

Brunkhorst, Ch.  
Tymeson  
Foerge

HSB 592

Succeeded By  
SF 02393

HUMAN RESOURCES

SENATE/HOUSE FILE \_\_\_\_\_  
BY (PROPOSED DEPARTMENT OF  
INSPECTIONS AND APPEALS BILL)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to public assistance benefits received by persons  
2 who were not entitled or eligible to receive the benefits,  
3 providing criminal and civil penalties, and appropriating  
4 certain penalties received.

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

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1 Section 1. NEW SECTION. 10A.404 CIVIL PENALTIES AND  
2 PAYMENT OF INVESTIGATION COSTS -- PRESUMPTION OF LIABILITY --  
3 LIMITATION OF ACTIONS.

4 1. For the purposes of this section, unless the context  
5 otherwise requires, "benefit" means a service, payment,  
6 merchandise, or other assistance. In addition to any other  
7 penalty or payment amount under law, a person is liable for  
8 the civil penalty and payment of the investigation costs  
9 listed in subsection 2 if the person receives a benefit to  
10 which the person was not entitled or for which the person was  
11 not eligible under any of the following chapters administered  
12 by the state:

13 a. Chapter 234, relating to child and family services.

14 b. Chapter 237A, relating to child care.

15 c. Chapter 239B, relating to the family investment  
16 program.

17 d. Chapter 249, relating to the state supplementary  
18 assistance program.

19 e. Chapter 249A, relating to the medical assistance  
20 program.

21 2. A person liable under subsection 1 is liable for both  
22 of the following amounts:

23 a. A civil penalty of at least five hundred dollars and  
24 not more than treble the total dollar amount of the benefit to  
25 which the person was not entitled or eligible to receive.

26 b. The costs incurred by the department of inspections and  
27 appeals in investigating the matter.

28 3. Liability for the civil penalty and payment of costs of  
29 investigation under subsections 1 and 2 is separate from and  
30 cumulative with any other administrative, civil, or criminal  
31 penalty or payments ordered under federal law or regulation.  
32 Institution of a criminal proceeding is not a prerequisite or  
33 condition for an action to enforce subsections 1 and 2.

34 4. Liability for the civil penalty and payment of costs of  
35 investigation under subsections 1 and 2 may be established by

1 any of the following means:

2 a. Upon a criminal conviction, entry of a guilty plea, or  
3 entry of a finding of guilt in a state or federal prosecution  
4 that is directly related to a benefit administered by the  
5 state under a chapter listed in subsection 1, the sentencing  
6 court may order payment in accordance with subsections 1 and  
7 2. However, if the sentencing court fails to order the  
8 payment, a civil proceeding to enforce payment may be  
9 instituted in accordance with subsection 5.

10 b. Upon entry of a civil judgment or confession of  
11 judgment in a state or federal court proceeding that is  
12 directly related to a benefit administered by the state under  
13 a chapter listed in subsection 1, the sentencing court may  
14 order payment in accordance with subsections 1 and 2.  
15 However, if the sentencing court fails to order the payment, a  
16 civil proceeding to enforce payment may be instituted in  
17 accordance with subsection 5.

18 c. Upon an administrative finding in a state or federal  
19 proceeding that is directly related to a benefit administered  
20 by the state under a chapter listed in subsection 1, a civil  
21 proceeding to enforce payment may be instituted in accordance  
22 with subsection 5.

23 5. A civil proceeding to enforce payment under this  
24 section shall be instituted in the district court of the  
25 county in which the person received under a chapter listed in  
26 subsection 1 a benefit to which the person was not entitled or  
27 for which the person under rule was not eligible. The office  
28 of the attorney general or the county attorney may institute  
29 the civil proceeding, which may commence after or at the same  
30 time as any related state or federal criminal, civil, or  
31 administrative proceeding directly related to a benefit under  
32 a chapter listed in subsection 1 to which the person was not  
33 entitled or eligible to receive.

