refund or rebate be divided between spouses,
21 the debtor's opportunity to give written notice of intent to
22 contest the claim, and the fact that failure to contest the
23 claim by written application for a hearing will result in a
24 waiver of the opportunity to contest the claim, causing final
25 setoff by default. Upon application filed with the state
26 public defender or the department of human services, as
27 appropriate, within fifteen days from the mailing of the
28 notice of entitlement to a refund or rebate, the department of
29 human services shall grant a hearing pursuant to chapters 10A
30 and 17A. An appeal taken from the decision of an
31 administrative law judge and subsequent appeals shall be taken
32 pursuant to chapter 17A.

33 f. Upon the request of a debtor or a debtor's spouse to
34 the state public defender, the child support recovery unit,
35 the foster care recovery unit, or the investigations division

1 of the department of inspections and appeals, filed within
2 fifteen days from the mailing of the notice of entitlement to
3 a refund or rebate, and upon receipt of the full name and
4 social security number of the debtor's spouse, the public
5 defender, unit, or division shall notify the department of
6 revenue and finance of the request to divide a joint income
7 tax refund or rebate. The department of revenue and finance
8 shall upon receipt of the notice divide a joint income tax
9 refund or rebate between the debtor and the debtor's spouse in
10 proportion to each spouse's net income as determined under
11 section 422.7.

12 g. The department of revenue and finance shall, after
13 notice has been sent to the debtor by the state public
14 defender, the child support recovery unit, the foster care
15 recovery unit, or the investigations division of the
16 department of inspections and appeals, set off the debt
17 against the debtor's income tax refund or rebate. However, if
18 a debtor has made all current child support or foster care
19 payments in accordance with a court order or an assessment of
20 foster care liability for the twelve months preceding the
21 proposed setoff and has regularly made delinquent child
22 support or foster care payments during those twelve months,
23 the child support or foster care recovery unit shall notify
24 the department of revenue and finance not to set off the debt
25 against the debtor's income tax refund or rebate. If a debtor
26 has made all current repayment of public assistance in
27 accordance with a court order or voluntary repayment agreement
28 for the twelve months preceding the proposed setoff and has
29 regularly made delinquent payments during those twelve months,
30 the investigations division of the department of inspections
31 and appeals shall notify the department of revenue and finance
32 not to set off the debt against the debtor's income tax refund
33 or rebate. The department of revenue and finance shall refund
34 any balance of the income tax refund or rebate to the debtor.
35 The department of revenue and finance shall periodically

1 transfer the amount set off to the child support recovery
2 unit, the foster care recovery unit, or the investigations
3 division of the department of inspections and appeals. If the
4 debtor gives timely written notice of intent to contest the
5 claim the department of revenue and finance shall hold the
6 refund or rebate until final disposition of the contested
7 claim pursuant to chapter 17A or by court judgment. The state
8 public defender, the child support recovery unit, the foster
9 care recovery unit, or the investigations division of the
10 department of inspections and appeals shall notify the debtor
11 in writing upon completion of setoff.

12 Sec. 29. Section 421.17, subsection 26, Code Supplement
13 1991, is amended to read as follows:

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

30 Sec. 30. 1989 Iowa Acts, chapter 272, section 42, as
31 amended by 1990 Iowa Acts, chapter 1261, section 43, and 1991
32 Iowa Acts, chapter 268, section 442, is amended to read as
33 follows:

34 SEC. 42. Sections 34, 35, and 36 of this Act are effective
35 July 1, 1992 1993.

1 Sec. 31. 1990 Iowa Acts, chapter 1234, section 76, as
2 amended by 1991 Iowa Acts, chapter 213, section 35, is
3 repealed.

4 Sec. 32. 1991 Iowa Acts, chapter 268, section 404,
5 subsection 2, unnumbered paragraph 2, is amended to read as
6 follows:

7 The division shall expend up to \$550,000 for the following:
8 \$50,000, or so much thereof as is necessary, for the removal
9 of 2 chillers and 1 underground storage tank, and \$100,000, or
10 so much thereof as is necessary, for asbestos removal or
11 encapsulation at the job service site located at 1000 East
12 Grand, Des Moines, Iowa, and \$400,000, or so much thereof as
13 is necessary, for the support of the labor survey, economic
14 development teams to assist in conducting "labor availability
15 surveys". Notwithstanding section 8.33 or this section,
16 unencumbered and unobligated funds remaining on June 30, 1992,
17 from the appropriations in this subsection for asbestos
18 removal or encapsulation at the job service site located at
19 1000 East Grand, Des Moines, shall not revert but shall be
20 available for expenditure for the same purpose for the fiscal
21 year beginning July 1, 1992.

22 Sec. 33. FEDERAL GRANTS. All federal grants to and the
23 federal receipts of agencies appropriated funds under this
24 Act, not otherwise appropriated, are appropriated for the
25 purposes set forth in the federal grants or receipts unless
26 otherwise provided by the general assembly.

27 Sec. 34. EFFECTIVE DATES. Section 6, subsection 9,
28 paragraph "a" and section 27, and sections 30 through 32 of
29 this Act, being deemed of immediate importance, are effective
30 upon enactment.

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HOUSE FILE 2455

S-5434

1 Amend House File 2455, as amended, passed, and re-
2 printed by the House, as follows:

3 1. Page 17, by inserting after line 29 the
4 following:

5 "Sec. _____. Section 123.24, Code 1991, is amended
6 by adding the following new subsection:

7 NEW SUBSECTION. 5. Notwithstanding subsection 4,
8 the division shall assess a bottle surcharge to be
9 included in the price of alcoholic liquor of five
10 cents for each container sold. The amount collected
11 pursuant to this subsection shall be deposited in the
12 beer and liquor control fund established under section
13 123.53.

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

16 NEW SUBSECTION. 4. The treasurer of state, after
17 making the transfer provided in subsection 3, shall
18 transfer to the division from the beer and liquor
19 control fund and before any other transfer to the
20 general fund, an amount sufficient to pay the costs of
21 properly disposing of liquor containers returned to
22 the division."

23 2. Page 22, by inserting after line 29 the
24 following:

25 "Sec. _____. Section 455C.3, subsection 2, Code
26 Supplement 1991, is amended to read as follows:

27 2. A distributor shall accept and pick up from a
28 dealer served by the distributor or a redemption
29 center for a dealer served by the distributor at least
30 weekly, or when the distributor delivers the beverage
31 product if deliveries are less frequent than weekly,
32 any empty beverage container of the kind, size, and
33 brand sold by the distributor, and shall pay to the
34 dealer or person operating a redemption center the
35 refund value of a beverage container and the
36 reimbursement as provided under section 455C.2, except
37 that no refund or reimbursement shall be paid by a
38 distributor for a beverage container used for
39 alcoholic liquor as defined in section 123.3,
40 subsection 8, within one week following pickup of the
41 containers or when the dealer or redemption center
42 normally pays the distributor for the deposit on
43 beverage products purchased from the distributor if
44 less frequent than weekly. A distributor or employee
45 or agent of a distributor is not in violation of this
46 subsection if a redemption center is closed when the
47 distributor attempts to make a regular delivery or a
48 regular pickup of empty beverage containers. This
49 subsection does not apply to a distributor selling
50 alcoholic liquor to the alcoholic beverages division

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1 of the department of commerce.

2 Sec. ____ . Section 455C.4, subsection 4, Code 1991,
3 is amended to read as follows:

4 4. A class "E" liquor control licensee may refuse
5 to accept and to pay the refund value on an empty
6 alcoholic liquor container from a dealer or a
7 redemption center or from a person acting on behalf of
8 or who has received empty alcoholic liquor containers
9 from a dealer or a redemption center. However, a
10 class "E" liquor control licensee shall not refuse to
11 accept an empty alcoholic liquor container from
12 holders of class "A", "B", and "C" liquor control
13 licenses, if returned. The class "E" liquor control
14 licensee shall not pay a refund for such containers,
15 but shall hold such containers for pickup by the
16 distributor. The class "E" liquor control licensee
17 shall inform all liquor control licensees served by
18 the class "E" liquor control licensee that the
19 containers will be accepted.

