

MAR 18 1997
Place On Calendar

4/3/97 Unfinished Business Calendar
4/29/97 Referred to Judiciary Comm.
3/2/97 Do Pass

HOUSE FILE **663**
BY COMMITTEE ON JUDICIARY

3/24/98 Rereferred To: Judiciary
(SUCCESSOR TO HSB 226)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the disposition of property forfeited to the
2 state.

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

- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23

HF 663

1 Section 1. Section 809A.17, Code 1997, is amended to read
2 as follows:

3 809A.17 ALLOCATION OF FORFEITED PROPERTY.

4 1. A person having control over forfeited property shall
5 communicate that fact to the attorney general or the attorney
6 general's designee.

7 2. Forfeited property not needed as evidence in a criminal
8 case shall be delivered to the department of justice ~~or upon~~
9 ~~written authorization of the attorney general or the attorney~~
10 ~~general's designee, the property may be~~ and destroyed, sold,
11 ~~or delivered to an appropriate agency for disposal in~~
12 ~~accordance with this section~~ or otherwise shall be sold.

13 Ninety percent of the proceeds from any sale of forfeited
14 property shall be remitted to the law enforcement agency which
15 originally seized the property, and the remaining ten percent
16 of the sale proceeds shall be deposited in the general fund of
17 the state.

18 ~~3. Forfeited property may be used by the department of~~
19 ~~justice in the enforcement of the criminal law. The~~
20 ~~department may give, sell, or trade property to any other~~
21 ~~state agency or to any other law enforcement agency within the~~
22 ~~state if, in the opinion of the attorney general, it will~~
23 ~~enhance law enforcement within the state.~~

24 ~~4. Forfeited property which is not used by the department~~
25 ~~of justice in the enforcement of the law may be requisitioned~~
26 ~~by the department of public safety or any law enforcement~~
27 ~~agency within the state for use in enforcing the criminal laws~~
28 ~~of this state. Forfeited property not requisitioned may be~~
29 ~~delivered to the director of the department of general~~
30 ~~services to be disposed of in the same manner as property~~
31 ~~received pursuant to section 18-15.~~

32 5. 3. Notwithstanding subsection subsections 1 and 2, 3
33 ~~or 4~~, the following apply:

34 a. Forfeited property which is a controlled substance or a
35 simulated, counterfeit, or imitation controlled substance

1 shall be disposed of as provided in section 124.506.

2 b. Forfeited property which is a weapon or ammunition
3 shall be deposited with the department of public safety to be
4 disposed of in accordance with the rules of the department.
5 All weapons or ammunition may be held for use in law
6 enforcement, testing, or comparison by the criminalistics
7 laboratory, or destroyed. Ammunition and firearms which are
8 not illegal and are not offensive weapons as defined by
9 section 724.1 may be sold by the department as provided in
10 section 809.21.

11 c. Material in violation of chapter 728 shall be
12 destroyed.

13 d. Property subject to the rules of the natural resource
14 commission shall be delivered to that commission for disposal
15 in accordance with its rules.

16 EXPLANATION

17 This bill amends Code section 809A.17 to provide that
18 property forfeited to the state shall be destroyed, or
19 otherwise shall be sold. If the property is sold, 90 percent
20 of the sale proceeds shall be remitted to the law enforcement
21 agency that originally seized the property, and the remainder
22 of the proceeds shall be deposited in the general fund of the
23 state.

24
25
26
27
28
29
30
31
32
33
34
35

HOUSE FILE 663

H-8525

1 Amend House File 663 as follows:

2 1. Page 1, by inserting before line 1 the
3 following:

4 "Section 1. NEW SECTION. 13.40 LAW ENFORCEMENT
5 FUND.