34 6. A rebuttable presumption arises that a person is liable  
35 for the civil penalty and payment of costs of investigation

1 under subsections 1 and 2. The presumption may only be  
2 rebutted by clear and convincing evidence that the person was  
3 properly entitled to or eligible to receive such benefit under  
4 a chapter listed in subsection 1. The rebuttable presumption  
5 arises after any of the following occurs in a state or federal  
6 criminal, civil, or administrative proceeding that is directly  
7 related to payment or collection of payments received by a  
8 person for a service or benefit administered by the state  
9 under a chapter listed in subsection 1:

10 a. Entry of a criminal conviction, plea of guilty, or  
11 finding of guilt.

12 b. Entry of a judgment or confession of judgment in a  
13 civil proceeding.

14 c. Entry of an administrative finding adverse to the  
15 person or establishing the person's liability.

16 7. The departments of human services and inspections and  
17 appeals may cooperate in adopting rules pursuant to chapter  
18 17A for administration, collection, and allocation of civil  
19 penalties described in subsection 2. The department of  
20 inspections and appeals may adopt rules pursuant to chapter  
21 17A for the administration, collection, and allocation of  
22 costs of investigation described in subsection 2.

23 8. An action under this section shall not be instituted  
24 more than five years after the date the state discovered that  
25 a person received a benefit under a chapter listed in  
26 subsection 1 to which the person was not entitled or for which  
27 the person under rule was not eligible.

28 Sec. 2. NEW SECTION. 234.13A CIVIL PENALTIES -- PAYMENT  
29 OF INVESTIGATION COSTS.

30 If a person receives under this chapter a service, payment,  
31 merchandise, or other assistance to which the person was not  
32 entitled or for which the person was not eligible, the  
33 person's liability for civil penalties and investigation costs  
34 shall be determined in accordance with section 10A.404.

35 Sec. 3. NEW SECTION. 237A.14 FRAUDULENT PRACTICES --

1 RECOVERY OF OVERPAYMENTS.

2 1. An individual who receives, or attempts to receive, or  
3 aids or abets an individual in receiving, by means of a  
4 willfully false statement or representation, by knowingly  
5 failing to disclose a material fact, or by impersonation, or  
6 through any fraudulent device, any assistance, payment, or  
7 other benefit under this chapter to which the individual is  
8 not entitled, commits a fraudulent practice.

9 2. An individual who commits a fraudulent practice under  
10 this section is personally liable for the amount of  
11 assistance, payment, or other benefit fraudulently received.  
12 The amount of the assistance, payment, or other benefit may be  
13 recovered from the offender or the offender's estate in an  
14 action brought or by claim filed in the name of the state and  
15 the recovered funds are appropriated to the department to be  
16 used for state child care assistance under section 237A.13.  
17 The action or claim filed in the name of the state shall not  
18 be considered an election of remedies to the exclusion of  
19 other remedies.

20 3. The department shall adopt rules pursuant to chapter  
21 17A as necessary to recover overpayments of assistance,  
22 payments, and benefits provided under this chapter. The  
23 recovery methods shall include but are not limited to reducing  
24 the amount of assistance, payments, or benefits provided.

25 Sec. 4. NEW SECTION. 237A.15 CIVIL PENALTIES -- PAYMENT  
26 OF INVESTIGATION COSTS.

27 If a person receives under this chapter assistance,  
28 payment, or other benefit to which the person was not entitled  
29 or for which the person was not eligible, the person's  
30 liability for civil penalties and investigation costs shall be  
31 determined in accordance with section 10A.404.

32 Sec. 5. NEW SECTION. 239B.14A CIVIL PENALTIES -- PAYMENT  
33 OF INVESTIGATION COSTS.

34 If a person receives under this chapter assistance or  
35 another benefit to which the person was not entitled or for

1 which the person was not eligible, the person's liability for  
2 civil penalties and investigation costs shall be determined in  
3 accordance with section 10A.404.

4 Sec. 6. NEW SECTION. 249.11A CIVIL PENALTIES -- PAYMENT  
5 OF INVESTIGATION COSTS.

6 If a person receives under this chapter payment to which  
7 the person was not entitled or for which the person was not  
8 eligible, the person's liability for civil penalties and  
9 investigation costs shall be determined in accordance with  
10 section 10A.404.