20 Sec. ____ . 1989 Iowa Acts, chapter 272, sections 35
21 and 36, are repealed."

22 3. Page 22, by striking lines 34 and 35 and in-
23 serting the following:

24 "SEC. 42. Sections Section 347-357-and-36 of this
25 Act are is effective July 1, 1992."

26 4. Renumber as necessary.

By LARRY MURPHY

S-5434 FILED MARCH 27, 1992

7/10 4/8 (p. 1296)

HOUSE FILE 2455

S-5513

1 Amend House File 2455, as amended, passed, and re-
2 printed by the House, as follows:

3 1. Page 3, line 4, by striking the figure
4 "\$150,000" and inserting the following: "\$200,000".

5 2. Page 3, line 6, by inserting after the word
6 "surveys." the following: "As a condition of this
7 expenditure, the department shall adopt rules
8 providing that all communities which are scheduled to
9 be surveyed during fiscal year 1992-1993 shall
10 contribute to the cost of the community surveys which
11 exceeds \$200,000 proportionally in an amount equal to
12 the cost of completing each community survey divided
13 by the total cost of completing all surveys multiplied
14 by the cost of completing all surveys in excess of
15 \$200,000."

16 3. Page 5, line 27, by striking the figure
17 "115.00" and inserting the following: "118.00".

18 4. Page 6, line 17, by inserting after the word
19 "districts" the following: "with priority given to
20 completing local board reviews and implementation of
21 programming in the eighth district and limited state
22 board programming".

23 5. Page 6, line 20, by striking the figure "3.50"
24 and inserting the following: "4.25".

25 6. Page 7, by striking lines 6 through 10.

26 7. Page 10, by striking line 9, and inserting the
27 following:

28 "..... FTEs 20.00

29 The credit union division may expend additional
30 funds, including funds for additional personnel, if
31 those additional expenditures are actual expenses
32 which exceed the funds budgeted for credit union
33 examinations and directly result from examinations of
34 credit unions. Notwithstanding the provisions of
35 chapter 8, the credit union division may expend
36 additional funds for the additional personnel. The
37 division shall promptly notify in writing the
38 legislative fiscal bureau and with the approval of the
39 department of management may hire personnel pursuant
40 to this paragraph. The notification shall also
41 provide the justification for hiring such personnel.
42 The amounts necessary to fund the excess examination
43 expenses shall be collected from those credit unions
44 regulated which caused the excess expenditures, and
45 the collections shall be treated as repayment receipts
46 as defined in section 8.2."

47 8. By striking page 13, line 33 through page 14,
48 line 15.

49 9. Page 17, by inserting after line 29 the fol-
50 lowing:

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1 "Sec. ____ . Section 135C.16, subsection 1, Code
 2 1991, is amended by striking the subsection and
 3 inserting in lieu thereof the following:
 4 1. In addition to the inspections required by sec-
 5 tions 135C.9 and 135C.38, the department shall make or
 6 cause to be made such further unannounced inspections
 7 as it deems necessary to adequately enforce this
 8 chapter. At least one general unannounced inspection
 9 shall be conducted for each health care facility
 10 within a fifteen-month period. The inspector shall
 11 show identification to the person in charge of the
 12 facility and state that an inspection is to be made
 13 before beginning the inspection. An employee of the
 14 department who gives unauthorized advance notice of an
 15 inspection made or planned to be made under this
 16 subsection or section 135C.38 shall be disciplined as
 17 determined by the director, except that if the
 18 employee is employed pursuant to the merit system
 19 provisions of chapter 19A the discipline shall not
 20 exceed the discipline authorized pursuant to that
 21 chapter."

22 10. Renumber as necessary.

By COMMITTEE ON APPROPRIATIONS
LEONARD BOSWELL, Chairperson

S-5513 FILED APRIL 2, 1992

Adopted 4/7 (p. 1274)

reconsidered 4/8/92 (p 1290)

A Adopted, B-Subd o/o 4/8 (p 1291)

HOUSE FILE 2455

S-5514

1 Amend House File 2455, as amended, passed, and
2 reprinted by the House, as follows:

3 1. Page 17, by inserting after line 29 the
4 following:

5 "Sec. _____. Section 123.24, Code 1991, is amended
6 by adding the following new subsection:

7 NEW SUBSECTION. 5. Notwithstanding subsection 4,
8 the division shall assess a bottle surcharge to be
9 included in the price of alcoholic liquor in an amount
10 sufficient, when added to the amount not refunded to
11 class "E" liquor control licensees pursuant to section
12 455C.2, to pay the costs of properly disposing of
13 liquor containers returned to the division. The
14 amount collected pursuant to this subsection, in
15 addition to any amounts not refunded to class "E"
16 liquor control licensees pursuant to section 455C.2,
17 shall be deposited in the beer and liquor control fund
18 established under section 123.53.

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

21 NEW SUBSECTION. 4. The treasurer of state, after
22 making the transfer provided for in subsection 3,
23 shall transfer to the division from the beer and
24 liquor control fund and before any other transfer to
25 the general fund, an amount sufficient to pay the
26 costs of properly disposing of liquor containers
27 returned to the division."

28 2. Page 22, by inserting after line 29 the
29 following:

30 "Sec. _____. Section 455C.2, subsection 1, Code
31 Supplement 1991, is amended to read as follows:

32 ~~1. Except-purchases-of-alcoholic-liquor-as-defined~~
33 ~~in-section-123-37-subsection-87-by-holders-of-class~~
34 ~~"A", "B", "C", and "E" liquor control licenses, a A~~
35 refund value of not less than five cents shall be paid
36 by the consumer on each beverage container sold in
37 this state by a dealer for consumption off the
38 premises. Upon return of the empty beverage container
39 upon which a refund value has been paid to the dealer
40 or person operating a redemption center and acceptance
41 of the empty beverage container by the dealer or
42 person operating a redemption center, the dealer or
43 person operating a redemption center shall return the
44 amount of the refund value to the consumer.

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

48 5. The alcoholic beverages division of the
49 department of commerce shall provide for the disposal
50 of empty beverage containers as required under

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- 1 subsection 2. The division shall give priority
- 2 consideration to the recycling of the empty beverage
- 3 containers to the extent possible, before any other
- 4 appropriate disposal method is considered or
- 5 implement.
- 6 Sec. _____. 1989 Iowa Acts, chapter 272, sections 35
- 7 and 36, are repealed."
- 8 3. Page 22, by striking lines 34 and 35, and
- 9 inserting the following:
- 10 "SEC. 42. Sections Section 34, 35, and 36 of this
- 11 Act are is effective July 1, 1992."
- 12 4. By renumbering as necessary.

By RALPH ROSENBERG
JIM LIND

S-5514 FILED APRIL 2, 1992
Adopted as amended by 5560 4/8/92 (p.1291)

HOUSE FILE 2455

S-5560

- 1 Amend the amendment, S-5514, to House File 2455, as
- 2 amended, passed, and reprinted by the House, as
- 3 follows:
- 4 1. Page 1, line 12, by striking the words "of
- 5 properly disposing of" and inserting the following:
- 6 "incurred by the division for collecting and properly
- 7 disposing of the".
- 8 2. Page 1, line 13, by striking the words
- 9 "returned to the division".
- 10 3. Page 1, line 26, by striking the words "of
- 11 properly disposing of" and inserting the following:
- 12 "incurred by the division for collecting and properly
- 13 disposing of the".
- 14 4. Page 1, line 27, by striking the words
- 15 "returned to the division".

