


Memorandum

To: Joint Administration and Regulation Appropriations Subcommittee

From: Kevin W. Techau, Director, Inspections and Appeals 

Date: 02/16/01

Re: Potential 5% Budget Cut for Iowa Department of Inspections and Appeals Fiscal Year 2001

As part of my budget presentation to the subcommittee last month, I included a list of programs administered by the Department of Inspections and Appeals (DIA). The programs administered by DIA have been established by the Iowa Code as well as federal laws and regulation. As I explained, since a substantial amount of DIA's budget is built around federal dollars, DIA is also required to comply with federal standards and laws. The statutory provision governing DIA is Iowa Code Chapter 10A. The following is an overview of DIA's regulatory and program responsibilities.

HEALTH FACILITIES DIVISION

The Health Facilities Division is responsible for inspection and licensure of all Chapter 135C health care facilities in Iowa (e.g., Nursing Facilities, Residential Care Facilities, Intermediate Care Facilities for Persons with Mental Retardation, etc). Also, under state law the Division is responsible for the inspection and licensure of Hospitals (135B), Birth Centers (135G),

Hospices (135J) and Psychiatric Medical Institutes for Children (135H). In addition, through contract with the Health Care Financing Administration (HCFA) inspections are conducted of various Medicare/Medicaid entities (e.g., Skilled Nursing Facilities, Home Health Agencies, Ambulatory Surgical Centers, CLIA labs, etc). Titles 18 (Medicare) and 19 (Medicaid) of the Social Security Act and Title 42, Code of Federal Regulations govern these inspections. Complaints of substandard care or services in the entities licensed are also investigated under federal and state law requirements. Under contract with the Department of Human Services, the Division conducts inspections of child foster care facilities, private institutions for the care of dependent, neglected, and delinquent children and child placing agencies (232, 237, 238, 600).

The Division is funded with 73% federal funds and 27% state funds. For every \$1 state dollar reduced in federal programs, the Division will lose \$3 federal dollars.

INSPECTIONS DIVISION

The Inspections Division's Food and Consumer Safety Bureau regulates, inspects and licenses food-related establishments and food processing plants (137F), home food establishments (137D), hotels and motels (137C), egg handlers (196), and games of skill and chance (99B). Inspectors also check

beauty and barber shops (157 and 158), for licensing boards under Department of Health.

The Division's Social and Charitable Gambling Unit regulates and licenses all games of skill and chance, bingo operations, raffles, and social gambling activities in the state under Chapter 99B. Examples include amusement games, contests, casino nights, and commercial promotions.

INVESTIGATIONS DIVISION

The Investigations Division investigates alleged fraud in the state's public assistance programs (239B, 249, 249A, 249F, Titles 7, 42, and 45 Code of Federal Regulations, Title IV-A Social Security Act), including the theft of warrants, investigates Medicaid fraud (249A) by health care providers, and conducts professional practice investigations on behalf of state licensing boards (147). Through a review of applications for public assistance, the Division can prevent the issuance of funds to ineligible individuals. In addition, when individuals fraudulently receive public assistance, the Division initiates recovery actions to recoup the overpayments.

Staff in the Medicaid Fraud Control Unit conducts investigations of alleged abuse and neglect of residents in long-term care facilities that receive Medicaid reimbursements from the federal government. Investigators also

look into allegations that residents have been defrauded of personal funds or possessions.

When abuse or fraud is substantiated, the Division works with local law enforcement officials to bring the offenders to trial. When Medicaid fraud is suspected, DIA often works side-by-side with investigators from the Federal Bureau of Investigation, the U.S. Postal Service, as well as other state and federal law enforcement agencies.

The Division, with the exception of the Medicaid Fraud Control Unit, is funded with 50% federal funds and 50% state funds. For every \$1 state dollar reduced, the Division will lose \$1 federal dollar. The Medicaid Fraud Control Unit is funded with 75% federal funds and 25% state funds. For every \$1 state dollar reduced, the Division will lose \$3 in federal funds.