11 Sec. 7. NEW SECTION. 249A.8A CIVIL PENALTIES -- PAYMENT  
12 OF INVESTIGATION COSTS.

13 If a person receives under this chapter assistance or  
14 payment for medical assistance or payment for services or  
15 merchandise under this chapter to which the person was not  
16 entitled or for which the person was not eligible, the  
17 person's liability for civil penalties and investigation costs  
18 shall be determined in accordance with section 10A.404.

19 EXPLANATION

20 This bill relates to public assistance benefits received by  
21 persons who were not entitled or eligible to receive the  
22 benefits. The bill includes requirements for establishing  
23 liability for civil penalties and recovery of investigation  
24 costs from such persons under the following Code chapters:  
25 chapter 234, relating to child and family services, including  
26 child welfare services and food programs; chapter 237A,  
27 relating to child care services; chapter 239B, relating to the  
28 family investment program; chapter 249, relating to state  
29 supplementary assistance; and chapter 249A, relating to the  
30 medical assistance program.

31 In new Code section 10A.404, the bill provides authority as  
32 applicable under each of these chapters to establish liability  
33 for a person who receives a benefit, defined as a service,  
34 payment, merchandise, or other assistance to which the person  
35 was not entitled or for which the person by rule was not

1 eligible, in addition to any other penalty or payment under  
2 law. The liability has two components: a civil penalty of at  
3 least \$500 and not more than treble the value of assistance  
4 received and the costs of the investigation concerning the  
5 matter incurred by the department of inspections and appeals.

6 The liability may be established by a state or federal  
7 court in a criminal or civil proceeding or pursuant to an  
8 administrative finding. Otherwise the office of the attorney  
9 general or county attorney is authorized to initiate the  
10 proceedings in the county in which the person received the  
11 benefit.

12 If a judgment or finding is issued in a criminal, civil, or  
13 administrative proceeding that involves benefit programs  
14 administered by the state, a rebuttable presumption arises  
15 that the person is liable for the civil penalties and costs of  
16 investigation. The presumption may be rebutted by showing  
17 clear and convincing evidence that the person was eligible for  
18 what was received.

19 The departments of human services and inspections and  
20 appeals are authorized to adopt rules to implement the bill's  
21 provisions.

22 In addition, new Code section 237A.14 establishes a  
23 fraudulent practice crime involving persons obtaining child  
24 care assistance, payments, or benefits. The state is  
25 authorized to recover moneys to compensate for the  
26 fraudulently obtained assistance, payment, or benefit, and  
27 recovered moneys are appropriated to the department of human  
28 services for the state child care assistance program.

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ASB 592

TO: Members of the General Assembly  
FROM: Kevin W. Techau

The Iowa Department of Inspections and Appeals (DIA) proposes legislation related to investigations conducted on behalf of the Iowa Department of Human Services (DHS).

Currently, DIA investigates potential fraudulent activity in public assistance programs administered by DHS. The various public assistance programs include: Medicaid, State Supplementary Assistance Program, Food Programs, Family Investment Programs and Child Care Assistance Programs.

The proposed legislation would allow DIA to recoup the costs of its investigations where it is proven that the individual or entity involved with the program received payments or benefits as the result of fraudulent activity. The legislation also provides for a civil penalty in such situations. Iowa does not currently have provisions to recoup costs of such investigations or to enforce civil penalties under such circumstances. Many other states and the federal governments currently have such statutes.

With this legislation, Iowa would have the potential to recover a substantial portion of DIA investigative costs in these areas. In addition, the payment of investigation costs and enforcement of civil penalties would serve as a deterrent to program abusers. The proposed legislation establishes a minimum civil penalty of \$500 for participants and providers in public assistance programs, and a maximum penalty of three times the amount of benefits received and to which they were not entitled.

This proposal also provides an evidentiary presumption that the person or entity is liable for payment of the costs of investigation and civil penalties after the individual or entity has been convicted in a criminal case or found to owe an overpayment as the result of a civil or administrative proceeding. Finally, the bill provides a statute of limitations of five years from the time that the state discovered the fraudulent acts that resulted in the improper payments.