By RALPH ROSENBERG

S-5560 FILED APRIL 6, 1992

Adopted 4/8/92 (p.1291)

S-5574

1 Amend House File 2455, as amended, passed, and re-
2 printed by the House, as follows:

3 1. Page 13, by striking lines 6 through 32 and
4 inserting the following:

5 "Sec. ____ . Section 13B.4, subsection 3, Code
6 Supplement 1991, is amended to read as follows:

7 3. The state public defender may contract with
8 persons admitted to practice law in this state for the
9 provision of legal services to indigent persons where
10 ~~there is no local public defender available to provide~~
11 ~~such services. The state public defender shall file,~~
12 with the court in each county served under one or more
13 contracts for the provision of legal services to
14 indigent persons, a designation of which contract
15 attorneys shall receive notice of appointment of
16 cases.

17 Sec. ____ . Section 13B.9, subsection 5, Code
18 Supplement 1991, is amended by striking the subsection
19 and inserting in lieu thereof the following:

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

25 a. If the state public defender has contracted for
26 the provision of legal services to indigent persons in
27 the county where the case is pending, the court shall,
28 subject to paragraph "b", appoint an attorney
29 designated by the state public defender as a contract
30 attorney in the county to handle the case.
31 Appointment of contract attorneys shall be on a
32 rotational or equalizational basis, while taking into
33 consideration the experience of the contract attorneys
34 and the difficulty of the case.

35 b. If the court determines that the nature of the
36 charge or the complexity of the issues in a case
37 requires that an attorney, other than the attorney or
38 attorneys who have contracted with the state public
39 defender, be appointed, the court may appoint a
40 noncontract attorney that the court deems appropriate
41 to provide legal services to the indigent person. If
42 the court appoints a noncontract attorney under this
43 paragraph, the court shall state in the order of
44 appointment the reasons for not appointing the
45 attorney specified in the state public defender
46 contract for legal services to indigent persons and
47 submit a copy of the order to the state public
48 defender within five working days of the date of the
49 appointment of other counsel.

50 c. If the state public defender has not contracted

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1 for the provision of legal services to indigent
2 persons in the county where the case is pending, the
3 court shall appoint a noncontract attorney that the
4 court deems appropriate to provide legal services to
5 the indigent person."

6 2. By striking page 18, line 16, through page 22,
7 line 29.

8 3. Renumber as necessary.

By RICHARD RUNNING
WILMER RENSINK

HOUSE FILE 2455

S-5573

1 Amend House File 2455, as amended, passed, and
2 reprinted by the House, as follows:

3 1. Page 9, by striking lines 28 through 34 and
4 inserting the following: "examinations of banks.
5 The".

6 2. Page 10, by striking lines 1 and 2 and
7 inserting the following: "shall be collected from
8 banks being regulated, and the collections shall be".

9 3. Page 10, line 3, by inserting after the figure
10 "8.2" the following: "The division shall notify in
11 writing the legislative fiscal bureau and the
12 department of management when hiring additional
13 personnel. The written notification shall include
14 documentation that any additional expenditure related
15 to such hiring will be totally reimbursed to the
16 general fund, and shall also include the division's
17 justification for hiring such personnel. The division
18 must obtain the approval of the department of
19 management only if the number of additional personnel
20 to be hired exceeds the number of full-time equivalent
21 positions authorized by this section."

22 4. Page 10, by striking line 9 and inserting the
23 following:

24 "..... FTES 20.00

25 The credit union division may expend additional
26 funds, including funds for additional personnel, if
27 those additional expenditures are actual expenses
28 which exceed the funds budgeted for credit union
29 examinations and directly result from examinations of
30 credit unions. The amounts necessary to fund the
31 excess examination expenses shall be collected from
32 credit unions being regulated, and the collections
33 shall be treated as repayment receipts as defined in
34 section 8.2. The division shall notify in writing the
35 legislative fiscal bureau and the department of
36 management when hiring additional personnel. The
37 written notification shall include documentation that
38 any additional expenditure related to such hiring will
39 be totally reimbursed to the general fund, and shall
40 also include the division's justification for hiring
41 such personnel. The division must obtain the approval
42 of the department of management only if the number of
43 additional personnel to be hired exceeds the number of
44 full-time equivalent positions authorized by this
45 section."

By RICHARD RUNNING

S-5573 FILED APRIL 6, 1992

*Repealed out of order 4/7 (p. 1274) Reconsidered
Adopted 4/8/92 (p. 1291)*

HOUSE FILE 2455

S-5601

1 Amend House File 2455, as amended, passed, and
2 reprinted by the House, as follows:

A 3 1. Page 3, line 26, by striking the figure "\$65"
4 and inserting the following: "\$25".

B 5 2. Page 3, by inserting after line 31, the
6 following:

7 "_____. The industrial commissioner shall study and
8 make written recommendations concerning options to
9 fund the division involving the assessment of all
10 employers relieved from the requirement of obtaining
11 insurance pursuant to section 87.11, all group self-
12 insured associations or plans authorized by section
13 87.4, and all insurance companies writing insurance
14 policies authorized by section 515.48, subsection 5,
15 paragraph "d". Recommendations made shall provide for
16 complete and total funding of the operations of the
17 division of industrial services and shall also provide
18 a plan of implementation and any legislative proposals
19 or actions necessary to implement the recommendations.
20 The report shall be provided in writing to the general
21 assembly and the legislative fiscal bureau no later
22 than January 20, 1993."

23 3. By renumbering as necessary.

By RICHARD RUNNING

S-5601 FILED APRIL 8, 1992

DIVISION A-WITHDRAWN, DIVISION B-ADOPTED (p. 1291)

HOUSE FILE 2455

S-5599

1 Amend House File 2455, as amended, passed, and re-
2 printed by the House, as follows:

3 1. Page 13, by striking lines 6 through 32.

4 2. By striking page 18, line 16, through page 22,
5 line 29.

6 3. Renumber as necessary.

By RICHARD RUNNING

S-5599 FILED APRIL 8, 1992

WITHDRAWN (p. 1291)

HOUSE FILE 2455

S-5600

1 Amend House File 2455, as amended, passed, and re-
2 printed by the House, as follows:

3 1. Page 8, line 28, by striking the figure
4 "643,998" and inserting the following: "673,998".

By RICHARD RUNNING

S-5600 FILED APRIL 8, 1992

ADOPTED (p. 1291)

HOUSE FILE 2455

S-5576

1 Amend House File 2455, as amended, passed, and
2 reprinted by the House, as follows:

3 1. Page 1, by inserting after line 31 the
4 following:

5 "_____. The campaign finance disclosure commission
6 shall study and make written recommendations relating
7 to the funding of the commission's activities pursuant
8 to the assessment of all political committees. The
9 recommendations shall include a discussion of the
10 options considered by the commission and provide for
11 complete and total funding of the activities of the
12 commission. The plan adopted by the commission shall
13 not reduce any other fees, charges, or assessments
14 currently made by the commission, and shall also not
15 include consideration of the revenue generated by such
16 fees, charges, or assessments when determining the
17 amount of assessment to be made pursuant to this
18 subsection. The report shall include a plan of
19 implementation and any legislation or other actions
20 necessary to implement the recommendations. The
21 report of the commission shall be filed with the
22 general assembly and legislative fiscal bureau no
23 later than January 20, 1993."

24 2. By renumbering as necessary.

By RICHARD RUNNING
RALPH ROSENBERG

S-5576 FILED APRIL 7, 1992

ADOPTED (p. 1274)

HOUSE FILE 2455

S-5587

1 Amend House File 2455, as amended, passed, and re-
2 printed by the House, as follows:

3 1. Page 13, line 13, by striking the words "state
4 public defender" and inserting the following: "county
5 attorney".

6 2. Page 13, by striking lines 24 through 28.

