

CHAPTER 175

APPROPRIATIONS — REGULATORY BODIES

S.F. 266

AN ACT making appropriations and certain related statutory changes related 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, public employment relations board, department of commerce, and the racing and gaming commission and providing effective dates.

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, 1993, and ending June 30, 1994, 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:

| | | |
|-------|------|-----------|
| ..... | \$ | 1,134,051 |
| ..... | FTEs | 117.00 |

The auditor of state may retain additional full-time equivalent positions as is reasonable and necessary to perform governmental subdivision audits which are reimbursable pursuant to section 11.20 or 11.21, to perform audits which are requested by and reimbursable from the federal government, and to perform work requested by and reimbursable from departments or agencies pursuant to section 11.5A or 11.5B. The auditor of state shall notify the department of management, the legislative fiscal committee, and the legislative fiscal bureau of the additional full-time equivalent positions retained.

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, 1993, and ending June 30, 1994, the following amount, 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:

| | | |
|-------|------|---------|
| ..... | \$ | 301,924 |
| ..... | FTES | 6.00 |

Of the amount appropriated in this subsection, \$45,000 is to be used to purchase computer equipment and software necessary to continue and enhance the current records database.

2. For the costs associated with the addition of an additional member to the Iowa ethics campaign disclosure board established in House File 144,* if enacted by the general assembly during the 1993 regular session:

| | | |
|-------|----|-------|
| | \$ | 2,000 |
|-------|----|-------|

3. For salary, support, maintenance, and for not more than one full-time equivalent position to be used to employ an attorney for the Iowa ethics campaign disclosure board established in House File 144,* if enacted by the general assembly during the 1993 regular session:

| | | |
|-------|----|--------|
| | \$ | 42,400 |
|-------|----|--------|

4. For salary, support, maintenance, and for not more than one full-time equivalent position to be used to employ an administrative assistant II for the Iowa ethics campaign disclosure board established in House File 144,* if enacted by the general assembly during the 1993 regular session:

| | | |
|-------|----|--------|
| | \$ | 38,400 |
|-------|----|--------|

*Chapter 163 herein

5. For necessary equipment to be purchased by the Iowa ethics campaign disclosure board established in House File 144,* if enacted by the general assembly during the 1993 regular session:

..... \$ 38,150

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, 1993, and ending June 30, 1994, the following amounts, or so much thereof as is necessary, for the purposes designated**, including that the department of employment services, the department of personnel, and the department of management shall ensure that all nonsupervisory full-time equivalent positions authorized and funded for the department of employment services in this section will be utilized during the fiscal year beginning July 1, 1993, and ending June 30, 1994, and during future fiscal years, and will not be held vacant, to ensure that the backlog of cases in that department will be reduced as rapidly as possible**:

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 6 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 6 of this Act prior to funding the appropriation in section 6 of this Act to the division of industrial services:

..... \$ 2,313,374
..... FTEs 87.50

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:

..... \$ 1,862,830
..... FTEs 31.00

Sec. 4. FEDERAL FUNDS APPROPRIATED FOR BUILDING REPAIR. There is appropriated out of the funds made available to this state pursuant to section 903 of the federal Social Security Act, as amended, for the fiscal year beginning July 1, 1993, and ending June 30, 1994, \$645,000, to the department of employment services to correct health and safety problems including roof repair and asbestos removal and encapsulation for the state administrative office building located at 1000 East Grand, Des Moines, Iowa.

The moneys appropriated in this section shall not be obligated after June 30, 1995. The amount obligated pursuant to this section during any twelve-month period beginning on July 1 and ending on June 30 shall not exceed the amount available for obligation pursuant to section 903 of the federal Social Security Act, as amended, and as reflected in the accounts of the division of job service of the department of employment services and the United States department of labor.

Sec. 5. 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, 1993, and ending June 30, 1994, 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:

..... \$ 6,275,387
..... FTEs 139.21

*Chapter 163 herein

**Item veto; see message at end of the Act

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 require that all communities which are scheduled to be surveyed during the fiscal year shall contribute a percentage of the cost of completing the community surveys as agreed to by the department and each community to be surveyed.