For additional information regarding this proposal, please contact:  
Tom Bove, Administrator; DIA Investigations Division, Third Floor, Lucas State Office Building; phone 281-5714; e-mail [tbowe@dia.state.ia.us](mailto:tbowe@dia.state.ia.us)

3/20/02 Rereferred To: Human Res

FEB 18 2002  
Place On Calendar

HOUSE FILE 2393  
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO HSB 592)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to public assistance benefits received by persons  
2 who were not entitled or eligible to receive the benefits,  
3 providing criminal and civil penalties, and appropriating  
4 certain penalties received.

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

**HOUSE FILE 2393**

**h-8175**

1 Amend House File 2393 as follows:  
2 1. Page 2, by striking lines 1 through 5, and  
3 inserting the following:  
4 "(1) A civil penalty. The minimum civil penalty  
5 is five thousand dollars. Otherwise, the civil  
6 penalty shall be at least twenty-five percent of the  
7 proven total dollar amount of the benefit received to  
8 which the person was not entitled or eligible and not  
9 more than treble the proven total dollar amount of  
10 such benefit."

By KREIMAN of Davis  
BRUNKHORST of Bremer

**h-8175** FILED MARCH 4, 2002

HF 2393

1 Section 1. NEW SECTION. 10A.404 CIVIL PENALTIES AND  
2 PAYMENT OF INVESTIGATION COSTS -- PRESUMPTION OF LIABILITY --  
3 LIMITATION OF ACTIONS.

4 1. For the purposes of this section, unless the context  
5 otherwise requires, "benefit" means a service, payment,  
6 merchandise, or other assistance. In addition to any other  
7 penalty or payment amount under law, a person is liable for  
8 the civil penalty and payment of the investigation costs  
9 listed in subsection 2 if the person receives a benefit to  
10 which the person was not entitled or for which the person was  
11 not eligible under any of the following chapters administered  
12 by the state:

13 a. Chapter 234, relating to child and family services.

14 b. Chapter 237A, relating to child care.

15 c. Chapter 239B, relating to the family investment  
16 program.

17 d. Chapter 249, relating to the state supplementary  
18 assistance program.

19 e. Chapter 249A, relating to the medical assistance  
20 program.

21 2. a. If the person liable under subsection 1 was the  
22 program benefit recipient of the benefit to which the person  
23 was not entitled or eligible under any of the chapters listed  
24 in subsection 1 and the total dollar amount of such benefit  
25 received was proven to be more than one thousand dollars, the  
26 person is liable for both of the following amounts:

27 (1) A civil penalty of not more than treble the total  
28 dollar amount of the benefit to which the person was not  
29 entitled or eligible to receive.

30 (2) Not more than five hundred dollars of the costs  
31 incurred by the department in investigating the matter.

32 b. If the person liable under subsection 1 was a provider  
33 of service, merchandise, or other assistance under any of the  
34 chapters listed in subsection 1, the person is liable for both  
35 of the following amounts:

1 (1) A civil penalty of five thousand dollars or twenty-  
2 five percent of the proven total dollar amount of the benefit  
3 received to which the person was not entitled or eligible,  
4 whichever amount is greater up to a maximum of treble the  
5 proven total dollar amount of such benefit.

6 (2) Not more than five thousand dollars of the costs  
7 incurred by the department in investigating the matter.

8 3. Liability for the civil penalty and payment of costs of  
9 investigation under subsections 1 and 2 is separate from and  
10 cumulative with any other administrative, civil, or criminal  
11 penalty or payments ordered under federal law or regulation.  
12 Institution of a criminal proceeding is not a prerequisite or  
13 condition for an action to enforce subsections 1 and 2.

14 4. Liability for the civil penalty and payment of costs of  
15 investigation under subsections 1 and 2 may be established by  
16 any of the following means:

17 a. Upon a criminal conviction, entry of a guilty plea, or  
18 entry of a finding of guilt in a state or federal prosecution  
19 that is directly related to a benefit administered by the  
20 state under a chapter listed in subsection 1, the sentencing  
21 court may order payment in accordance with subsections 1 and  
22 2. However, if the sentencing court fails to order the  
23 payment, a civil proceeding to enforce payment may be  
24 instituted in accordance with subsection 5.