ADMINISTRATIVE HEARINGS DIVISION

The Administrative Hearings Division conducts quasi-judicial contested case hearings involving Iowans who disagree with a ruling issued by a state government agency (10A.801, 17A). Nearly two-thirds of all administrative hearings involve Iowans who have had their driver's licenses revoked or suspended by the Department of Transportation. Administrative law judges (ALJs) listen to evidence provided by departments and individuals regarding

actions taken by the agency. After a thorough review of the information, the ALJs issue a proposed decision. The decision is subject to final review by the director of the agency involved in the hearing and subject to judicial review.

ALJs conduct hearings for the departments of:

- Agriculture and Land Stewardship
- Commerce
- Cultural Affairs
- Education
- Elder Affairs
- General Services
- Human Rights
- Human Services (Titles 7, 42, 45 and 20 Code of Federal Regulations and Title IV-A of the Social Security Act)
- Inspections and Appeals
- Justice
- Natural Resources
- Personnel
- Public Health
- Public Safety
- Transportation
- Workforce Development

Contested case hearings are also conducted for the Board of Regents, Civil Rights Commission, Iowa College Student Aid Commission, Iowa Law Enforcement Academy, and the Iowa medical, dental, nursing and pharmacy boards. Over 9,000 contested administrative hearings are held annually.

For hearings conducted for the Department of Human Services, the Division is funded with 50% federal funds and 50% state funds. For every \$1 state

dollar reduced, the Division will lose \$1 federal dollar. The remainder of the Division is funded by state funds and road use tax funds.

AUDITS DIVISION

The Audits Division is responsible for performing audits relating to the administration of health care facilities and the disbursement of state supplemental assistance and medical assistance funds (249, 249A, Titles 42 and 45 Code of Federal Regulations). The Division also certifies Iowa businesses owned by females, minorities, and persons with disabilities for participation in the Targeted Small Business Certification Program (10A, 73).

Division employees perform expenditure audits of local Department of Human Services offices (Titles 7, 42, and 45 Code of Federal Regulations) to determine eligibility for federal fund reimbursement for operating expenses. These audits also ensure compliance with applicable state and federal funding requirements.

When conducting health care audits at residential care facilities, nursing facilities, and residential and intermediate care facilities for the mentally retarded, DIA auditors protect residents by assuring them that their personal funds are being properly maintained. Audit findings are used to determine

whether Medicaid reimbursement procedures meet all participation requirements.

The Division is funded with 25% federal funds and 75% state funds. For every \$3 state dollars reduced, the Division will lose \$1 federal dollars. For health care facility audits, the Division is funded with 50% federal funds and 50% state funds. For every \$1 state dollar reduced, the Division will lose \$1 federal dollar.

ADMINISTRATION DIVISION

centralized support services for the entire Department are coordinated by and through the Administration Division (10A). Staff attached to the Director's Office in the Administration Division oversees all strategic planning, legislative affairs, administrative rule making, personnel, and public information activities for the Department.

The Administrative Services Bureau provides department wide support services in the areas of mail, personnel, purchasing, inventory control, vehicle fleet maintenance, records and forms management, and facility management.

The Fiscal Services Bureau is responsible for centralized budgeting and financial services. Personnel in the Bureau also process payroll and claims, including claims made against the state's Indigent Defense Fund. Analysis and record keeping activities within the Bureau assure that departmental expenditures are consistent with state and federal laws.

The Division is funded with appropriated state dollars and with indirect funds (including federal dollars) charged to the various divisions of the department at rates pre-approved by the Federal Department of Health and Human Services. As the department loses federal funds, the Division will lose proportional federal funds.

EMPLOYMENT APPEAL BOARD

The three-member Employment Appeal Board (10A.601) is appointed by the Governor and serves as the final administrative law forum for state and federal unemployment benefit appeals (96; Title 42 Social Security Act).

The Board also hears appeals of rulings of the Occupational Safety and Health Administration (OSHA) (88), rulings of the Iowa Department of Personnel (IDOP) on state employee job classifications (19A), and rulings of the Iowa Public Employees Retirement System (IPERS) (97B). The three members of the Board are appointed to represent employers, employees and the general public.