By JOE WELSH
HARRY SLIFE

S-5587 FILED APRIL 7, 1992

X/D 4/8 (p. 1291)

HOUSE FILE 2455

S-5602

1 Amend House File 2455, as amended, passed, and
2 reprinted by the House, as follows:

3 1. Page 13, by striking lines 8 through 29 and
4 inserting the following:

5 "NEW SUBSECTION. 5A. The state public defender
6 shall".

7 2. Page 13, line 32, by striking the word and
8 figure "subsection 5B" and inserting the following:
9 "section 331.756, subsection 36,".

10 3. By striking page 18, line 16, through page 22,
11 line 11, and inserting the following:

12 "Sec. ____ . Section 331.756, Code 1991, is amended
13 by adding the following new subsections:

14 NEW SUBSECTION. 86. Establish and implement
15 recoupment and collection procedures in all indigent
16 defense cases which shall include, but not be limited
17 to, all of the following:

18 a. Petitioning the court to include the payment of
19 fines, court costs, and restitution of all or a
20 portion of attorney fees as a condition of probation
21 and to order the defendant to appear before the court
22 if these conditions have not been satisfied.

23 b. Petitioning the court for the imposition of a
24 civil judgment against the indigent defendant which
25 shall be assigned to private counsel for collection.

26 c. Petitioning the court for an assignment of
27 wages of the indigent defendant.

28 d. Assisting the department of revenue and finance
29 in the implementation of the setoff under section
30 421.17, subsection 25A, in regard to money owed to the
31 state for indigent defense services provided to the
32 indigent defendant.

33 NEW SUBSECTION. 87. Make a written report to the
34 state public defender within fifteen days of the end
35 of each calendar quarter of the amount of funds
36 recouped pursuant to subsection 86.

37 Sec. ____ . Section 421.17, Code Supplement 1991, is
38 amended by adding the following new subsection:

39 NEW SUBSECTION. 25A. To establish and maintain a
40 procedure to set off against a debtor's income tax
41 refund or rebate any debt which is due, owing, and
42 payable to the state as restitution of attorney fees
43 incurred as a result of services provided under
44 chapters 13B and 815, and section 232.141. The
45 procedure shall meet the following conditions:

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

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1 b. Before setoff the county attorney shall obtain
2 and forward to the department the full name and social
3 security number of the debtor. The department shall
4 cooperate in the exchange of relevant information with
5 the county attorney. However, only relevant
6 information required by the county attorney shall be
7 provided by the department. The information shall be
8 held in confidence and shall be used for purposes of
9 setoff only.

10 c. The county attorney shall, at least quarterly
11 and monthly if practicable, submit to the department
12 for setoff the debts described in this subsection,
13 which are at least fifty dollars.

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

19 e. Upon notice of entitlement to a refund or
20 rebate the county attorney shall send written
21 notification to the debtor of the county attorney's
22 assertion of rights to all or a portion of the
23 debtor's refund or rebate and the entitlement to
24 recover the debt through the setoff procedure, the
25 basis of the assertion, the opportunity to request
26 that a joint income tax refund or rebate be divided
27 between spouses, and the debtor's opportunity to give
28 written notice of intent to contest the amount of the
29 claim. The county attorney shall send a copy of the
30 notice to the department.

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

42 g. The department shall, after notice has been
43 sent to the debtor by the county attorney, set off the
44 debt against the debtor's income tax refund or rebate.
45 The department shall transfer at least quarterly and
46 monthly if practicable, the amount set off to the
47 general fund of the state, less an amount as provided
48 in paragraph "h". If the debtor gives timely written
49 notice of intent to contest the amount of the claim,
50 the department shall hold the refund or rebate until

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1 final determination of the correct amount of the
2 claim. The county attorney shall notify the debtor in
3 writing upon completion of setoff.

4 h. The department shall, prior to any transfer
5 pursuant to paragraph "g" and after application is
6 made by the county attorney as provided by the
7 department, transfer an amount to the county attorney
8 equal to the costs incurred by the county attorney as
9 shown in the application."

10 4. Page 22, lines 24 and 25, by striking the
11 words "the state public defender under subsection 2i"
12 and inserting the following: "a county attorney under
13 subsection 25A".

14 5. Page 23, by inserting after line 21, the
15 following:

16 "Sec. _____. The supreme court shall review the
17 indigency criteria and procedures used by district
18 court judges for reviewing attorney fee claims for
19 indigent defense in an effort to implement uniform
20 application of such criteria and procedures.

21 Sec. 101. PILOT PROJECT.

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

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

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

40 b. If the court determines that the nature of the
41 charge or the complexity of the issues in a case
42 requires that an attorney, other than the attorney or
43 attorneys who have contracted with the state public
44 defender, be appointed, the court may appoint a
45 noncontract attorney that the court deems appropriate
46 to provide legal services to the indigent person. If
47 the court appoints a noncontract attorney under this
48 paragraph, the court shall notify the state public
49 defender in writing of the reasons for not appointing
50 the attorney specified in the state public defender

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1 contract for legal services to indigent persons and
2 submit a copy of the notification to the state public
3 defender within five working days of the date of the
4 appointment of other counsel.
5 3. This section is repealed June 30, 1994.
6 Sec. 102. REPORT.
7 1. The state public defender shall make a written
8 report to the legislative fiscal bureau on or before
9 January 10, 1994, concerning the pilot project
10 established in section 101 of this Act. The report
11 shall include the following information:
12 a. Type and number of cases, and the number of
13 cases which proceed to trial, for which legal services
14 are being provided under the pilot project.
15 b. The rate paid to the contract attorneys.
16 c. The total number of hours dedicated to
17 providing the legal services.
18 d. The total cost incurred in providing the legal
19 services.
20 2. The information collected pursuant to
21 subsection 1 shall be provided to the indigent defense
22 advisory commission established pursuant to section
23 13B.2A, which shall review the information and make
24 recommendations to the general assembly concerning the
25 elimination or continuation of the use of contract
26 attorneys in providing indigent defense. The
27 recommendations shall be provided prior to March 1,
28 1994."
29 6. Renumber as necessary.

By RICHARD RUNNING

S-5602 FILED APRIL 8, 1992

ADOPTED (J 492)

Senate amendment to
HOUSE FILE 2455

H-5818

1 Amend House File 2455, as amended, passed, and re-
2 printed by the House, as follows:

3 1. Page 1, by inserting after line 31 the
4 following:

5 "_____. The campaign finance disclosure commission
6 shall study and make written recommendations relating
7 to the funding of the commission's activities pursuant
8 to the assessment of all political committees. The
9 recommendations shall include a discussion of the
10 options considered by the commission and provide for
11 complete and total funding of the activities of the
12 commission. The plan adopted by the commission shall
13 not reduce any other fees, charges, or assessments
14 currently made by the commission, and shall also not
15 include consideration of the revenue generated by such
16 fees, charges, or assessments when determining the
17 amount of assessment to be made pursuant to this
18 subsection. The report shall include a plan of
19 implementation and any legislation or other actions
20 necessary to implement the recommendations. The
21 report of the commission shall be filed with the
22 general assembly and legislative fiscal bureau no
23 later than January 20, 1993."

24 2. Page 3, line 4, by striking the figure
25 "\$150,000" and inserting the following: "\$200,000".

26 3. Page 3, line 6, by inserting after the word
27 "surveys." the following: "As a condition of this
28 expenditure, the department shall adopt rules
29 providing that all communities which are scheduled to
30 be surveyed during fiscal year 1992-1993 shall
31 contribute to the cost of the community surveys which
32 exceeds \$200,000 proportionally in an amount equal to
33 the cost of completing each community survey divided
34 by the total cost of completing all surveys multiplied
35 by the cost of completing all surveys in excess of
36 \$200,000."