25 b. Upon entry of a civil judgment or confession of  
26 judgment in a state or federal court proceeding that is  
27 directly related to a benefit administered by the state under  
28 a chapter listed in subsection 1, the sentencing court may  
29 order payment in accordance with subsections 1 and 2.  
30 However, if the sentencing court fails to order the payment, a  
31 civil proceeding to enforce payment may be instituted in  
32 accordance with subsection 5.

33 c. Upon an administrative finding in a state or federal  
34 proceeding that is directly related to a benefit administered  
35 by the state under a chapter listed in subsection 1, a civil

1 proceeding to enforce payment may be instituted in accordance  
2 with subsection 5.

3 5. A civil proceeding to enforce payment under this  
4 section shall be instituted in the district court of the  
5 county in which the person received under a chapter listed in  
6 subsection 1 a benefit to which the person was not entitled or  
7 for which the person under rule was not eligible. The office  
8 of the attorney general or the county attorney may institute  
9 the civil proceeding, which may commence after or at the same  
10 time as any related state or federal criminal, civil, or  
11 administrative proceeding directly related to a benefit under  
12 a chapter listed in subsection 1 to which the person was not  
13 entitled or eligible to receive.

14 6. A rebuttable presumption arises that a person is liable  
15 for the civil penalty and payment of costs of investigation  
16 under subsections 1 and 2. The presumption may only be  
17 rebutted by clear and convincing evidence that the person was  
18 properly entitled to or eligible to receive such benefit under  
19 a chapter listed in subsection 1. The rebuttable presumption  
20 arises after any of the following occurs in a state or federal  
21 criminal, civil, or administrative proceeding that is directly  
22 related to payment or collection of payments received by a  
23 person for a service or benefit administered by the state  
24 under a chapter listed in subsection 1:

25 a. Entry of a criminal conviction, plea of guilty, or  
26 finding of guilt.

27 b. Entry of a judgment or confession of judgment in a  
28 civil proceeding.

29 c. Entry of an administrative finding adverse to the  
30 person or establishing the person's liability.

31 7. The departments of human services and inspections and  
32 appeals may cooperate in adopting rules pursuant to chapter  
33 17A for administration, collection, and allocation of civil  
34 penalties described in subsection 2. The department of  
35 inspections and appeals may adopt rules pursuant to chapter

1 17A for the administration, collection, and allocation of  
2 costs of investigation described in subsection 2.

3 8. An action under this section shall not be instituted  
4 more than five years after the date the state discovered that  
5 a person received a benefit under a chapter listed in  
6 subsection 1 to which the person was not entitled or for which  
7 the person under rule was not eligible.

8 Sec. 2. NEW SECTION. 234.13A CIVIL PENALTIES -- PAYMENT  
9 OF INVESTIGATION COSTS.

10 If a person receives under this chapter a service, payment,  
11 merchandise, or other assistance to which the person was not  
12 entitled or for which the person was not eligible, the  
13 person's liability for civil penalties and investigation costs  
14 shall be determined in accordance with section 10A.404.

15 Sec. 3. NEW SECTION. 237A.14 FRAUDULENT PRACTICES --  
16 RECOVERY OF OVERPAYMENTS.

17 1. An individual who receives, or attempts to receive, or  
18 aids or abets an individual in receiving, by means of a  
19 willfully false statement or representation, by knowingly  
20 failing to disclose a material fact, or by impersonation, or  
21 through any fraudulent device, any assistance, payment, or  
22 other benefit under this chapter to which the individual is  
23 not entitled, commits a fraudulent practice.

24 2. An individual who commits a fraudulent practice under  
25 this section is personally liable for the amount of  
26 assistance, payment, or other benefit fraudulently received.  
27 The amount of the assistance, payment, or other benefit may be  
28 recovered from the offender or the offender's estate in an  
29 action brought or by claim filed in the name of the state and  
30 the recovered funds are appropriated to the department to be  
31 used for state child care assistance under section 237A.13.  
32 The action or claim filed in the name of the state shall not  
33 be considered an election of remedies to the exclusion of  
34 other remedies.

35 3. The department shall adopt rules pursuant to chapter

1 17A as necessary to recover overpayments of assistance,  
2 payments, and benefits provided under this chapter. The  
3 recovery methods shall include but are not limited to reducing  
4 the amount of assistance, payments, or benefits provided.