6 A law enforcement fund is established as a separate
7 fund in the state treasury under the control of the
8 department. Moneys deposited in the fund are
9 appropriated and shall be dedicated and used by the
10 department for the purpose of preventing and
11 investigating crime and enhancing law enforcement
12 within the state. The moneys shall be awarded to Iowa
13 law enforcement agencies through a competitive grant
14 process. The department shall adopt rules pursuant to
15 chapter 17A pertaining to establishment and operation
16 of the grant system and process."

17 2. Page 1, by striking lines 13 through 17 and
18 inserting the following: "Any forfeited property sold
19 pursuant to this subsection shall be sold at public
20 auction, and the proceeds deposited in the fund
21 established in section 13.40."

22 3. By renumbering as necessary.

By HOLVECK of Polk

H-8525 FILED MARCH 19, 1998

HOUSE FILE 663

H-8526

1 Amend House File 663 as follows:

2 1. Page 1, by striking lines 13 through 17 and
3 inserting the following: "Any forfeited property sold
4 pursuant to this subsection shall be sold at public
5 auction."

By HOLVECK of Polk

H-8526 FILED MARCH 19, 1998

H-1601

- 1 Amend the amendment, H-1492, to House File 663, as
 2 follows:
 3 1. Page 1, by inserting before line 2 the
 4 following:
 5 "____. Page 1, line 14, by striking the word
 6 "agency" and inserting the following: "agency,
 7 agencies, or task force".
 8 2. By renumbering as necessary.

By LAMBERTI of Polk

H-1601 FILED APRIL 8, 1997

HOUSE FILE 663

H-1492

- 1 Amend House File 663 as follows:
 2 1. Page 1, by striking lines 16 and 17, and
 3 inserting the following: "of the sale proceeds shall
 4 be retained by the department of justice for the
 5 enforcement of the criminal law by the attorney
 6 general."
 7 2. Page 1, by striking lines 18 through 23, and
 8 inserting the following:
 9 "~~3. Forfeited property may be used by the~~
 10 ~~department of justice in the enforcement of the~~
 11 ~~criminal law. The department~~ A law enforcement agency
 12 may give, sell, or trade property to any other state
 13 agency or to any other law enforcement agency within
 14 the state if, in the opinion of the attorney general,
 15 it will enhance law enforcement within the state."
 16 3. Page 1, by striking line 32 and inserting the
 17 following:
 18 "~~5.~~ 4. Notwithstanding subsection subsections 1,
 19 2, and 3,".
 20 4. By renumbering as necessary.

By LAMBERTI of Polk

H-1492 FILED APRIL 1, 1997

**HOUSE FILE 663
FISCAL NOTE**

A fiscal note for **House File 663** is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

House File 663 amends the provisions regarding forfeited property disposition. The Bill requires the Department of Justice to either destroy or sell forfeited property. The Bill requires proceeds from the sale of the property to be remitted 90.0% to the law enforcement agency that originally seized the property and the remaining 10.0% to be deposited in the State General Fund.

BACKGROUND

Currently, local law enforcement agencies dispose of seized property. The Department of Justice then receives 10.0% of seized cash forfeitures and \$100 per car title processed.

ASSUMPTIONS

1. Sales value of forfeited vehicles will remain constant at the 1997 level of \$2,000 per vehicle with an average of 134 vehicles being seized during each of the previous two years. An average of 14 of these are currently retained by the seizing law enforcement agency and may affect the average value of the sold vehicles.
2. Forfeited miscellaneous personal property will remain constant at an average of \$300 per year per seizing law enforcement agency.
3. Forfeited real property will remain constant at an average net value of \$40,000 per parcel per year.
4. The Department of Justice will receive no deposits in the Forfeiture Fund for car title processing or 10.0% of the cash forfeitures.
5. Cash forfeitures remain constant at \$1.0 million per year. The Department of Justice would adopt administrative rules to distribute cash forfeitures as if it were receipts of forfeited property.
6. The Department of Justice will expend \$80,000 for a supervisor and a secretary to manage the forfeited property activities.
7. The Department of Justice will expend \$76,200 for the storage, transportation, and sale of forfeited property and real estate.

FISCAL IMPACT

House File 663 is expected to increase revenues to the State General Fund by approximately \$140,000 annually. The Bill would increase State General Fund expenditures for the Department of Justice by \$156,000 annually. Revenues to the seizing law enforcement agencies will remain constant. Revenues to the Forfeiture Fund in the Department of Justice would decrease by \$120,000 annually.

-2-

SOURCES

Department of General Services
Department of Justice
Department of Public Safety

(LSB 2085hv, DHK)

FILED MARCH 12, 1998

BY DENNIS PROUTY, FISCAL DIRECTOR

HSB 226

Lamberti, Chs.
Densla
Holbeck

JUDICIARY

Succeeded By

HOUSE FILE SF/HR 663

BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY CHAIR-
PERSON LAMBERTI)

Passed House, Date _____ Passed Senate, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to the disposition of property forfeited to the
2 state.

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

- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23

1 Section 1. Section 809A.17, Code 1997, is amended to read
2 as follows:

3 809A.17 ALLOCATION OF FORFEITED PROPERTY.

4 1. A person having control over forfeited property shall
5 communicate that fact to the attorney general or the attorney
6 general's designee.

7 2. Forfeited property not needed as evidence in a criminal
8 case shall be delivered to the department of justice, ~~or~~ upon
9 ~~written authorization of the attorney general or the attorney~~
10 ~~general's designee, the property may be~~ and destroyed, sold,
11 ~~or delivered to an appropriate agency for disposal in~~
12 ~~accordance with this section or otherwise shall be sold.~~
13 Ninety percent of the proceeds from any sale of forfeited
14 property shall be remitted to the law enforcement agency which
15 originally seized the property, and the remaining ten percent
16 of the sale proceeds shall be deposited in the general fund of
17 the state.

18 ~~3.--Forfeited property may be used by the department of~~
19 ~~justice in the enforcement of the criminal law.--The~~
20 ~~department may give, sell, or trade property to any other~~
21 ~~state agency or to any other law enforcement agency within the~~
22 ~~state if, in the opinion of the attorney general, it will~~
23 ~~enhance law enforcement within the state.~~

24 ~~4.--Forfeited property which is not used by the department~~
25 ~~of justice in the enforcement of the law may be requisitioned~~
26 ~~by the department of public safety or any law enforcement~~
27 ~~agency within the state for use in enforcing the criminal laws~~
28 ~~of this state.--Forfeited property not requisitioned may be~~
29 ~~delivered to the director of the department of general~~
30 ~~services to be disposed of in the same manner as property~~
31 ~~received pursuant to section 18-15.~~

32 5: 3. Notwithstanding subsection subsections 17 and 2, 3,
33 ~~or~~ 4, the following apply:

34 a. Forfeited property which is a controlled substance or a
35 simulated, counterfeit, or imitation controlled substance

1 shall be disposed of as provided in section 124.506.

2 b. Forfeited property which is a weapon or ammunition
3 shall be deposited with the department of public safety to be
4 disposed of in accordance with the rules of the department.
5 All weapons or ammunition may be held for use in law
6 enforcement, testing, or comparison by the criminalistics
7 laboratory, or destroyed. Ammunition and firearms which are
8 not illegal and are not offensive weapons as defined by
9 section 724.1 may be sold by the department as provided in
10 section 809.21.

11 c. Material in violation of chapter 728 shall be
12 destroyed.

13 d. Property subject to the rules of the natural resource
14 commission shall be delivered to that commission for disposal
15 in accordance with its rules.

16 EXPLANATION

17 This bill amends Code section 809A.17 to provide that
18 property forfeited to the state shall be destroyed, or
19 otherwise shall be sold. If the property is sold, 90 percent
20 of the sale proceeds shall be remitted to the law enforcement
21 agency that originally seized the property, and the remainder
22 of the proceeds shall be deposited in the general fund of the
23 state.

24
25
26
27
28
29
30
31
32
33
34
35