37 4. Page 3, by inserting after line 31, the
38 following:

39 "_____. The industrial commissioner shall study and
40 make written recommendations concerning options to
41 fund the division involving the assessment of all
42 employers relieved from the requirement of obtaining
43 insurance pursuant to section 87.11, all group self-
44 insured associations or plans authorized by section
45 87.4, and all insurance companies writing insurance
46 policies authorized by section 515.48, subsection 5,
47 paragraph "d". Recommendations made shall provide for
48 complete and total funding of the operations of the
49 division of industrial services and shall also provide
50 a plan of implementation and any legislative proposals

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1 or actions necessary to implement the recommendations.
2 The report shall be provided in writing to the general
3 assembly and the legislative fiscal bureau no later
4 than January 20, 1993."

5 5. Page 5, line 27, by striking the figure
6 "115.00" and inserting the following: "118.00".

7 6. Page 6, line 17, by inserting after the word
8 "districts" the following: "with priority given to
9 completing local board reviews and implementation of
10 programming in the eighth district and limited state
11 board programming".

12 7. Page 6, line 20, by striking the figure "3.50"
13 and inserting the following: "4.25".

14 8. Page 7, by striking lines 6 through 10.

15 9. Page 8, line 28, by striking the figure
16 "643,998" and inserting the following: "673,998".

17 10. Page 9, by striking lines 28 through 34 and
18 inserting the following: "examinations of banks.
19 The".

20 11. Page 10, by striking lines 1 and 2 and
21 inserting the following: "shall be collected from
22 banks being regulated, and the collections shall be".

23 12. Page 10, line 3, by inserting after the
24 figure "8.2" the following: "The division shall
25 notify in writing the legislative fiscal bureau and
26 the department of management when hiring additional
27 personnel. The written notification shall include
28 documentation that any additional expenditure related
29 to such hiring will be totally reimbursed to the
30 general fund, and shall also include the division's
31 justification for hiring such personnel. The division
32 must obtain the approval of the department of
33 management only if the number of additional personnel
34 to be hired exceeds the number of full-time equivalent
35 positions authorized by this section."

36 13. Page 10, by striking line 9 and inserting the
37 following:

38 "..... FTEs 20.00

39 The credit union division may expend additional
40 funds, including funds for additional personnel, if
41 those additional expenditures are actual expenses
42 which exceed the funds budgeted for credit union
43 examinations and directly result from examinations of
44 credit unions. The amounts necessary to fund the
45 excess examination expenses shall be collected from
46 credit unions being regulated, and the collections
47 shall be treated as repayment receipts as defined in
48 section 8.2. The division shall notify in writing the
49 legislative fiscal bureau and the department of
50 management when hiring additional personnel. The

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1 written notification shall include documentation that
2 any additional expenditure related to such hiring will
3 be totally reimbursed to the general fund, and shall
4 also include the division's justification for hiring
5 such personnel. The division must obtain the approval
6 of the department of management only if the number of
7 additional personnel to be hired exceeds the number of
8 full-time equivalent positions authorized by this
9 section."

10 14. Page 13, by striking lines 8 through 29 and
11 inserting the following:

12 "NEW SUBSECTION. 5A. The state public defender
13 shall".

14 15. Page 13, line 32, by striking the word and
15 figure "subsection 5B" and inserting the following:
16 "section 331.756, subsection 86,".

17 16. By striking page 13, line 33 through page 14,
18 line 15.

19 17. Page 17, by inserting after line 29 the
20 following:

21 "Sec. _____. Section 123.24, Code 1991, is amended
22 by adding the following new subsection:

23 NEW SUBSECTION. 5. Notwithstanding subsection 4,
24 the division shall assess a bottle surcharge to be
25 included in the price of alcoholic liquor in an amount
26 sufficient, when added to the amount not refunded to
27 class "E" liquor control licensees pursuant to section
28 455C.2, to pay the costs incurred by the division for
29 collecting and properly disposing of the liquor
30 containers. The amount collected pursuant to this
31 subsection, in addition to any amounts not refunded to
32 class "E" liquor control licensees pursuant to section
33 455C.2, shall be deposited in the beer and liquor
34 control fund established under section 123.53.

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

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

44 18. Page 17, by inserting after line 29 the fol-
45 lowing:

46 "Sec. _____. Section 135C.16, subsection 1, Code
47 1991, is amended by striking the subsection and
48 inserting in lieu thereof the following:

49 1. In addition to the inspections required by sec-
50 tions 135C.9 and 135C.38, the department shall make or

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1 cause to be made such further unannounced inspections
2 as it deems necessary to adequately enforce this
3 chapter. At least one general unannounced inspection
4 shall be conducted for each health care facility
5 within a fifteen-month period. The inspector shall
6 show identification to the person in charge of the
7 facility and state that an inspection is to be made
8 before beginning the inspection. An employee of the
9 department who gives unauthorized advance notice of an
10 inspection made or planned to be made under this
11 subsection or section 135C.38 shall be disciplined as
12 determined by the director, except that if the
13 employee is employed pursuant to the merit system
14 provisions of chapter 19A the discipline shall not
15 exceed the discipline authorized pursuant to that
16 chapter."

17 19. By striking page 18, line 16, through page
18 22, line 11, and inserting the following:

19 "Sec. ____ . Section 331.756, Code 1991, is amended
20 by adding the following new subsections:

21 NEW SUBSECTION. 86. Establish and implement
22 recoupment and collection procedures in all indigent
23 defense cases which shall include, but not be limited
24 to, all of the following:

25 a. Petitioning the court to include the payment of
26 fines, court costs, and restitution of all or a
27 portion of attorney fees as a condition of probation
28 and to order the defendant to appear before the court
29 if these conditions have not been satisfied.

30 b. Petitioning the court for the imposition of a
31 civil judgment against the indigent defendant which
32 shall be assigned to private counsel for collection.

33 c. Petitioning the court for an assignment of
34 wages of the indigent defendant.

35 d. Assisting the department of revenue and finance
36 in the implementation of the setoff under section
37 421.17, subsection 25A, in regard to money owed to the
38 state for indigent defense services provided to the
39 indigent defendant.

40 NEW SUBSECTION. 87. Make a written report to the
41 state public defender within fifteen days of the end
42 of each calendar quarter of the amount of funds
43 recouped pursuant to subsection 86.

44 Sec. ____ . Section 421.17, Code Supplement 1991, is
45 amended by adding the following new subsection:

46 NEW SUBSECTION. 25A. To establish and maintain a
47 procedure to set off against a debtor's income tax
48 refund or rebate any debt which is due, owing, and
49 payable to the state as restitution of attorney fees
50 incurred as a result of services provided under

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1 chapters 13B and 815, and section 232.141. The

2 procedure shall meet the following conditions:

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

8 b. Before setoff the county attorney shall obtain
9 and forward to the department the full name and social
10 security number of the debtor. The department shall
11 cooperate in the exchange of relevant information with
12 the county attorney. However, only relevant
13 information required by the county attorney shall be
14 provided by the department. The information shall be
15 held in confidence and shall be used for purposes of
16 setoff only.

17 c. The county attorney shall, at least quarterly
18 and monthly if practicable, submit to the department
19 for setoff the debts described in this subsection,
20 which are at least fifty dollars.

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

26 e. Upon notice of entitlement to a refund or
27 rebate the county attorney shall send written
28 notification to the debtor of the county attorney's
29 assertion of rights to all or a portion of the
30 debtor's refund or rebate and the entitlement to
31 recover the debt through the setoff procedure, the
32 basis of the assertion, the opportunity to request
33 that a joint income tax refund or rebate be divided
34 between spouses, and the debtor's opportunity to give
35 written notice of intent to contest the amount of the
36 claim. The county attorney shall send a copy of the
37 notice to the department.