5 Sec. 4. NEW SECTION. 237A.15 CIVIL PENALTIES -- PAYMENT  
6 OF INVESTIGATION COSTS.

7 If a person receives under this chapter assistance,  
8 payment, or other benefit to which the person was not entitled  
9 or for which the person was not eligible, the person's  
10 liability for civil penalties and investigation costs shall be  
11 determined in accordance with section 10A.404.

12 Sec. 5. NEW SECTION. 239B.14A CIVIL PENALTIES -- PAYMENT  
13 OF INVESTIGATION COSTS.

14 If a person receives under this chapter assistance or  
15 another benefit to which the person was not entitled or for  
16 which the person was not eligible, the person's liability for  
17 civil penalties and investigation costs shall be determined in  
18 accordance with section 10A.404.

19 Sec. 6. NEW SECTION. 249.11A CIVIL PENALTIES -- PAYMENT  
20 OF INVESTIGATION COSTS.

21 If a person receives under this chapter payment to which  
22 the person was not entitled or for which the person was not  
23 eligible, the person's liability for civil penalties and  
24 investigation costs shall be determined in accordance with  
25 section 10A.404.

26 Sec. 7. NEW SECTION. 249A.8A CIVIL PENALTIES -- PAYMENT  
27 OF INVESTIGATION COSTS.

28 If a person receives under this chapter assistance or  
29 payment for medical assistance or payment for services or  
30 merchandise under this chapter to which the person was not  
31 entitled or for which the person was not eligible, the  
32 person's liability for civil penalties and investigation costs  
33 shall be determined in accordance with section 10A.404.

34 EXPLANATION

35 This bill relates to public assistance benefits received by

1 persons who were not entitled or eligible to receive the  
2 benefits. The bill includes requirements for establishing  
3 liability for civil penalties and recovery of investigation  
4 costs from such persons under the following Code chapters:  
5 chapter 234, relating to child and family services, including  
6 child welfare services and food programs; chapter 237A,  
7 relating to child care services; chapter 239B, relating to the  
8 family investment program; chapter 249, relating to state  
9 supplementary assistance; and chapter 249A, relating to the  
10 medical assistance program.

11 In new Code section 10A.404, the bill provides authority as  
12 applicable under each of these chapters to establish liability  
13 for a person who receives a benefit, defined as a service,  
14 payment, merchandise, or other assistance to which the person  
15 was not entitled or for which the person by rule was not  
16 eligible, in addition to any other penalty or payment under  
17 law. The liability has two components: a civil penalty and  
18 the costs of the investigation concerning the matter incurred  
19 by the department of inspections and appeals.

20 The threshold for applying this liability to a recipient is  
21 whether the recipient received more than \$1,000 of benefits to  
22 which the recipient was not entitled or eligible. The civil  
23 liability limit for a recipient is treble the value of such  
24 benefit and the liability for investigation costs is limited  
25 to \$500. The liability limits for a provider of service,  
26 merchandise, or other assistance who received a benefit to  
27 which the person was not entitled or eligible for civil  
28 liability is treble the value of such benefit and for  
29 investigation costs is \$5,000.

30 The liability may be established by a state or federal  
31 court in a criminal or civil proceeding or pursuant to an  
32 administrative finding. Otherwise the office of the attorney  
33 general or county attorney is authorized to initiate the  
34 proceedings in the county in which the person received the  
35 benefit.

1 If a judgment or finding is issued in a criminal, civil, or  
2 administrative proceeding that involves benefit programs  
3 administered by the state, a rebuttable presumption arises  
4 that the person is liable for the civil penalties and costs of  
5 investigation. The presumption may be rebutted by showing  
6 clear and convincing evidence that the person was eligible for  
7 what was received.

8 The departments of human services and inspections and  
9 appeals are authorized to adopt rules to implement the bill's  
10 provisions.

11 In addition, new Code section 237A.14 establishes a  
12 fraudulent practice crime involving persons obtaining child  
13 care assistance, payments, or benefits. The state is  
14 authorized to recover moneys to compensate for the  
15 fraudulently obtained assistance, payment, or benefit, and  
16 recovered moneys are appropriated to the department of human  
17 services for the state child care assistance program.