1. The department of employment services shall provide services throughout the fiscal year beginning July 1, 1993, and ending June 30, 1994, in all communities in which job service offices are operating on July 1, 1993. 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, 1993, and ending January 20, 1994. The division shall also establish a substantially similar schedule for such hearings for the period beginning January 20, 1994, and ending June 30, 1994. 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, 1994, and ending June 30, 1994.

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.

Sec. 6. 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, 1993, and ending June 30, 1994, the following amounts, or so much thereof as is necessary, for the purposes designated and subject to the requirement that the 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 appropriation made to the division of industrial services 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

Sec. 7. 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, 1993, and ending June 30, 1994, 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: \$ 474,628
FTEs 22.00

2. AUDITS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions: \$ 340,548
FTEs 10.00

*Item veto; see message at end of the Act

3. APPEALS AND FAIR HEARINGS DIVISION

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

| | | |
|-------|------|---------|
| ..... | \$ | 211,539 |
| ..... | FTEs | 24.00 |

It is the intent of the general assembly that a process for the administrative review of requests for postconviction relief under chapter 822 and from final decisions made by administrative law judges appointed by the department of corrections, be established in the fair hearings and appeals division of the department of inspections and appeals. The department shall review existing judicial procedures for the processing of requests for postconviction relief and make recommendations to the general assembly by the commencement of the legislative session which convenes in January 1994, for the establishment of such an administrative process.

4. INVESTIGATIONS DIVISION

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

| | | |
|-------|------|---------|
| ..... | \$ | 511,332 |
| ..... | FTEs | 34.00 |

5. HEALTH FACILITIES DIVISION

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

| | | |
|-------|------|-----------|
| ..... | \$ | 1,374,975 |
| ..... | FTEs | 101.00 |

6. INSPECTIONS DIVISION

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

| | | |
|-------|------|---------|
| ..... | \$ | 564,586 |
| ..... | FTEs | 13.00 |

7. EMPLOYMENT APPEAL BOARD

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

| | | |
|-------|------|--------|
| ..... | \$ | 44,700 |
| ..... | 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. STATE FOSTER CARE REVIEW BOARD

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

| | | |
|-------|------|---------|
| ..... | \$ | 133,849 |
| ..... | FTEs | 4.00 |

It is the intent of the general assembly that the state citizen foster care review board, in conjunction with the department of human services and the judicial department, develop a proposal for the establishment of one statewide foster care review system which provides for citizen involvement. The proposal shall include procedural protocols and outcome measures for evaluation purposes. The proposal shall be submitted to the legislative council and the department of management on or before December 1, 1993. Pilot projects under the proposal may be implemented during the fiscal year beginning July 1, 1993, and ending June 30, 1994, if the pilot projects can be funded within budget limitations.

Sec. 8. 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, 1993, and

ending June 30, 1994, 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:

| | | |
|-------|------|-----------|
| ..... | \$ | 7,622,502 |
| ..... | FTEs | 140.80 |

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:

| | | |
|-------|----|-----------|
| | \$ | 8,778,665 |
|-------|----|-----------|

Sec. 9. 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. 10. ROAD USE TAX FUND. There is appropriated from the use tax receipts collected pursuant to section 423.7 prior to their deposit in the road use tax fund pursuant to section 423.24, subsection 1, to the department of inspections and appeals for the fiscal year beginning July 1, 1993, and ending June 30, 1994, the following amount, or so much thereof as is necessary, for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes:

| | | |
|-------|----|---------|
| | \$ | 898,938 |
|-------|----|---------|

Sec. 11. 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, 1993, and ending June 30, 1994, 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:

| | | |
|-------|------|---------|
| ..... | \$ | 703,296 |
| ..... | FTEs | 12.60 |

Sec. 12. 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, 1993, and ending June 30, 1994, the following amounts, or so much thereof as is necessary, for the purposes designated:

1. PROFESSIONAL LICENSING AND REGULATION DIVISION

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

| | | |
|-------|------|---------|
| ..... | \$ | 889,687 |
| ..... | FTEs | 14.00 |

b. There is appropriated from the title guaranty fund created in section 16.91 to the professional licensing and regulation division, an amount up to \$25,000, to be used to pay half the cost of employing an auditor for real estate broker trust accounts. In addition to the amount appropriated in this paragraph, the commission may increase the license fees provided for in section 543B.27 in an amount sufficient to pay half the cost of employing an auditor for real estate broker trust accounts.

2. ADMINISTRATIVE SERVICES DIVISION

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

| | | |
|-------|------|---------|
| ..... | \$ | 105,080 |
| ..... | FTEs | 2.00 |

It is the intent of the general assembly that the two positions authorized in this subsection for the division shall coordinate the administrative services to be provided to the divisions in the department. These two positions are under the direct supervision of, and shall report to, the director of the department.

3. ALCOHOLIC BEVERAGES DIVISION

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

| | | |
|-------|------|-----------|
| ..... | \$ | 1,932,700 |
| ..... | FTEs | 34.50 |

4. BANKING DIVISION

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

| | | |
|-------|------|-----------|
| ..... | \$ | 5,314,308 |
| ..... | FTEs | 85.00 |

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:

| | | |
|-------|------|-----------|
| ..... | \$ | 1,039,372 |
| ..... | 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 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:

| | | |
|-------|------|-----------|
| ..... | \$ | 2,707,415 |
| ..... | FTEs | 85.00 |

The insurance division may reallocate authorized full-time equivalent positions as necessary to respond to accreditation recommendations or requirements. The insurance division expenditures for examination purposes may exceed the projected receipts, refunds and reimbursements, estimated pursuant to section 505.7, subsection 7, including the expenditures for retention of additional personnel, if such expenditures are fully reimbursable and the division first does both of the following:

- 1. Notifies the department of management, legislative fiscal bureau, and the legislative fiscal committee of the need for such expenditures.
- 2. Files with each of the entities named in subsection 1 the legislative and regulatory justification for such expenditures, along with an estimate of the expenditures.

7. UTILITIES DIVISION

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

| | | |
|-------|------|-----------|
| ..... | \$ | 4,830,885 |
| ..... | FTEs | 77.00 |

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. 13. 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, 1993, and ending June 30, 1994, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

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

| | | |
|-------|------|-----------|
| ..... | \$ | 1,672,245 |
| ..... | FTEs | 19.27 |

2. Notwithstanding section 8.39, the racing and gaming commission shall not expend funds appropriated to the commission for the fiscal year beginning on July 1, 1993, and ending on June 30, 1994, for the regulation of any racetrack unless such regulation was authorized on or before July 1, 1992. Additionally, funds appropriated for the regulation of a racetrack authorized to offer live racing or simulcasting shall revert to the general fund and shall not be used for any other purpose if such track does not offer, or ceases to offer, live racing or simulcasting.

Sec. 14. 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, 1993, and ending June 30, 1994, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

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

| | | |
|-------|------|---------|
| ..... | \$ | 601,682 |
| ..... | FTEs | 12.51 |

Sec. 15. Section 13B.4, subsection 7, Code 1993, is amended to read as follows:

7. The state public defender shall adopt rules pursuant to chapter 17A, as necessary, to administer this chapter and section 815.9.

Sec. 16. Section 13B.10, subsection 2, Code 1993, is amended to read as follows:

2. A determination of indigence shall not be made except upon the basis of information contained in a detailed financial statement submitted by the person or by the person's parent, guardian, or custodian. The financial statement shall be in the form prescribed by the ~~department~~ state public defender. If a person is determined to be indigent and given legal assistance, the financial statement shall be filed in the person's court file and with the ~~department state~~ public defender. A defendant who is employed shall execute a wage assignment for indigent defense costs to be paid as a precondition for appointment of counsel.

Sec. 17. Section 237.23, Code 1993, is amended to read as follows:

237.23 AUTOMATIC REPEAL.

Sections 237.15 through 237.22, and this section, are repealed July 1, 1996 1994.

**Sec. 18. Section 534.102, subsection 28, Code 1993, is amended to read as follows:*

*28. "Superintendent" means the superintendent of savings and loan associations who is the director of the department of commerce auditor of state.**

Sec. 19. Section 543B.46, subsections 6 and 7, Code 1993, are amended to read as follows:

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 ~~The~~ commission may upon reasonable cause, or as a part of or after an investigation, 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.

7. The examination of a trust account shall have been ~~be~~ conducted within the twelve months immediately preceding expiration of the license or at such other times as directed by the commission or the commission's authorized representative. 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.

Sec. 20. Section 546.2, subsection 2, Code 1993, is amended to read as follows:

2. The chief administrative officer of the department is the director. The director shall be appointed annually by the governor, ~~subject to the confirmation of the senate, and shall serve at the pleasure of the governor~~ from among those individuals who serve as heads of the divisions within the department. The appointment shall rotate among the division heads such that the division head of any one division shall not be appointed to be the director for a second year until such time as each division head has served as the director. A division head appointed to be the director shall fulfill the responsibilities and duties of the director in addition to the individual's responsibilities and duties as the head of a division. ~~The director is subject to reconfirmation after four years in office. The director shall be appointed on the basis of executive and administrative abilities but shall not have been an officer or employee of any bank, credit union, savings and loan association, or insurance company. The salary shall be fixed by the governor within a range established by the general assembly. However, the administrator of the alcoholic beverages division shall serve as director until June 30, 1995.~~

Sec. 21. Section 815.4, Code 1993, is amended to read as follows:

*Item veto; see message at end of the Act

815.4 SPECIAL WITNESSES FOR INDIGENTS.

Witnesses secured for indigent or partially indigent defendants under R.Cr.P. 19 must file a claim for compensation supported by an affidavit specifying the time expended, services rendered, and expenses incurred on behalf of the defendant.

Sec. 22. Section 815.5, Code 1993, is amended to read as follows:

815.5 EXPERT WITNESSES FOR STATE AND DEFENSE.

Notwithstanding the provisions of section 622.72, reasonable compensation as determined by the court shall be awarded expert witnesses, expert witnesses for indigents an indigent or partially indigent person referred to in section 815.4, or called by the state in criminal cases.

Sec. 23. Section 815.9, subsection 1, Code 1993, is amended by striking the subsection and inserting in lieu thereof the following:

1. For purposes of this chapter, section 68.8, section 222.22, chapter 232, chapter 814, and the rules of criminal procedure, the following apply:

a. A person is indigent if the person has an income level at or below one hundred fifty percent of the United States poverty level as defined by the most recently revised poverty income guidelines published by the United States department of health and human services.

b. A person is not indigent if the person has an income level greater than one hundred fifty percent of the United States poverty level as defined by the most recently revised poverty income guidelines published by the United States department of health and human services.

c. A person with an income level greater than one hundred fifty percent of the most recently revised poverty income guidelines published by the United States department of health and human services may be deemed partially indigent by the court pursuant to a written finding that, given the person's circumstances, not appointing counsel at public expense would cause the person substantial hardship. However, the court shall require a person deemed partially indigent to contribute to the cost of representation in accordance with rules adopted by the state public defender.

Sec. 24. Section 815.9, subsection 2, Code 1993, is amended by striking the subsection and inserting in lieu thereof the following:

2. A determination of the indigent status of a person shall be made on the person's initial appearance before a court. If a person is granted legal assistance as an indigent or partial indigent, the financial statement shall be filed and permanently retained in the person's court file. The state public defender shall adopt rules prescribing the form and content of the financial statement and the criteria by which a determination of indigency shall be based. The financial statement shall contain sufficient information to allow the determination to be made of whether the person meets the guidelines set out in subsection 1 and shall be accompanied by the person's most recent pay slip, if employed.

Sec. 25. NEW SECTION. 815.9A RECOVERY OF INDIGENT DEFENSE COSTS.

1. Costs incurred for indigent defense shall be paid to the clerk of the district court by the person receiving the services not later than the date of sentencing or, if the person is acquitted or the charges are dismissed, within thirty days of the acquittal or dismissal, as follows:

a. If the person has an income level as determined pursuant to section 815.9 greater than one hundred percent but not more than one hundred fifty percent of the poverty guidelines, at least one hundred dollars of the indigent defense costs to be recovered in accordance with rules adopted by the state public defender.

b. If the person has an income level as determined pursuant to section 815.9 greater than one hundred fifty percent of the poverty guidelines, at least two hundred dollars of the indigent defense costs shall be recovered in accordance with rules adopted by the state public defender.

*Sec. 26. **DIRECTIONS TO CODE EDITOR.** The Code editor shall make the following changes to conform existing sections of the Code to changes made in this Act:

1. All references to the alcoholic beverages division shall be changed to the "department" or "department of alcoholic beverages" as appropriate.

2. All references to the utilities division shall be changed to the "department" or "department of utilities" as appropriate.

3. All references to the insurance division shall be changed to the "department" or "department of insurance" as appropriate.

4. All references to the banking division shall be changed to the "department" or "department of banking" as appropriate.

5. All references to the credit union division shall be changed to the "department" or "department of credit unions" as appropriate.

6. All references to the professional licensing and regulation division shall be changed to the "department" or "department of professional licensing and regulation" as appropriate.

7. All references to the department of commerce shall be changed to reflect the repeal of chapter 546, as appropriate.

If necessary and appropriate, the Code editor shall include reference changes which are not made pursuant to this section in a Code editor's bill to be brought before the general assembly for consideration during the 1994 regular session.

Sec. 27. 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. 28. EFFECTIVE DATES. Section 13, subsection 2, of this Act, being deemed of immediate importance, is effective upon enactment. Sections 15 and 16, and sections 23 and 24, of this Act take effect on September 1, 1993.

Approved May 19, 1993, except the items which I hereby disapprove and which are designated as that portion of Section 3, unnumbered and unlettered paragraph 1 which is herein bracketed in ink and initialed by me; Section 5, subsections 1 and 2 in their entirety; and Section 18 in its entirety. My reasons for vetoing these items are delineated in the item veto message pertaining to this Act to the Secretary of State this same date, a copy of which is attached hereto.

TERRY E. BRANSTAD, Governor

Dear Madam Secretary:

I hereby transmit Senate File 266, an Act making appropriations and certain related statutory changes related 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, public employment relations board, department of commerce, and the racing and gaming commission and providing effective dates.

Senate File 266 is, therefore, approved on this date with the following exceptions which I hereby disapprove.

Among other things, Senate File 266 amends the state's laws relating to indigent defense. It better defines the term "indigency" and, in doing so, makes it clear that only those who are "truly" indigent, will be provided legal counsel at public expense. Persons who can pay some, but not all, of their legal costs, will have counsel provided to assist them, however, they will be required to contribute to the payment of those costs. The state public defender is given

authority in rules to develop the criteria for determining indigency and the procedures for recovering the costs of representation from persons who can pay. These changes in the law are consistent with the recommendations I made to the legislature and will be extremely helpful in containing the costs of indigent defense. I am, however, disappointed that the legislature deliberately underfunded the program by \$1 million and chose not to eliminate the statutory provision that allows a nonindigent person to have legal counsel provided simply by refusing to hire his or her own attorney.

I am also disappointed that the legislature did not fund the position in the Racing and Gaming Commission to monitor Indian gaming in Iowa. While the gaming which occurs on Indian land is not subject to the state's laws which regulate gambling, it must comply with the terms and conditions of the compacts which have been negotiated with the tribes. All three Iowa tribes have agreed in their compacts to be bound by the same limits and controls that apply to other non-Indian gambling in the state. Remedies are available to the state in the compacts if the tribes fail to comply and it is only through the compacts that the state can "regulate" the gaming that occurs on Indian land. Unlike many other states, we have been successful in negotiating compacts which recognize the sovereign rights of Iowa tribes but which, to the extent possible under federal law, place their non-Indian competitors on a level playing field. While some in the legislature believe we should not be concerned about what happens at Indian casinos, I believe the state has a responsibility to its citizens to assure that gaming on Indian land, like other gambling in the state, is operated honestly and with financial integrity to deter crime and corrupting influences. Even in the absence of funding for this position, I am committed to monitoring compliance with the compacts and will dedicate the resources necessary to do so.

I am unable to approve the designated portion of Section 3, unnumbered and unlettered paragraph 1. This language would remove the discretion of the director of the Department of Employment Services in filling vacant positions within the agency. Personnel decisions within the department are the prerogative of the executive branch. The director of the department must have the authority to adjust personnel to respond to needs within the agency.

I am unable to approve the item designated as Section 5, subsection 1, in its entirety. This provision would require the Department of Employment Services to maintain all Job Services offices in operation as of July 1, 1993. The department's flexibility to provide services where they are most needed and in the most cost effective manner should not be restrained.

I am unable to approve the item designated as Section 5, subsection 2, in its entirety. This provision specifies the number, location and schedule of hearings for contested workers' compensation cases which the Industrial Services Division in the Department of Employment Services would be required to conduct through January 20, 1994. The division must retain flexibility in conducting workers' compensation hearings in order to respond to the needs of employers and injured workers.

I am unable to approve the item designated as Section 18, in its entirety. This provision would make the Auditor of the state the administrative head of the Division of Savings and Loans within the Department of Commerce. The State Auditor is authorized by law to audit the expenses of all state departments and agencies, including the Division of Savings and Loans. This provision would create a conflict for the persons elected to serve as the State's Auditor by requiring them to audit the agency they are responsible for administering.

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 Senate File 266 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 176

APPROPRIATIONS – AGRICULTURE AND NATURAL RESOURCES

H.F. 623

AN ACT relating to appropriations and revenue involving agriculture and natural resources, making related statutory changes, and providing effective dates.

Be It Enacted by the General Assembly of the State of Iowa:

DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP

Section 1. **GENERAL APPROPRIATION.** There is appropriated from the general fund of the state to the department of agriculture and land stewardship for the fiscal year beginning July 1, 1993, and ending June 30, 1994, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. ADMINISTRATIVE DIVISION

a. For salaries, support, maintenance, the support of the state 4-H foundation, support of the statistics bureau, and miscellaneous purposes:

..... \$ 1,031,045

Of the funds appropriated in this paragraph "a", \$35,000 shall be allocated to the state 4-H foundation to foster the development of Iowa's youth and to encourage them to study the subject of agriculture.

Of the funds appropriated in this paragraph "a", \$126,000 and 4.00 FTEs shall be allocated to the statistics bureau to provide county-by-county information on land in farms, production by crop, acres by crop, and county prices by crop. This information shall be made available to the department of revenue and finance for use in the productivity formula for valuing and equalizing the values of agricultural land.

b. For the operations of the dairy trade practices bureau:

..... \$ 70,565

c. For the operations of the agricultural marketing bureau:

..... \$ 817,276

Of the funds appropriated in this paragraph "c", \$313,880 and 7.00 FTEs shall be used to support horticulture.

d. For the purpose of performing commercial feed audits:

..... \$ 59,474

e. For the purpose of performing fertilizer audits:

..... \$ 59,474

f. Funds appropriated by this subsection are for the salaries and support of not more than the following full-time equivalent positions:

..... FTEs 50.20

2. REGULATORY DIVISION

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

..... \$ 3,687,904

..... FTEs 128.90

b. To cover the costs of inspection, sampling, analysis, and other expenses necessary for the administration of chapters 192, 194, and 195:

..... \$ 636,682

3. LABORATORY DIVISION

a. For salaries, support, maintenance, and miscellaneous purposes, including the administration of the gypsy moth program:

..... \$ 782,329

Of the amount appropriated under this paragraph "a", \$110,000 shall be used to administer a program relating to the detection, surveillance, and eradication of the gypsy moth. The department shall allocate and use the appropriation made under this paragraph before moneys other than those appropriated under this paragraph are used to support the program.