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

49 g. The department shall, after notice has been
50 sent to the debtor by the county attorney, set off the

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1 debt against the debtor's income tax refund or rebate.
2 The department shall transfer at least quarterly and
3 monthly if practicable, the amount set off to the
4 general fund of the state, less an amount as provided
5 in paragraph "h". If the debtor gives timely written
6 notice of intent to contest the amount of the claim,
7 the department shall hold the refund or rebate until
8 final determination of the correct amount of the
9 claim. The county attorney shall notify the debtor in
10 writing upon completion of setoff.

11 h. The department shall, prior to any transfer
12 pursuant to paragraph "g" and after application is
13 made by the county attorney as provided by the
14 department, transfer an amount to the county attorney
15 equal to the costs incurred by the county attorney as
16 shown in the application."

17 20. Page 22, lines 24 and 25, by striking the
18 words "the state public defender under subsection 21"
19 and inserting the following: "a county attorney under
20 subsection 25A".

21 21. Page 22, by inserting after line 29 the
22 following:

23 "Sec. ____ . Section 455C.2, subsection 1, Code
24 Supplement 1991, is amended to read as follows:

25 1. ~~Except-purchases-of-alcoholic-liquor-as-defined~~
26 ~~in-section-123-37-subsection-87-by-holders-of-class~~
27 ~~"A", "B", "C", and "E" liquor-control-licenses, a A~~
28 refund value of not less than five cents shall be paid
29 by the consumer on each beverage container sold in
30 this state by a dealer for consumption off the
31 premises. Upon return of the empty beverage container
32 upon which a refund value has been paid to the dealer
33 or person operating a redemption center and acceptance
34 of the empty beverage container by the dealer or
35 person operating a redemption center, the dealer or
36 person operating a redemption center shall return the
37 amount of the refund value to the consumer.

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

41 5. The alcoholic beverages division of the
42 department of commerce shall provide for the disposal
43 of empty beverage containers as required under
44 subsection 2. The division shall give priority
45 consideration to the recycling of the empty beverage
46 containers to the extent possible, before any other
47 appropriate disposal method is considered or
48 implement.

49 Sec. ____ . 1989 Iowa Acts, chapter 272, sections 35
50 and 36, are repealed."

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1 22. Page 22, by striking lines 34 and 35, and
2 inserting the following:

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

5 23. Page 23, by inserting after line 21, the
6 following:

7 "Sec. _____. The supreme court shall review the
8 indigency criteria and procedures used by district
9 court judges for reviewing attorney fee claims for
10 indigent defense in an effort to implement uniform
11 application of such criteria and procedures.

12 Sec. 101. PILOT PROJECT.

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

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

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

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

46 3. This section is repealed June 30, 1994.

47 Sec. 102. REPORT.

48 1. The state public defender shall make a written
49 report to the legislative fiscal bureau on or before
50 January 10, 1994, concerning the pilot project

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1 established in section 101 of this Act. The report
 2 shall include the following information:
 3 a. Type and number of cases, and the number of
 4 cases which proceed to trial, for which legal services
 5 are being provided under the pilot project.
 6 b. The rate paid to the contract attorneys.
 7 c. The total number of hours dedicated to
 8 providing the legal services.
 9 d. The total cost incurred in providing the legal
 10 services.
 11 2. The information collected pursuant to
 12 subsection 1 shall be provided to the indigent defense
 13 advisory commission established pursuant to section
 14 13B.2A, which shall review the information and make
 15 recommendations to the general assembly concerning the
 16 elimination or continuation of the use of contract
 17 attorneys in providing indigent defense. The
 18 recommendations shall be provided prior to March 1,
 19 1994."
 20 24. By renumbering, relettering, or redesignating
 21 and correcting internal references as necessary.

RECEIVED FROM THE SENATE

H-5818 FILED APRIL 8, 1992

House concurred as amended by 5854, 5874, 5878, & 5884 4/14 (p. 1381)

HOUSE FILE 2455

H-5854

1 Amend the Senate amendment, H-5818, to House File
 2 2455, as amended, passed, and reprinted by the House,
 3 as follows:
 4 1. Page 1, by striking lines 3 through 23.
 5 2. Page 1, by striking lines 30 through 36, and
 6 inserting the following: "be surveyed during the
 7 fiscal year shall contribute forty percent of the cost
 8 of completing the community surveys."
 9 3. Page 1, line 41, by striking the words "the
 10 assessment of".
 11 4. Page 6, by striking lines 11 through 16 and
 12 inserting the following:
 13 "h. Of the amount collected pursuant to this
 14 subsection, sixty-five percent shall be remitted to
 15 the treasurer of state for deposit in the general fund
 16 of the state. The remaining thirty-five percent shall
 17 be remitted to the county and deposited in the general
 18 fund of the county."
 19 5. Page 6, line 48, by striking the word
 20 "implement" and inserting the following:
 21 "implemented".
 22 6. Page 7, line 3, by striking the figure and
 23 word "357and" and inserting the following: "357-and".
 24 7. Page 7, line 11, by inserting after the word
 25 "procedures." the following: "This review shall be
 26 completed no later than January 1, 1993."
 27 8. Renumber as necessary.

By BEATTY of Warren

H-5854 FILED APRIL 9, 1992

*Adopted 4/14 (p. 1375)
 Lines 11 thru 18 placed 0/0 by 5884 (p. 1380)*

HOUSE FILE 2455

H-5860

- 1 Amend the Senate amendment, H-5818, to House File
2 2455, as amended, passed, and reprinted by the House,
3 as follows:
4 1. Page 2, by striking lines 7 through 13.
5 2. Page 2, by striking lines 17 through 19.
6 3. Page 2, by striking lines 33 through 35 and
7 inserting the following: "management."
8 4. Page 3, by striking lines 6 through 9 and
9 inserting the following: "of the department of
10 management."
11 5. By renumbering as necessary.

By GARMAN of Story

H-5860 FILED APRIL 10, 1992

Adopted 4/14 (p 1374)

HOUSE FILE 2455

H-5874

- 1 Amend the Senate amendment, H-5818, to House File
2 2455, as amended, passed, and reprinted by the House,
3 as follows:
4 1. Page 2, by striking lines 7 through 13 and
5 inserting the following:
6 "____". Page 6, line 20, by striking the figure
7 "3.50" and inserting the following: "4.00".
8 _____. Page 6, by inserting after line 20, the
9 following:
10 "It is the intent of the general assembly that the
11 state foster care review board continue to conduct
12 business on a voluntary basis. If the appropriation
13 made in this subsection is not sufficient to fund an
14 administrator for the state board, personnel in the
15 sixth judicial district shall provide administrative
16 assistance to the state board. The funds appropriated
17 for the foster care program shall be used first to
18 fully fund the program in the sixth judicial district
19 and second to implement local board reviews in the
20 eighth judicial district."
21 2. Renumber as necessary.

By BEATTY of Warren

H-5874 FILED APRIL 13, 1992

Adopted 4/14 (p 1376)

HOUSE FILE 2455

H-5878

- 1 Amend the Senate amendment, H-5818, to House File
2 2455, as amended, passed, and reprinted by the House,
3 as follows:
4 1. Page 6, by inserting after line 48 the
5 following:
6 "Sec. _____. Sections 123.24 and 123.53, section
7 455C.2, subsection 1, and section 455C.3, subsection
8 5, as amended in this Act, take effect September 1,
9 1992."
10 2. Page 7, line 4, by striking the word "July"
11 and inserting the following: "~~July~~ September".

By MERTZ of Kossuth
CONNORS of Polk

H-5878 FILED APRIL 13, 1992

Adopted 4/14 (p 1381)

HOUSE FILE 2455

H-5884

1 Amend the Senate amendment, H-5818, to House File
2 2455, as amended, passed, and reprinted by the House,
3 as follows:

4 1. Page 4, by inserting after line 16 the follow-
5 ing:

6 "_____. Page 18, by inserting after line 15 the
7 following:

8 "Sec. _____. Section 331.756, subsection 5, Code
9 1991, is amended to read as follows:

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

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

35 Before a county attorney designates another county
36 official or agency to assist with collection of debts,
37 revenues, moneys, fines, penalties, restitution of
38 court-appointed attorney fees or expense of a public
39 defender, and forfeitures, the board of supervisors of
40 the county must approve the designation.
41 Notwithstanding the disposition provisions of sections
42 602.8106 and 911.3, the county may retain up to
43 thirty-five percent of all moneys collected, excluding
44 amounts collected for victim restitution, as
45 compensation for collection services. The county
46 attorney shall enter on the appropriate record of the
47 clerk of the district court an indication of the
48 satisfaction of each obligation, including the amount
49 retained by the county for collection services and not
50 paid into the office of the clerk."

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1 2. By striking page 4, line 19, through page 6,
2 line 16, and inserting the following:
3 "Sec. ____ . Section 331.756, Code 1991, is amended
4 by adding the following new subsections:
5 NEW SUBSECTION. 64A. Assist the department of
6 revenue and finance in the implementation of the
7 setoff under section 421.17, subsection 25, in regard
8 to moneys owed to the state.
9 NEW SUBSECTION. 64B. Make a written report to the
10 department of inspections and appeals within fifteen
11 days of the end of each calendar quarter of the amount
12 of funds which were owed to the state for indigent
13 defense services and which were recouped pursuant to
14 subsection 5 or 64A.
15 Sec. ____ . Section 421.17, subsection 25, Code
16 Supplement 1991, is amended to read as follows:
17 25. To establish and maintain a procedure to set
18 off against a debtor's income tax refund or rebate any
19 debt which is in the form of a liquidated sum due,
20 owing, and payable ~~to the clerk of the district court~~
21 as a criminal fine, civil penalty, surcharge, or court
22 costs, or restitution of attorney fees incurred as a
23 result of services provided under chapters 13B and
24 315, and section 232.141. The procedure shall meet
25 the following conditions:
26 a. Before setoff all outstanding tax liabilities
27 collectible by the department shall be satisfied
28 except that no portion of a refund or rebate shall be
29 credited against tax liabilities which are not yet
30 due.
31 b. Before setoff the ~~clerk of the district court~~
32 county attorney shall obtain and forward to the
33 department the full name and social security number of
34 the debtor. The department shall cooperate in the
35 exchange of relevant information with the ~~clerk~~ county
36 attorney. However, only relevant information required
37 by the ~~clerk~~ county attorney shall be provided by the
38 department. The information shall be held in
39 confidence and shall be used for purposes of setoff
40 only.
41 c. The ~~clerk shall, at least quarterly and monthly~~
42 if practicable, county attorney, on the first day of
43 February and August of each calendar year, shall
44 submit to the department for setoff the debts
45 described in this subsection, which are at least fifty
46 dollars.
47 d. Upon submission of a claim the department shall
48 notify the ~~clerk~~ county attorney if the debtor is
49 entitled to a refund or rebate and of the amount of
50 the refund or rebate and the debtor's address on the

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1 income tax return.

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

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

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

41 3. Page 6, by striking lines 17 through 20 and
42 inserting the following:

43 "____. Page 22, by striking lines 23 through 25
44 and inserting the following: "a ~~clerk-of-the-district~~
45 court county attorney under subsection 25, and last
46 priority shall be given"."

47 4. Page 6, by inserting after line 48 the fol-
48 lowing:

49 "Sec. ____ . Section 910.2, Code 1991, is amended to
50 read as follows:

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1 910.2 RESTITUTION OR COMMUNITY SERVICE TO BE
2 ORDERED BY SENTENCING COURT.

3 In all criminal cases except simple misdemeanors
4 under chapter 321, in which there is a plea of guilty,
5 verdict of guilty, or special verdict upon which a
6 judgment of conviction is rendered, the sentencing
7 court shall order that restitution be made by each
8 offender to the victims of the offender's criminal
9 activities and, ~~if the court so orders and~~ to the
10 extent that the offender is reasonably able to do so
11 pay, for crime victim assistance reimbursement, court
12 costs, court-appointed attorney's fees or the expense
13 of a public defender when applicable. However,
14 victims shall be paid in full before restitution is
15 paid for crime victim assistance reimbursement, court
16 costs, court-appointed attorney's fees or for the
17 expense of a public defender. In structuring a plan
18 of restitution, the court shall provide for payments
19 in the following order of priority: victim, crime
20 victim assistance reimbursement, court costs, and
21 court-appointed attorney's fees or the expense of a
22 public defender. When the offender is not reasonably
23 able to pay all or a part of the crime victim
24 assistance reimbursement, court costs, court-appointed
25 attorney's fees or the expense of a public defender,
26 the court may require the offender in lieu of that
27 portion of the crime victim assistance reimbursement,
28 court costs, court-appointed attorney's fees, or
29 expense of a public defender for which the offender is
30 not reasonably able to pay, to perform a needed public
31 service for a governmental agency or for a private,
32 nonprofit agency which provides a service to the
33 youth, elderly or poor of the community. When
34 community service is ordered, the court shall set a
35 specific number of hours of service to be performed by
36 the offender. The judicial district department of
37 correctional services shall provide for the assignment
38 of the offender to a public agency or private
39 nonprofit agency to perform the required service.

40 Sec. ____ . NEW SECTION. 910.7A JUDGMENT -- EN-
41 FORCEMENT.

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

48 2. A judgment of restitution may be enforced by
49 the state, a victim entitled under the order to
50 receive restitution, a deceased victim's estate, or

1 any other beneficiary of the judgment in the same
2 manner as a civil judgment."

3 5. Renumber as necessary.

By BEATTY of Warren

HOUSE AMENDMENT TO SENATE AMENDMENT TO
HOUSE FILE 2455

S-5685

- 1 Amend the Senate amendment, H-5818, to House File
2 2455, as amended, passed, and reprinted by the House,
3 as follows:
- 4 1. Page 1, by striking lines 3 through 23.
5 2. Page 1, by striking lines 30 through 36, and
6 inserting the following: "be surveyed during the
7 fiscal year shall contribute forty percent of the cost
8 of completing the community surveys."
9 3. Page 1, line 41, by striking the words "the
10 assessment of".
11 4. Page 2, by striking lines 7 through 13 and
12 inserting the following:
13 "_____. Page 6, line 20, by striking the figure
14 "3.50" and inserting the following: "4.00".
15 _____. Page 6, by inserting after line 20, the
16 following:
17 "It is the intent of the general assembly that the
18 state foster care review board continue to conduct
19 business on a voluntary basis. If the appropriation
20 made in this subsection is not sufficient to fund an
21 administrator for the state board, personnel in the
22 sixth judicial district shall provide administrative
23 assistance to the state board. The funds appropriated
24 for the foster care program shall be used first to
25 fully fund the program in the sixth judicial district
26 and second to implement local board reviews in the
27 eighth judicial district.""
28 5. Page 4, by inserting after line 16 the follow-
29 ing:
30 "_____. Page 18, by inserting after line 15 the
31 following:
32 "Sec. _____. Section 331.756, subsection 5, Code
33 1991, is amended to read as follows:
34 5. Enforce all forfeited bonds and recognizances
35 and prosecute all proceedings necessary for the
36 recovery of debts, revenues, moneys, fines, penalties,
37 restitution of court-appointed attorney fees or
38 expense of a public defender, and forfeitures accruing
39 to the state or the county or to a school district or
40 road district in the county, and all suits in the
41 county against public service corporations which are
42 brought in the name of the state. To assist in this
43 duty, the county attorney may procure professional
44 collection services provided by persons or
45 organizations which are generally considered to have
46 knowledge and special abilities which are not
47 generally available to state or local government or
48 may designate another county official or agency to
49 assist with collection efforts.
50 If professional collection services are procured,

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1 the county attorney shall enter on the appropriate
2 record of the clerk of the district court an
3 indication of the satisfaction of each obligation to
4 the full extent of all moneys collected in
5 satisfaction of that obligation, including all fees
6 and compensation retained by the collection service
7 incident to the collection and not paid into the
8 office of the clerk.

9 Before a county attorney designates another county
10 official or agency to assist with collection of debts,
11 revenues, moneys, fines, penalties, restitution of
12 court-appointed attorney fees or expense of a public
13 defender, and forfeitures, the board of supervisors of
14 the county must approve the designation.

15 Notwithstanding the disposition provisions of sections
16 602.8106 and 911.3, the county may retain up to
17 thirty-five percent of all moneys collected, excluding
18 amounts collected for victim restitution, as
19 compensation for collection services. The county
20 attorney shall enter on the appropriate record of the
21 clerk of the district court an indication of the
22 satisfaction of each obligation, including the amount
23 retained by the county for collection services and not
24 paid into the office of the clerk."

25 6. By striking page 4, line 19, through page 6,
26 line 16, and inserting the following:

27 ""Sec. ____ . Section 331.756, Code 1991, is amended
28 by adding the following new subsections:

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

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

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

41 25. To establish and maintain a procedure to set
42 off against a debtor's income tax refund or rebate any
43 debt which is in the form of a liquidated sum due,
44 owing, and payable ~~to the clerk of the district court~~
45 as a criminal fine, civil penalty, surcharge, or court
46 costs, or restitution of attorney fees incurred as a
47 result of services provided under chapters 13B and
48 815, and section 232.141. The procedure shall meet
49 the following conditions:

50 a. Before setoff all outstanding tax liabilities

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1 collectible by the department shall be satisfied
2 except that no portion of a refund or rebate shall be
3 credited against tax liabilities which are not yet
4 due.

5 b. ~~Before setoff the clerk of the district court~~
6 county attorney shall obtain and forward to the
7 department the full name and social security number of
8 the debtor. The department shall cooperate in the
9 exchange of relevant information with the clerk county
10 attorney. However, only relevant information required
11 by the clerk county attorney shall be provided by the
12 department. The information shall be held in
13 confidence and shall be used for purposes of setoff
14 only.

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

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

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

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

50 g. The department shall, after notice has been

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1 sent to the debtor by the clerk county attorney, set
2 off the debt against the debtor's income tax refund or
3 rebate. The department shall transfer at least
4 ~~quarterly and monthly if practicable, sixty-five~~
5 percent of the amount set off to the clerk treasurer
6 of state for deposit in the general fund of the state.
7 ~~The remaining thirty-five percent shall be remitted to~~
8 ~~the county and deposited in the general fund of the~~
9 ~~county.~~ If the debtor gives timely written notice of
10 intent to contest the amount of the claim, the
11 department shall hold the refund or rebate until final
12 determination of the correct amount of the claim. The
13 clerk county attorney shall notify the debtor in
14 writing upon completion of setoff."

15 7. Page 6, by striking lines 17 through 20 and
16 inserting the following:

17 " . Page 22, by striking lines 23 through 25
18 and inserting the following: "a clerk-of-the-district
19 court county attorney under subsection 25, and last
20 priority shall be given"."

21 8. Page 6, line 48, by striking the word
22 "implement" and inserting the following:
23 "implemented".

24 9. Page 6, by inserting after line 48 the fol-
25 lowing:

26 "Sec. . Section 910.2, Code 1991, is amended to
27 read as follows:

28 910.2 RESTITUTION OR COMMUNITY SERVICE TO BE
29 ORDERED BY SENTENCING COURT.

30 In all criminal cases except simple misdemeanors
31 under chapter 321, in which there is a plea of guilty,
32 verdict of guilty, or special verdict upon which a
33 judgment of conviction is rendered, the sentencing
34 court shall order that restitution be made by each
35 offender to the victims of the offender's criminal
36 activities and, ~~if the court so orders and~~ to the
37 extent that the offender is reasonably able to ~~do so~~
38 pay, for crime victim assistance reimbursement, court
39 costs, court-appointed attorney's fees or the expense
40 of a public defender when applicable. However,
41 victims shall be paid in full before restitution is
42 paid for crime victim assistance reimbursement, court
43 costs, court-appointed attorney's fees or for the
44 expense of a public defender. In structuring a plan
45 of restitution, the court shall provide for payments
46 in the following order of priority: victim, crime
47 victim assistance reimbursement, court costs, and
48 court-appointed attorney's fees or the expense of a
49 public defender. When the offender is not reasonably
50 able to pay all or a part of the crime victim

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1 assistance reimbursement, court costs, court-appointed
2 attorney's fees or the expense of a public defender,
3 the court may require the offender in lieu of that
4 portion of the crime victim assistance reimbursement,
5 court costs, court-appointed attorney's fees, or
6 expense of a public defender for which the offender is
7 not reasonably able to pay, to perform a needed public
8 service for a governmental agency or for a private,
9 nonprofit agency which provides a service to the
10 youth, elderly or poor of the community. When
11 community service is ordered, the court shall set a
12 specific number of hours of service to be performed by
13 the offender. The judicial district department of
14 correctional services shall provide for the assignment
15 of the offender to a public agency or private
16 nonprofit agency to perform the required service.

17 Sec. ____ . NEW SECTION. 910.7A JUDGMENT -- EN-
18 FORCEMENT.

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

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

30 10. Page 6, by inserting after line 48 the
31 following:

32 "Sec. ____ . Sections 123.24 and 123.53, section
33 455C.2, subsection 1, and section 455C.3, subsection
34 5, as amended in this Act, take effect September 1,
35 1992."

36 11. Page 7, line 3, by striking the figure and
37 word "35, and" and inserting the following: "35, -and".

38 12. Page 7, line 4, by striking the word "July"
39 and inserting the following: "July September".

40 13. Page 7, line 11, by inserting after the word
41 "procedures." the following: "This review shall be
42 completed no later than January 1, 1993."

43 14. By renumbering, relettering, or redesignating
44 and correcting internal references as necessary.

RECEIVED FROM THE HOUSE

S-5685 FILED APRIL 14, 1992

CONCURRED (p. 1401)

1,4,11,15,41



OFFICE OF THE GOVERNOR

STATE CAPITOL

DES MOINES, IOWA 50319

515 281-5211

TERRY E BRANSTAD
GOVERNOR

June 3, 1992

The Honorable Elaine Baxter
Secretary of State
State Capitol Building
L O C A L

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.

The Honorable Elaine Baxter
June 3, 1992
Page 2

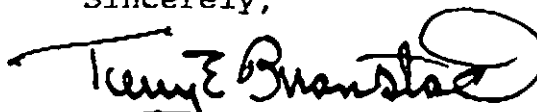
I am unable to approve the items designated as Section 11, subsection 4, unnumbered and unlettered paragraph 2, and Section 11, subsection 5, unnumbered and unlettered paragraph 2, in their entirety. These provisions would permit the Banking and Credit Union Divisions of the Department of Commerce to 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

TEB/ps

cc: Secretary of the Senate
Chief Clerk of the House

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.

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
..... PTEs 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
..... PTEs 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
..... PTEs 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.

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

= Vetoed

..... 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.

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

= Vetoed

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
..... PTEs 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
..... PTEs 24.00

4. INVESTIGATIONS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:
..... \$ 458,808
..... PTEs 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
..... PTEs 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
..... PTEs 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, 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

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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 reimbursable 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

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:

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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:

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

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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-223r37-subsection-87-by-holders-of-class-"A", "B", "C", and "D"-liquor-control-licenses7-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

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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.

ROBERT C. ARNOULD
Speaker of the House

MICHAEL E. GRONSTAL
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2455, Seventy-fourth General Assembly.

Sten Vetroed
Approved June 3, 1992

JOSEPH O'HERN
Chief Clerk of the House

TERRY E. BRANSTAD
Governor