In addition to unemployment cases, the Board hears appeals involving peace officer issues (80), elevator rule violations (89A), and contractor registration requirements (91C). The Board is funded with 100% federal funds for unemployment insurance appeals. For OSHA reviews, the Board is funded with 50% state funds and 50% federal funds. Under OSHA for every \$1 state dollar reduced, the Division will lose \$1 federal dollar.

IOWA CITIZEN FOSTER CARE REVIEW BOARD

The Iowa Citizen Foster Care Review Board, appointed by the Governor, works to ensure that Iowa's foster children are well cared for and that the system designed to meet their needs is doing so in the most effective manner possible. The Board oversees all agency programs including local review boards and the Foster Care Registry (237; Title 45 Code of Federal Regulations). The Registry is a computerized listing of Iowa children in foster care.

The Board is responsible for making recommendations to the Governor, Legislature, Supreme Court, and chief judge of each judicial district, Department of Human Services, and child-placing agencies on ways to improve the delivery of foster care services. Members also submit recommendations on how to remove barriers that prevent the delivery of top-quality foster care.

The Board receives 50% state dollars and 50% federal dollars for local review board activities. For every \$1 state dollar reduced, the Board will lose \$1 federal dollar.

IOWA RACING AND GAMING COMMISSION

The Iowa Racing and Gaming Commission regulates the pari-mutuel dog and horse racing (99D) and riverboat gambling (99F) industries in Iowa. The Commission, whose members are appointed by the Governor, seeks to preserve the integrity of these industries and to maintain confidence in the industries by protecting the public. In performing its duties, the Commission investigates the eligibility of applicants for a license and selects from among those the one who can best serve the citizens of Iowa.

The Commission adopts standards for the licensing of racing industry occupations, as well as standards for the operation of all race meetings and facilities. The Commission also adopts standards for the operation and licensing of excursion gambling boats.

CONCLUSION

The programs overseen by DIA are basic governmental responsibilities that the people of Iowa count on. Whether the issue is safe food, quality health care or ensuring through audits or fraud investigations that tax dollars are

spent according to the law, citizens care. The Iowa Code and federal law mandate DIA's regulatory obligations. Any proposed budget cuts would require a corresponding legislative change reducing the department's legislative and statutory obligations. Further complicating a review of proposed budget cuts is that DIA is operated fiscally with a blend of state and federal funds. A reduction of \$1 dollar in state funds in programs operated with federal and state funds will result in a reduction in federal funding of an additional dollar or more.

Cutting health care facility inspections in areas operated with only state funds would then create a two-tier and uneven level of enforcement between state-licensed and federally-certified facilities.

The cost benefit ratio for a DIA investigator is approximately 10 to 1, (for each dollar spent on an investigator, the state either collects, identifies for recovery or prevents the issuance of benefits in the amount of \$10.07).

Therefore, a reduction in DIA programs has the potential to have a multiplier budget effect if state funds in federal programs are cut. Uneven enforcement between state and federal licensed health facilities would result if only state program dollars are cut.

Unless legislation is enacted eliminating DIA administered programs or “capping services” in the programs administered by the department, DIA will be unable to administer these program responsibilities in compliance with state and federal legal requirements. To date, I have not heard one suggestion from a citizen of Iowa (nor an Iowa Legislator) that any program that DIA is responsible for administering should be scaled back or eliminated. In fact, the exact opposite is true; both legislators and citizens have acknowledged that additional resources are required in order for DIA to comply with current statutory obligations and legal standards.

The question for the Joint Administration and Regulation Appropriations Subcommittee in considering potential budget cuts at the 5% level is whether DIA will be allowed to administer programs in accordance with current laws or whether the Subcommittee will recommend legislative action to reduce the level of inspections in the food safety program, inspections for health care facilities, conducting fewer program audits and providing less welfare fraud enforcement, etc.

Since the consequences of curtailing DIA administered programs has the potential to dramatically affect the lives of Iowa citizens in terms of safety, quality of health care , food safety, due process of law, fraud enforcement and quality of life, I look to the committee for guidance in prioritizing these

obligations. In order to fairly and fully describe the impact of a 5% reduction in DIA's FY01 budget, please indicate which services the subcommittee would like DIA to reduce or eliminate.

Robinson, Ron

From: Heather Lindsay [Heather.Lindsay@dia.state.ia.us]
Sent: Wednesday, February 14, 2001 8:07 AM
To: rrobins@legis.state.ia.us
Cc: Jennifer Fiihr
Subject: Re: Federal Funds



TEXT.htm

Ron,

With the exception of Health Facilities with the car delivery/purchase problem we discussed previously, I don't believe we had any reversion at the end of FY2000. With the hit we took last year to FY2001 funding, I am having a real problem trying to figure out how we will make it through this year. We can't take another hit without getting rid of personnel. Our support costs are already cut to a minimum. What program (s) do you recommend we eliminate?

I don't know what you mean by documentation on the federal funds. We can't draw federal funds if we don't spend the state match when there is one required. The state auditor audits our appropriations and our federal funds under the single audit concept. I guess I need more information because I don't understand your request. If we have failed to spend federal funds, it is primarily because hiring and retaining qualified individuals is a challenge. We've had a lot of retirements in the last two years.

<rrobins@legis.state.ia.us> 02/13/01 05:09PM >>>

I note that the following divisions receive federal funds:

- * Administration Q61
- * Investigations Q64
- * Health Facilities Q65
- * Inspections Q66

From your presentation last year, it is my understanding that only Investigations and Health Facilities would have to give back federal funds should the General Fund Appropriation be reduced. Please let me know if this is true. Also, I note that over the past couple of years the two divisions have not expended all of the funds available to the divisions. Do you have documentation to support the return of federal funds to the federal government?

Ron N. Robinson
Legislative Analyst
Iowa Legislative Fiscal Bureau
(515) 281-6256
(515) 281-6625 (fax)

Heather J. Lindsay, Fiscal Services Bureau Chief
Inspections and Appeals
281-3467
EMail :hlindsay@dia.state.ia.us

Robinson, Ron

From: Heather Lindsay [Heather.Lindsay@dia.state.ia.us]
Sent: Wednesday, February 14, 2001 3:47 PM
To: rrobins@legis.state.ia.us
Cc: Jennifer Fihhr; Kevin Techau
Subject: Re: FW: Admin. and Reg Request FY 2001



TEXT.htm

The following information is submitted in response to your inquiry relating to the Schedule 9's.:

If a position is vacant at the time the schedule 9 runs, the cost is not projected for the balance of the year. So if a position is vacant at the end of January, but filled the first of February, there will only be one pay period of savings, but the February 1 schedule 9 will project savings for the balance of the year.

FOSTER CARE REVIEW BOARD

: The "under budget" is being expended under contractual services since no additional FTE were authorized last year. Jerry Foxhoven is in the process of doing a significant evaluation and assessment of the operations. They have not hired permanent full-time FTE to allow flexibility for this review. There is not savings of the magnitude indicated on the Schedule 9.

EMPLOYMENT APPEAL BOARD

The generated "savings" is from two 100% FEDERAL positions. There is one position in this division that is funded with 50% state funds, and it is filled. All other positions are 100% federal UI funding through IWFD.

ADMINISTRATION DIVISION

There is one authorized position that is currently vacant because we are evaluating the best way to handle the requirements associated with the position. This vacancy is funded with OTHER funds. There is no general fund dollars associated with it.

AUDITS DIVISION

As the schedule 9 illustrated, there is a budget problem here. The underfunded position is 100% State funds. Support is already reduced to an unmanageable level.

ADMINISTRATIVE HEARINGS DIVISION

There was a vacancy in this division that was filled a few weeks ago. There is .50 FTE funded with USE TAX Money that is still currently vacant. If you look at the schedule 9 at the organization level, the funding source is more visible. 3101 has a negative dollar amount and 3301 (100% USE TAX) has a positive amount.

INVESTIGATIONS DIVISION

We have been holding a position temporarily vacant in our Recoupment section (4701) because we knew the we had some significant problems in the Audits Division (Q62) and else where in the department to already reduced FY01 funding levels. We were also waiting for the new division administrator (which was also temporarily vacant but was filled in December) to get on board. Scooping funds in this division will make it impossible for the department to reallocate funding where it will be needed before the end of the fiscal year, specifically in the Audits and Inspections Divisions.

INSPECTIONS DIVISION

While there may be a small amount of salary savings in this division due to a temporary vacancy that is now filled, support costs are running higher than anticipated and the division is in a difficult financial position at this time.

RACING AND GAMING COMMISSION

The projection for PARIMUTUEL shows savings right now primarily because the positions utilized for the live racing season at Prairie Meadows are vacant and no costs are projected for the balance of the year. There is one clerical position that is temporarily vacant that is charged 50% to Parimutuel and 50% to Excursion Boats. However, the projected "savings" needs to be reduced to compensate for the seasonal staff at Prairie Meadows.

EXCURSION BOATS

There does appear to be some savings here that is attributable to temporary vacancies (that may or may not be filled right now). However, all costs associated with Excursion Boat Regulation are charged back to the boats. A reduced FY01 appropriation will result in less revenue returned to the general fund because the billings to the Boats would be decreased.

Please forward this to Christina since the request came from her. I'll be in at 7AM if you would like to discuss any of this.

Heather J. Lindsay, Fiscal Services Bureau Chief
Inspections and Appeals
281-3467
EMail :hlindsay@dia.state.ia.us

>>> "Robinson, Ron" <rrobins@legis.state.ia.us> 02/14/01 02:06PM >>>
The attached spreadsheet is a breakdown of how the number was arrived at.
If you have any questions, please let me know.

<<DIA per.serv.2001.xls>>

> -----Original Message-----
> From: Schaefer, Christina
> Sent: Wednesday, February 14, 2001 1:59 PM
> To: Komos, Jennifer <DIA>; Lindsay, Heather <DIA>
> Cc: Robinson, Ron
> Subject: Admin. and Reg Request FY 2001
>
> In your Department's Schedule 9 Personnel Utilization Report for FY 2001
> Projected vs. Budgeted Personnel Services, taking into account the
> budgeted amounts for extra help, overtime, standby by, and sick leave
> shows the Department would be \$299,510 under budget for General Fund
> expenditures. The Chairs request your comments on how this may impact
> your Department if deappropriated.
>
> This request is separate from the request regarding the 5.0% reduction
> recommendations.
>
> Any questions, please call.
>
> Christina Schaefer
> Legislative Fiscal Bureau
> ph: 515-281-7942
> fax: 515-281-6625
>
>

Robinson, Ron

From: Heather Lindsay [Heather.Lindsay@dia.state.ia.us]
Sent: Thursday, February 15, 2001 7:49 AM
To: rrobins@legis.state.ia.us
Cc: Jennifer Fiihr; Kevin Techau
Subject: Re: FW: Admin. and Reg Request FY 2001



TEXT.htm

Continuation of SCHEDULE 9 discussion:

HEALTH FACILITIES DIVISION

I realized last night that I had skipped over Health Facilities Division in the email I prepared yesterday afternoon. We have discussed this several times already, but we started the fiscal year in a bad position because of the inability of the vehicle dispatcher to deliver vehicles that were funded with the supplemental appropriation at the end of FY2000. We were able to use FFY00 Federal funds but had to use SFY01 funds for the vehicle purchase that was budgeted in SFY00. In addition, we have three new 100% federal positions in our FY01 budget that we delayed hiring because the federal budget was not finalized until January.

We have had one RCF surveyor position that has been vacant since mid-September. There have been delays filling the position due to lack of qualified applicants. As you know, our RCF surveyors are 100% state and there may be some savings associated with this vacancy (that may help balance out the vehicle purchase problem). However, the position is in the process of being filled and the bureau chief says he is very close to accomplishing that so it would not be vacant for much longer. Schedule 9 projects savings assuming the position would stay vacant through the end of the fiscal and this would not be the case if the position is filled within the next few weeks.

If you need any additional information, please let feel free to contact Jennifer Fiihr or me.

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