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HOUSE FILE 2393

H-8207

1 Amend House File 2393 as follows:

2 1. Page 5, by inserting after line 11 the  
3 following:

4 "Sec. \_\_\_\_ . Section 239B.3, Code 2001, is amended  
5 by adding the following new subsection:

6 NEW SUBSECTION. 5. A person who meets the  
7 conditions of eligibility under section 239B.2 and who  
8 meets either of the following requirements shall be  
9 eligible for participation in the family investment  
10 program:

11 a. The person is a conditional resident alien who  
12 was battered or subjected to extreme cruelty, or whose  
13 child was battered or subjected to extreme cruelty,  
14 perpetrated by the person's spouse who is a United  
15 States citizen or lawful permanent resident as  
16 described in 8 C.F.R. 216.5(a)(3).

17 b. The person's petition has been approved or a  
18 petition is pending that sets forth a prima facie case  
19 that the person has noncitizen status under any of the  
20 following categories:

21 (1) Status as a spouse or child of a United States  
22 citizen or lawful permanent resident under the federal  
23 Immigration and Nationality Act, § 204(a)(1).

24 (2) Classification as a person lawfully admitted  
25 for permanent residence under the federal Immigration  
26 and Nationality Act.

27 (3) Suspension of deportation and adjustment of  
28 status under the federal Immigration and Nationality  
29 Act, § 244(a), as in effect before the date of  
30 enactment of the federal Illegal Immigration Reform  
31 and Immigrant Responsibility Act of 1996.

32 (4) Cancellation of removal or adjustment of  
33 status under the federal Immigration and Nationality  
34 Act, § 240 A.

35 (5) Status as an asylee, if asylum is pending."

36 2. By renumbering as necessary.

By CHIODO of Polk

H-8207 FILED MARCH 7, 2002

# Legislative Fiscal Bureau

## Fiscal Note

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HF 2393 – Investigations Division (LSB 5229 HV)

Analyst: Mary Beth Mellick (Phone: (515) 281-8223) (marybeth.mellick@legis.state.ia.us)

Fiscal Note Version – New

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### Description

House File 2393 relates to public assistance benefits received by persons who were not entitled or eligible to receive the benefits, and the total dollar amount was proven to be more than \$1,000. Additionally, HF 2393 provides civil penalties and appropriates certain penalties received.

### Assumptions

1. The analysis is based on FY 2001 data from the Department of Human Services (DHS) and the Department of Inspections and Appeals (DIA).
2. Department of Human Services investigation costs for FY 2001 include .55 full-time equivalent (FTE) position and \$17,000.
3. Department of Inspections and Appeals investigation costs include investigator time only and totaled \$1.4 million in FY 2001.
4. Individuals would pay up to \$500 and providers would pay up to \$5,000 in investigation costs per case.
5. There were 1,750 cases adjudicated for individuals receiving fraudulent benefits in FY 2001. Total fraud amounts totaled \$1.6 million. Under HF 2393:
  - a. Maximum civil penalties for individuals would be three times the fraud amount, or approximately \$2,700 per case, for a total of \$4.7 million.
  - b. Maximum investigation costs recoverable would be \$500 per case, or \$875,000.
6. There were 40 cases adjudicated for providers receiving fraudulent benefits in FY 2001. Total fraud amounts in such cases totaled \$300,000. Under HF 2393:
  - a. Maximum civil penalties for providers would be \$5,000 or 25.0% of the fraud amount, whichever is greater, up to a maximum of three times the fraud amount. Civil penalties would be approximately \$200,000.
  - b. Maximum investigation costs recoverable would be \$5,000 per case, or \$200,000.
7. Maximum investigation costs recoverable for providers and individuals receiving fraudulent benefits would be \$1.1 million.
8. Maximum civil penalties for providers and individuals receiving fraudulent benefits would be \$260,000.

### Fiscal Impact

The annual General Fund fiscal impact of HF 2393 would result in a net increase in revenues of approximately \$4.6 million. The detail breakdown is as follows:

