



Iowa General Assembly
Daily Bills, Amendments & Study Bills
January 27, 2010

House Amendment 8031

PAG LIN

1 1 Amend House Resolution 105 as follows:
1 2 #1. Page 1, line 5, after <amendments> by inserting
1 3 <and for voting>
1 4 #2. Page 3, after line 12 by inserting:
1 5 <BE IT FURTHER RESOLVED BY THE HOUSE OF
1 6 REPRESENTATIVES, That Rule 75 of the Rules of
1 7 the House, as adopted by the House of Representatives
1 8 during the 2009 Session in House Resolution 8, is
1 9 amended to read as follows:
1 10 Rule 75
1 11 Voting in the House and Duty of Voting
1 12 Voting in the house shall not occur between midnight
1 13 and 8 a.m. on any legislative day except for voting on
1 14 a motion to adjourn. Except as limited in Rule 76,
1 15 every member who is in the house when a question is put
1 16 shall vote unless the house has excused that member
1 17 from voting for special reasons; however, such member
1 18 must have asked to be excused from voting prior to the
1 19 time the speaker puts the question.>

COWNIE of Polk

RAECKER of Polk
HR105.294 (2) 83
nh/rj



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House File 2145 - Introduced

HOUSE FILE
BY CHAMBERS

A BILL FOR

1 An Act relating to assignment of visitation to the grandparent
2 of a child when a parent is serving active duty in the
3 military service of the United States.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 6107HH (2) 83
pf/nh



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House File 2145 - Introduced continued

PAG LIN

1 1 Section 1. NEW SECTION. 598.41D Assignment of visitation ==
1 2 parent serving active duty == grandparent.
1 3 1. Notwithstanding any provision to the contrary, a parent
1 4 who has been granted court-ordered visitation with the parent's
1 5 minor child may file an application for modification of a
1 6 decree or a petition for modification of an order regarding
1 7 child visitation, prior to or during the time the parent is
1 8 serving active duty in the military service of the United
1 9 States, to temporarily assign that parent's visitation rights
1 10 to a grandparent of the minor child, as specified by the
1 11 parent. The application or petition shall be accompanied by
1 12 an affidavit from the grandparent indicating the grandparent's
1 13 knowledge of the application or petition and willingness to
1 14 exercise the parent's visitation rights during the parent's
1 15 absence.
1 16 2. a. If the active duty of a parent affects the parent's
1 17 ability or anticipated ability to appear at a regularly
1 18 scheduled hearing, the court shall provide for an expedited
1 19 hearing in matters instituted under this section.
1 20 b. If the active duty or anticipated active duty of a parent
1 21 prevents the parent from appearing in person at a hearing, the
1 22 court shall provide, upon reasonable advance notice, for the
1 23 parent to present testimony and evidence by electronic means
1 24 in matters instituted under this section. For the purposes of
1 25 this paragraph, "electronic means" includes communication by
1 26 telephone, video teleconference, or the internet.
1 27 3. The court may grant the parent's request for temporary
1 28 assignment of visitation if the court finds that such
1 29 visitation is in the best interest of the child.
1 30 4. An order granting assignment of visitation rights under
1 31 this section does not create separate rights to visitation for
1 32 a person other than the parent.
1 33 5. An order granting temporary assignment of visitation
1 34 rights pursuant to this section shall terminate upon
1 35 notification of the court by the parent or automatically upon



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House File 2145 - Introduced continued

2 1 the parent's completion of active duty, whichever occurs first.
2 2 6. After a parent completes active duty, if an application
2 3 for modification of a decree or a petition for modification
2 4 of an order is filed, the parent's absence due to active duty
2 5 or the assignment of visitation rights does not constitute a
2 6 substantial change in circumstances, and the court shall not
2 7 consider a parent's absence due to that active duty or the
2 8 assignment of visitation rights in making a determination
2 9 regarding the best interest of the child relative to such an
2 10 application or petition filed after a parent completes active
2 11 duty.

2 12 7. As used in this section, "active duty" means active
2 13 military duty pursuant to orders issued under Title X of the
2 14 United States Code. However, this section shall not apply to
2 15 active guard and reserve duty or similar full-time military
2 16 duty performed by a parent when the child remains in actual
2 17 custody of the parent.

2 18 EXPLANATION

2 19 This bill relates to the assignment of visitation of a
2 20 parent serving active duty to a grandparent of the child. The
2 21 bill provides that a parent who has been granted court-ordered
2 22 visitation with the parent's minor child may file an
2 23 application for modification of a decree or a petition for
2 24 modification of an order regarding child visitation, prior
2 25 to or during the time the parent is serving active duty,
2 26 to temporarily assign that parent's visitation rights to a
2 27 grandparent of the minor child, as specified by the parent.
2 28 The application or petition must be accompanied by an affidavit
2 29 from the grandparent indicating the grandparent's knowledge of
2 30 the application or petition and willingness to exercise the
2 31 parent's visitation rights during the parent's absence.

2 32 The bill also provides for an expedited hearing on the
2 33 application or petition if the active duty or anticipated
2 34 active duty of the parent affects the parent's ability to
2 35 appear at a regularly scheduled hearing and for presentation



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3 1 of testimony and evidence by electronic means if the parent
3 2 is prevented from appearing in person due to the active duty
3 3 or anticipated active duty, upon reasonable advance notice.
3 4 "Electronic means" includes communication by telephone, video
3 5 teleconference, or the internet.
3 6 The court may grant the parent's request for temporary
3 7 assignment of visitation if the court finds that such
3 8 visitation is in the best interest of the child. However, the
3 9 assignment of visitation rights does not create separate rights
3 10 to visitation for a person other than the parent. The order
3 11 granting temporary assignment of visitation terminates upon
3 12 notification of the court by the parent or automatically upon
3 13 the parent's completion of active duty, whichever occurs first.
3 14 The bill provides that after a parent completes active duty,
3 15 if an application for modification of a decree or a petition
3 16 for modification of an order is filed, the parent's absence
3 17 due to active duty or the assignment of visitation does not
3 18 constitute a substantial change in circumstances, and the
3 19 court shall not consider a parent's absence due to that active
3 20 duty or the assignment of visitation in making a determination
3 21 regarding the best interest of the child relative to such an
3 22 application or petition filed after a parent completes active
3 23 duty.
3 24 "Active duty" is defined as active military duty pursuant
3 25 to orders issued under Title X of the United States Code.
3 26 However, the bill does not apply to active guard and reserve
3 27 duty or similar full-time military duty performed by a parent
3 28 when the child remains in actual custody of the parent.

LSB 6107HH (2) 83

pf/nh



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House File 2146 - Introduced

HOUSE FILE
BY CHAMBERS

A BILL FOR

1 An Act concerning the operation of all-terrain vehicles on
2 certain streets and highways.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 5785YH (2) 83
dea/nh



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House File 2146 - Introduced continued

PAG LIN

1 1 Section 1. Section 321.234A, subsection 1, Code 2009, is
1 2 amended by adding the following new paragraph:
1 3 NEW PARAGRAPH. f. The all-terrain vehicle is operated in
1 4 accordance with section 321I.10.

1 5 Sec. 2. Section 321I.10, subsection 3, Code Supplement
1 6 2009, is amended to read as follows:

1 7 3. Cities may designate streets under the jurisdiction of
1 8 cities within their respective corporate limits which may be
1 9 used for ~~the sport of~~ driving all-terrain vehicles.

1 10 EXPLANATION

1 11 This bill amends a provision in Code section 321I.10 that
1 12 authorizes cities to designate city streets which may be used
1 13 for the sport of driving all-terrain vehicles. The bill allows
1 14 cities to designate city streets for driving of all-terrain
1 15 vehicles for unspecified purposes.

1 16 The bill makes a conforming amendment to Code section
1 17 321.234A to specify that all-terrain vehicle operation
1 18 authorized by a county or city pursuant to Code section
1 19 321I.10 is an exception to the general prohibition against the
1 20 operation of all-terrain vehicles on highways.

LSB 5785YH (2) 83

dea/nh



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House File 2147 - Introduced

HOUSE FILE
BY FREVERT

A BILL FOR

1 An Act requiring airport notification and a determination
2 regarding the existence of an airport hazard prior to
3 the construction of a wind energy system within specified
4 distances.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
 TLSB 6027YH (2) 83
 rn/nh



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House File 2147 - Introduced continued

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1 1 Section 1. Section 329.10, Code 2009, is amended by adding
1 2 the following new subsection:
1 3 NEW SUBSECTION. 4. a. Airport zoning regulations adopted
1 4 under this chapter, and zoning ordinances adopted under
1 5 chapters 335 and 414, shall require any person desiring to
1 6 construct a wind energy system to notify an airport located
1 7 within five miles of the proposed construction site of the
1 8 proposed construction prior to commencing construction, and to
1 9 ascertain that the proposed construction does not constitute
1 10 an airport hazard.

1 11 b. For the purposes of this section, "wind energy system"
1 12 means a wind energy conversion system consisting of a wind
1 13 turbine, a tower, and associated control or conversion
1 14 electronics.

1 15 EXPLANATION

1 16 This bill provides that airport zoning regulations adopted
1 17 under Code chapter 329, and zoning ordinances adopted under
1 18 Code chapters 335 and 414 by a city and a county, respectively,
1 19 shall require any person desiring to construct a wind energy
1 20 system to notify an airport located within five miles of the
1 21 proposed construction site of the proposed construction prior
1 22 to commencing construction. The bill also provides that the
1 23 person prior to construction shall ascertain that the proposed
1 24 construction does not constitute an airport hazard. Code
1 25 section 329.1, subsection 2, defines an airport hazard to
1 26 mean any structure or tree or use of land which would exceed
1 27 specified federal obstruction standards and which obstructs
1 28 the air space required for the flight of aircraft and landing
1 29 or take-off at an airport or is otherwise hazardous to such
1 30 landing or taking off of aircraft.

1 31 The bill defines a wind energy system to mean a wind energy
1 32 conversion system consisting of a wind turbine, a tower, and
1 33 associated control or conversion electronics.

LSB 6027YH (2) 83

rn/nh



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House File 2148 - Introduced

HOUSE FILE
BY COMMITTEE ON VETERANS
AFFAIRS

(SUCCESSOR TO HF 2055)

A BILL FOR

1 An Act relating to eligible lenders for the home ownership
2 assistance program for military members.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 5546HV (8) 83
md/sc



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House File 2148 - Introduced continued

PAG LIN

1 1 Section 1. Section 16.54, subsection 4, paragraphs a and b,
1 2 Code 2009, are amended to read as follows:

1 3 a. The person eligible for the program shall, for financed
1 4 home purchases that close on or after July 1, 2008, use a
1 5 lender that participates in the authority's applicable programs
1 6 for ~~first-time~~ homebuyers or a lender approved by the authority
1 7 under subsection 4A.

1 8 ~~b. If the person eligible for the program is a first-time~~
1 9 ~~homebuyer, then, for~~ For financed home purchases that close on
1 10 or after July 1, 2008, the eligible person shall participate,
1 11 if eligible to participate, in one of the authority's
1 12 other applicable programs for first-time homebuyers. However,
1 13 a person eligible for one of the authority's other applicable
1 14 programs for homebuyers may use a lender that does not
1 15 participate in the authority's programs for homebuyers if such
1 16 lender is approved by the authority under subsection 4A.

1 17 Sec. 2. Section 16.54, Code 2009, is amended by adding the
1 18 following new subsection:

1 19 NEW SUBSECTION. 4A. a. A mortgage lender maintaining
1 20 an office in the state that does not participate in the
1 21 authority's programs for homebuyers may submit an application
1 22 to the authority for approval to provide a mortgage loan or
1 23 other financing under the home ownership assistance program or
1 24 another homebuyer program, if applicable pursuant to subsection
1 25 4, paragraph "b". The authority shall prescribe a form for such
1 26 applications.

1 27 b. The authority shall by rule establish criteria for
1 28 the review and approval of applications submitted under this
1 29 subsection, including criteria for the approval of a mortgage
1 30 lender that offers an eligible person a lower annual percentage
1 31 rate than the annual percentage rates available from lenders
1 32 that participate in the authority's applicable programs for
1 33 homebuyers.

1 34 c. The authority may determine and collect a reasonable
1 35 application fee for each application submitted under this



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2 1 subsection. The application fees collected under this
2 2 subsection shall be used exclusively for costs associated with
2 3 the review and approval of applications submitted under this
2 4 subsection.

2 5 EXPLANATION

2 6 This bill allows eligible persons for the home ownership
2 7 assistance program for military members to use a lender that
2 8 does not participate in the Iowa finance authority's other
2 9 programs for homebuyers if an application submitted by the
2 10 lender is approved by the authority. The bill also removes the
2 11 provision that requires eligible persons to use lenders that
2 12 participate in the authority's first-time homebuyer programs.
2 13 Under the bill, an eligible person may use a lender that
2 14 participates in any of the authority's programs for homebuyers.
2 15 The bill allows a mortgage lender that maintains an office in
2 16 the state to submit an application to the authority to provide
2 17 a mortgage loan or other financing under the home ownership
2 18 assistance program for military members or other homebuyer
2 19 program if the eligible person is required to participate in
2 20 another program. The bill requires the authority to prescribe
2 21 a form for such applications.

2 22 The bill requires the authority to establish criteria for
2 23 the review and approval of applications submitted by lenders.
2 24 The bill allows the authority to determine and collect a
2 25 reasonable application fee for each application submitted. The
2 26 bill requires all fees collected by the authority to be used
2 27 exclusively for costs associated with the review and approval
2 28 of submitted applications.

LSB 5546HV (8) 83

md/sc



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House File 2149 - Introduced

HOUSE FILE
BY WINDSCHITL and UPMEYER

A BILL FOR

1 An Act relating to licensing board rules concerning the scope
2 of practice of licensed professions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 5953YH (2) 83
jr/nh



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House File 2149 - Introduced continued

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1 1 Section 1. Section 147.36, Code 2009, is amended to read as
1 2 follows:
1 3 147.36 Rules.
1 4 1. Each board may establish rules for any of the following:
1 5 ~~1.~~ a. The qualifications required for applicants seeking to
1 6 take examinations.
1 7 ~~2.~~ b. The denial of applicants seeking to take
1 8 examinations.
1 9 ~~3.~~ c. The conducting of examinations.
1 10 ~~4.~~ d. The grading of examinations and passing upon the
1 11 technical qualifications of applicants, as shown by such
1 12 examinations.
1 13 ~~5.~~ e. The minimum scores required for passing standardized
1 14 examinations.
1 15 2. A board shall not adopt rules affecting the scope of
1 16 practice of a profession licensed by another board without the
1 17 approval of that board.

1 18 EXPLANATION

1 19 This bill provides that no licensing board can adopt rules
1 20 affecting the scope of practice of another licensed profession
1 21 without the approval of the other licensing board.

LSB 5953YH (2) 83

jr/nh



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House File 2150 - Introduced

HOUSE FILE
BY HEDDENS

A BILL FOR

1 An Act relating to rights of persons with disabilities.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 5547HH (1) 83
jp/nh



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House File 2150 - Introduced continued

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1 1 Section 1. Section 216B.3, subsection 9, Code Supplement
1 2 2009, is amended to read as follows:
1 3 9. Provide library services to persons who are blind and
1 4 persons with ~~physical~~ disabilities.
1 5 Sec. 2. Section 216B.4, unnumbered paragraph 1, Code 2009,
1 6 is amended to read as follows:
1 7 The director may accept financial aid from the government of
1 8 the United States for carrying out rehabilitation and physical
1 9 restoration of the blind and for providing library, news, and
1 10 information services to persons who are blind and persons with
1 11 ~~physical~~ disabilities.
1 12 Sec. 3. Section 216C.1, Code 2009, is amended to read as
1 13 follows:
1 14 216C.1 Participation by persons with disabilities.
1 15 1. It is the policy of this state to encourage and enable
1 16 persons who are blind or partially blind and persons with
1 17 ~~physical~~ disabilities to participate fully in the social and
1 18 economic life of the state and to engage in remunerative
1 19 employment.
1 20 2. To encourage participation by persons with disabilities,
1 21 it is the policy of this state to ensure compliance with
1 22 federal requirements concerning persons with disabilities.
1 23 Sec. 4. Section 216C.2, Code 2009, is amended to read as
1 24 follows:
1 25 216C.2 Public employment.
1 26 Persons who are blind or partially blind and persons with
1 27 ~~physical~~ disabilities shall be employed in the state service,
1 28 the service of the political subdivisions of the state, the
1 29 public schools, and all other employment supported in whole
1 30 or in part by public funds, on the same terms and conditions
1 31 as other persons, unless it is shown that the particular
1 32 disability prevents the performance of the work required.
1 33 Sec. 5. Section 216C.3, Code 2009, is amended to read as
1 34 follows:
1 35 216C.3 Free use of public facilities.



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2 1 Persons who are blind or partially blind and persons
2 2 with ~~physical~~ disabilities have the same right as other
2 3 persons to the full and free use of the streets, highways,
2 4 sidewalks, walkways, public buildings, public elevators, public
2 5 facilities, and other public places.

2 6 Sec. 6. Section 216C.4, Code 2009, is amended to read as
2 7 follows:

2 8 216C.4 Accommodations.

2 9 Persons who are blind or partially blind and persons
2 10 with ~~physical~~ disabilities are entitled to full and equal
2 11 accommodations, facilities, and privileges of all common
2 12 carriers, airplanes, motor vehicles, railroad trains,
2 13 motorbuses, streetcars, boats, other public conveyances or
2 14 modes of transportation, hotels, lodging places, eating places,
2 15 places of public accommodation, amusement, or resort, and
2 16 other places to which the general public is invited, subject
2 17 only to the conditions and limitations established by law and
2 18 applicable alike to all persons.

2 19 Sec. 7. Section 216C.9, Code 2009, is amended to read as
2 20 follows:

2 21 216C.9 ~~Curb cutouts and ramps~~ and sloped areas for persons
2 22 with disabilities.

2 23 1. ~~Curbs constructed along any public street in this state,~~
- 2 24 ~~when the street is paralleled or intersected by sidewalks, or~~
- 2 25 ~~when city ordinances or other lawful regulations will require~~
- 2 26 ~~the construction of sidewalks parallel to or intersecting the~~
- 2 27 ~~street, shall be constructed with not less than two curb cuts~~
- 2 28 ~~or ramps per lineal block which shall be located on or near the~~
- 2 29 ~~crosswalks at intersections. Each curb cut or ramp shall be~~
- 2 30 ~~at least thirty inches wide, shall be sloped at not greater~~
- 2 31 ~~than one inch of rise per twelve inches lineal distance,~~
- 2 32 ~~except that a slope no greater than one inch of rise per eight~~
- 2 33 ~~inches lineal distance may be used where necessary, shall have~~
- 2 34 ~~a nonskid surface, and shall otherwise be so constructed as~~
- 2 35 ~~to allow reasonable access to the crosswalk for persons with~~



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~~3 1 physical disabilities using the sidewalk. If a street, road,~~
~~3 2 or highway in this state is newly built or altered, a curb~~
~~3 3 ramp or sloped area shall be constructed or installed at each~~
~~3 4 intersection of the street, road, or highway with a sidewalk~~
~~3 5 or path. If a sidewalk or path in this state is newly built~~
~~3 6 or altered, a curb ramp or sloped area shall be constructed or~~
~~3 7 installed at each intersection of the sidewalk or path with a~~
~~3 8 street, highway, or road.~~

~~3 9 2. The requirements of subsection 1 shall apply after~~
~~3 10 January 1, 1975, to all new curbs constructed and to all~~
~~3 11 replacement curbs constructed at any point along a public~~
~~3 12 street which gives reasonable access to a crosswalk.~~

~~3 13 3. 2. Curbs constructed~~ Curb ramps and sloped areas that
~~3 14 are subject to the requirements of~~ required pursuant
~~3 15 to this section shall~~ ~~comply~~ be constructed or installed in
~~3 16 compliance with applicable federal requirements concerning~~
~~3 17 persons with disabilities adopted in accordance with the~~
~~3 18 federal Americans With Disabilities Act, including but not~~
~~3 19 limited to the guidelines issued by the federal architectural~~
~~3 20 and transportation barriers compliance board.~~

3 21 Sec. 8. Section 216C.10, Code 2009, is amended to read as
 3 22 follows:

3 23 216C.10 Use of hearing dog.

3 24 A deaf or hard-of-hearing person has the right to be
 3 25 accompanied by a hearing dog, under control and especially
 3 26 trained at a recognized training facility to assist the deaf
 3 27 or hard-of-hearing by responding to sound, in any place listed
 3 28 in sections 216C.3 and 216C.4 without being required to make
 3 29 additional payment for the hearing dog. A landlord shall
 3 30 waive lease restrictions on the keeping of dogs for a deaf
 3 31 or hard-of-hearing person with a hearing dog. The deaf or
 3 32 hard-of-hearing person is liable for damage done to any premise
 3 33 or facility by a hearing dog.

~~3 34 A person who denies or interferes with the right of a deaf or~~
~~3 35 hard-of-hearing person under this section is, upon conviction,~~



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~~4 1 guilty of a simple misdemeanor.~~
4 2 Sec. 9. Section 216C.11, Code Supplement 2009, is amended
4 3 to read as follows:
4 4 216C.11 Service dogs and assistive animals.
4 5 1. For purposes of this section, "service dog" means a dog
4 6 specially trained ~~at a recognized training facility~~ to assist a
4 7 person with a disability, whether described as a service dog,
4 8 a support dog, an independence dog, or otherwise. "Assistive
4 9 animal" means a simian or other animal specially trained or in
4 10 the process of being trained ~~under the auspices of a recognized~~
~~4 11 training facility~~ to assist a person with a disability.
4 12 2. A person with a disability, a person assisting a person
4 13 with a disability by controlling an assistive animal, or
4 14 a person training an assistive animal has the right to be
4 15 accompanied by a service dog or an assistive animal, under
4 16 control, in any of the places listed in sections 216C.3 and
4 17 216C.4 without being required to make additional payment for
4 18 the service dog or assistive animal. A landlord shall waive
4 19 lease restrictions on the keeping of animals for the service
4 20 dog or assistive animal of a person with a disability. The
4 21 person is liable for damage done to any premises or facility by
4 22 a service dog or assistive animal.
4 23 3. ~~A person who knowingly denies or interferes with the~~
~~4 24 right of a person under this section is, upon conviction,~~
~~4 25 guilty of a simple misdemeanor.~~
4 26 Sec. 10. Section 321.445, subsection 5, Code 2009, is
4 27 amended to read as follows:
4 28 5. The department shall adopt rules pursuant to chapter 17A
4 29 providing exceptions from application of subsections 1 and 2
4 30 for front seats and front seat passengers of motor vehicles
4 31 owned, leased, rented, or primarily used by persons with
4 32 ~~physical~~ disabilities who use collapsible wheelchairs.
4 33 Sec. 11. Section 331.324, subsection 1, paragraph n, Code
4 34 2009, is amended to read as follows:
4 35 n. Employ persons who are blind or partially blind and



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5 1 persons with ~~physical~~ disabilities in accordance with section
5 2 216C.2.
5 3 Sec. 12. Section 331.361, subsection 5, paragraph g, Code
5 4 2009, is amended to read as follows:
5 5 g. Comply with section 216C.9 if ~~curbs and~~ curb ramps and
5 6 sloped areas are constructed.
5 7 Sec. 13. Section 331.461, subsection 2, paragraph g, Code
5 8 2009, is amended to read as follows:
5 9 g. Housing for persons who are elderly or persons with
5 10 ~~physical~~ disabilities.
5 11 Sec. 14. Section 335.32, Code 2009, is amended to read as
5 12 follows:
5 13 335.32 Homes for persons with ~~physical~~ disabilities.
5 14 A county board of supervisors or county zoning commission
5 15 shall consider a home for persons with ~~physical~~ disabilities a
5 16 family home, as defined in section 335.25, for the purposes of
5 17 zoning, in accordance with chapter 504C.
5 18 Sec. 15. Section 384.24, subsection 2, paragraph k, Code
5 19 Supplement 2009, is amended to read as follows:
5 20 k. Housing for persons who are elderly or persons with
5 21 ~~physical~~ disabilities.
5 22 Sec. 16. Section 403A.7, subsection 1, paragraph c,
5 23 subparagraph (1), subparagraph division (a), Code 2009, is
5 24 amended to read as follows:
5 25 (a) The family size, composition, age,
5 26 ~~physical~~ disabilities, and other factors which might affect the
5 27 rent-paying ability of the person or family.
5 28 Sec. 17. Section 414.30, Code 2009, is amended to read as
5 29 follows:
5 30 414.30 Homes for persons with ~~physical~~ disabilities.
5 31 A city council or city zoning commission shall consider a
5 32 home for persons with ~~physical~~ disabilities a family home, as
5 33 defined in section 414.22, for purposes of zoning in accordance
5 34 with chapter 504C.
5 35 Sec. 18. Section 504C.1, subsections 1 and 2, Code 2009, are



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6 1 amended to read as follows:

6 2 1. For the purposes of this chapter, ~~physical~~

~~disability"~~ "disability" means a physical impairment that
6 4 results in significant functional limitations in one or more
6 5 areas of major life activity and in the need for specialized
6 6 care, treatment, or training services of extended duration.

6 7 2. Individuals with ~~physical~~ disabilities may form
6 8 nonprofit corporations pursuant to chapter 504 for the sole
6 9 purpose of establishing homes for persons with disabilities
6 10 which are intended to serve two to five residents who are
6 11 members of the nonprofit corporation.

6 12 Sec. 19. Section 714.19, subsection 5, Code 2009, is amended
6 13 to read as follows:

6 14 5. Nonprofit schools exclusively engaged in training
6 15 persons with ~~physical~~ disabilities in the state of Iowa.

6 16 Sec. 20. IMPLEMENTATION OF ACT. Section 25B.2, subsection
6 17 3, shall not apply to this Act.

6 18 EXPLANATION

6 19 This bill relates to rights of persons with disabilities
6 20 by changing Code references from "persons with physical
6 21 disabilities" to "persons with disabilities", revising the
6 22 accessibility requirements for curb ramps and sloped areas
6 23 in intersections with streets, roads, and highways, and
6 24 eliminating certain penalties.

6 25 The reference change is made in the following Code sections:
6 26 section 216B.3, relating to the duties of the commission for
6 27 the blind; section 216B.4, relating to federal aid accepted by
6 28 the director of the department for the blind; section 216C.1,
6 29 stating state policy regarding participation by persons with
6 30 disabilities; section 216C.2, regarding public employment by
6 31 persons with disabilities; section 216C.3, regarding full and
6 32 free use of public facilities by persons with disabilities;
6 33 section 216C.4, relating to the right of persons with
6 34 disabilities to have full and equal accommodations, facilities,
6 35 and privileges to access areas, transportation, and businesses



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7 1 to which the general public is invited; section 321.445,
7 2 relating to required use of safety belts and safety harnesses
7 3 in motor vehicles; section 331.324, relating to the duties
7 4 and powers of county and township officers and employees;
7 5 section 331.461, relating to the definition of the term "city
7 6 enterprise" used for city general obligation bonds; section
7 7 335.32, relating to county zoning of homes for persons with
7 8 disabilities; section 384.24, relating to the definition of
7 9 the term "county enterprise" used for county revenue bonds;
7 10 section 403A.7, relating to the income limits and rents set by
7 11 a municipality for municipal housing projects by taking into
7 12 consideration disabilities and other factors; section 414.30,
7 13 relating to city zoning of homes for persons with disabilities;
7 14 section 504C.1, relating to nonprofit corporations providing
7 15 housing for persons with disabilities (also revises a defined
7 16 term in that section to eliminate the reference to physical
7 17 disability); and section 714.19, relating to inapplicability of
7 18 certain fraud statutes to certain nonprofit schools training
7 19 persons with disabilities.

7 20 The bill also rewrites Code section 216C.9, relating to
7 21 curbs and ramps for persons with disabilities to replace
7 22 specific requirements with a general requirement to comply
7 23 with the federal guidelines and requirements adopted under
7 24 the federal Americans With Disabilities Act. The general
7 25 requirement is applicable when streets, roads, highways,
7 26 sidewalks, and paths are newly built or altered.

7 27 Code section 216C.10, relating to the use of a hearing
7 28 dog, is amended to eliminate the requirement that hearing
7 29 dogs must be trained at a recognized training facility. In
7 30 addition, the bill repeals the simple misdemeanor penalty for
7 31 someone who denies or interferes with the right of a deaf or
7 32 hard-of-hearing person to be accompanied by a hearing dog.

7 33 Code section 216C.11, relating to service dogs and assistive
7 34 animals, is amended to eliminate the requirement that service
7 35 dogs must be trained at a recognized training facility. In



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8 1 addition, the bill repeals the simple misdemeanor penalty
8 2 for someone who denies or interferes with the right of a
8 3 person with a disability to be accompanied by a service dog or
8 4 assistive animal.
8 5 The bill may include a state mandate as defined in Code
8 6 section 25B.3. The bill makes inapplicable Code section 25B.2,
8 7 subsection 3, which would relieve a political subdivision from
8 8 complying with a state mandate if funding for the cost of
8 9 the state mandate is not provided or specified. Therefore,
8 10 political subdivisions are required to comply with any state
8 11 mandate included in the bill.

LSB 5547HH (1) 83

jp/nh



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House File 2151 - Introduced

HOUSE FILE
BY KELLEY

A BILL FOR

1 An Act modifying provisions applicable to the formation and
2 operation of electric power agencies.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TL5B 5210YH (3) 83
rn/sc



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House File 2151 - Introduced continued

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1 1 Section 1. Section 28F.1, unnumbered paragraphs 3 and 4,
1 2 Code 2009, are amended by striking the unnumbered paragraphs.
1 3 Sec. 2. Section 28F.2, subsection 1, Code 2009, is amended
1 4 to read as follows:
1 5 1. "Electric power agency" means an entity financing or
1 6 acquiring electric power facilities pursuant to this chapter
1 7 or chapter 28E ~~or 476A~~.
1 8 Sec. 3. Section 390.1, subsections 3 and 10, Code 2009, are
1 9 amended to read as follows:
1 10 3. "City utility" has the same meaning provided in section
1 11 362.2, subsection 6, and includes a "combined utility system",
1 12 as defined in section 384.80, which operates facilities for the
1 13 generation or transmission of electric energy and an electric
1 14 power agency, as defined in section 476A.20.
1 15 10. "Participant" means a city, electric
1 16 ~~co-operative~~ cooperative or privately owned utility company, or
1 17 an electric power agency, as defined in section 476A.20, which
1 18 is a party to a joint agreement.
1 19 Sec. 4. Section 476A.20, subsections 1 and 2, Code 2009, are
1 20 amended to read as follows:
1 21 1. "Electric power agency" means an entity ~~as defined in~~
1 22 ~~section 28F.2 financing or acquiring electric power facilities~~
1 23 pursuant to this subchapter or chapters 28E or 28F.
1 24 2. "Facility", "joint facility", "electric power facility",
1 25 or "project" means an electric power generating plant, or
1 26 transmission line or system, as defined in section 476A.1, or a
1 27 joint facility, as defined in section 390.1, subsection 7.
1 28 Sec. 5. Section 476A.20, Code 2009, is amended by adding the
1 29 following new subsection:
1 30 NEW SUBSECTION. 2A. "Joint agreement" means an agreement
1 31 of participants in connection with the acquisition, planning,
1 32 financing, operation, and maintenance of a joint facility,
1 33 consisting of one or more documents, and entitled joint
1 34 agreement, agreement, contract, or otherwise.
1 35 Sec. 6. Section 476A.21, Code 2009, is amended to read as



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2 1 follows:

2 2 476A.21 Electric power agency == general authority.

2 3 1. In addition to other powers conferred upon an electric
2 4 power agency by chapter 28F or other applicable law, an
2 5 electric power agency may enter into and carry out joint
2 6 agreements with other participants for the acquisition of
2 7 ownership of a joint facility and for the planning, financing,
2 8 operation, and maintenance of the joint facility, as provided
2 9 in this subchapter.

2 10 2. An electric power agency may be organized as a nonprofit
2 11 corporation, limited liability company, or as a separate
2 12 administrative or legal entity pursuant to chapter 28E. When
2 13 the electric power agency is comprised solely of cities or
2 14 solely of cities and other political subdivisions, the electric
2 15 power agency shall, for the purposes of exercising the powers
2 16 conferred in this subchapter, be a political subdivision of the
2 17 state of Iowa with the name under which it was organized.

2 18 EXPLANATION

2 19 This bill modifies provisions applicable to the formation
2 20 and operation of electric power agencies. Such agencies are
2 21 authorized pursuant to Code chapters 28F and 476A, subchapter
2 22 II, to enter into joint agreements with other agencies or
2 23 entities for the financing, acquisition, and operation of
2 24 projects for the generation and transmission of electric
2 25 energy.

2 26 The bill deletes provisions currently contained in Code
2 27 chapter 28F requiring voter approval for a city to join another
2 28 entity to finance electric power facilities and prohibiting
2 29 submission of the same or similar proposal to the voters sooner
2 30 than one year from the date of the election at which the
2 31 proposal was defeated.

2 32 The bill also modifies the definition of "electric power
2 33 agency" in Code section 28F.2, subsection 1, to eliminate a
2 34 circular reference to the same definition in Code section
2 35 476A.20, subsection 1, and adds references to the definition of



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3 1 electric power agency in Code section 476A.20, subsection 1, to
3 2 the definitions of city utility and participant in Code section
3 3 390.1, subsections 3 and 10, with regard to the formation and
3 4 operation of joint electrical utilities.

3 5 The bill expands the definition of "facility" contained in
3 6 Code chapter 476A.20, subsection 2, to also refer to a joint
3 7 facility, electric power facility, or project, and to include
3 8 a joint facility as defined in Code section 390.1, subsection
3 9 7. That definition refers to all property necessary or useful
3 10 for generating, purchasing, obtaining by exchange or otherwise
3 11 acquiring, or transmitting electric power and energy, which
3 12 is owned and operated pursuant to a joint agreement. The
3 13 bill also defines "joint agreement" to mean an agreement of
3 14 participants to acquire, plan, finance, operate, and maintain
3 15 a joint facility, consisting of one or more documents, and
3 16 entitled joint agreement, agreement, contract, or otherwise.

3 17 Additionally, the bill provides that an electric power
3 18 agency may be organized under Code chapter 476A as a nonprofit
3 19 corporation, limited liability company, or as a separate
3 20 administrative or legal entity pursuant to Code chapter 28E.
3 21 When the electric power agency is comprised solely of cities
3 22 or solely of cities and other political subdivisions, the bill
3 23 specifies that the electric power agency shall be a political
3 24 subdivision of the state of Iowa for purposes of exercising the
3 25 powers conferred in Code chapter 476A, subchapter II.

LSB 5210YH (3) 83

rn/sc



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House File 2152 - Introduced

HOUSE FILE
BY WESSEL-KROESCHELL

A BILL FOR

1 An Act relating to the property tax exemption for dwelling
2 units owned by certain nonprofit organizations and including
3 applicability provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 5770HH (5) 83
md/sc



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House File 2152 - Introduced continued

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1 1 Section 1. Section 427.1, subsection 21A, Code Supplement
1 2 2009, is amended to read as follows:
1 3 21A. Dwelling unit property owned by community housing
1 4 development organization. Dwelling unit property owned and
1 5 managed by a community housing development organization, as
1 6 recognized by the state of Iowa and the federal government
1 7 pursuant to criteria for community housing development
1 8 organization designation contained in the HOME program of
1 9 the federal National Affordable Housing Act of 1990, if the
1 10 organization is also a nonprofit organization exempt from
1 11 federal income tax under section 501(c)(3) of the Internal
1 12 Revenue Code ~~and owns and manages more than one hundred fifty~~
~~1 13 dwelling units that are located in a city with a population~~
~~1 14 of more than one hundred ten thousand. For the 2005 and 2006~~
~~1 15 assessment years, an application is not required to be filed to~~
~~1 16 receive the exemption.~~ For the 2007 and subsequent assessment
1 17 years, an application for exemption must be filed with the
1 18 assessing authority not later than February 1 of the assessment
1 19 year for which the exemption is sought. Upon the filing and
1 20 allowance of the claim, the claim shall be allowed on the
1 21 property for successive years without further filing as long as
1 22 the property continues to qualify for the exemption.
1 23 Sec. 2. APPLICABILITY. This Act applies to assessment years
1 24 beginning on or after January 1, 2011.
1 25 EXPLANATION
1 26 Current law provides an exemption from property taxation
1 27 for dwelling unit property owned and managed by a nonprofit
1 28 community housing development organization if the organization
1 29 owns and manages more than 150 dwelling units located in a city
1 30 with a population of more than 110,000.
1 31 This bill removes the requirement that the nonprofit
1 32 organization own and manage more than 150 dwelling units
1 33 located in a city with a population of more than 110,000. The
1 34 bill also removes the provision that allows an organization to
1 35 receive the exemption during 2005 and 2006 assessment years



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2 1 without filing an application for the exemption.
2 2 This bill applies to assessment years beginning on or after
2 3 January 1, 2011.
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md/sc



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House File 2153 - Introduced

HOUSE FILE
BY HELLAND

A BILL FOR

1 An Act exempting from sales tax charges paid for membership in
2 a physical exercise club.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 5370YH (4) 83
ak/sc



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1 1 Section 1. Section 423.3, Code Supplement 2009, is amended
1 2 by adding the following new subsection:
1 3 NEW SUBSECTION. 96. The sales price of charges paid for
1 4 membership in a physical exercise club. For the purposes of
1 5 this subsection, "charges paid for membership" means "contract
1 6 price" as defined in section 552.1, and "physical exercise club"
1 7 means as defined in section 552.1.

1 8 EXPLANATION

1 9 This bill creates a sales tax exemption for the price
1 10 of a membership to a physical exercise club or to use the
1 11 services or facilities of a physical exercise club. The sales
1 12 tax exemption applies to the contract price paid as defined
1 13 in Code section 552.1, which includes service charges or
1 14 membership fees. A physical exercise club, as defined in Code
1 15 section 552.1, includes a facility offering services for the
1 16 preservation, maintenance, encouragement, or development of
1 17 physical fitness or well-being.

LSB 5370YH (4) 83

ak/sc



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House File 2154 - Introduced

HOUSE FILE
BY HELLAND

A BILL FOR

1 An Act providing individual and corporate income tax deductions
2 for a portion of the costs associated with conducting
3 wellness programs and providing fitness facility memberships
4 to employees and including retroactive applicability
5 provisions.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TL5B 5381YH (5) 83
tw/mg:sc



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House File 2154 - Introduced continued

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1 1 Section 1. Section 422.7, Code Supplement 2009, is amended
1 2 by adding the following new subsection:
1 3 NEW SUBSECTION. 18. Subtract, to the extent not otherwise
1 4 deducted in computing adjusted gross income, an amount equal to
1 5 twenty percent of the cost associated with conducting wellness
1 6 programs and providing memberships at fitness facilities for
1 7 employees of the taxpayer.

1 8 Sec. 2. Section 422.35, Code Supplement 2009, is amended by
1 9 adding the following new subsection:
1 10 NEW SUBSECTION. 9. Subtract, to the extent not otherwise
1 11 deducted in computing taxable income, an amount equal to
1 12 twenty percent of the cost associated with conducting wellness
1 13 programs and providing memberships at fitness facilities for
1 14 employees of the taxpayer.

1 15 Sec. 3. RETROACTIVE APPLICABILITY. This Act applies
1 16 retroactively to January 1, 2010, for tax years beginning on
1 17 or after that date.

1 18 EXPLANATION

1 19 This bill provides deductions from the computation of net
1 20 income to taxpayers subject to the individual or corporate
1 21 income taxes for 20 percent of the cost associated with
1 22 conducting wellness programs and providing memberships at
1 23 fitness facilities for employees.

1 24 The bill applies retroactively to January 1, 2010, for tax
1 25 years beginning on or after that date.

LSB 5381YH (5) 83
tw/mg:sc



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House File 2155 - Introduced

HOUSE FILE
BY HELLAND

A BILL FOR

1 An Act providing a deduction from the computation of net income
2 for purposes of the individual income tax for the cost
3 of personal wellness services and including retroactive
4 applicability provisions.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TL5B 5382YH (9) 83
tw/sc



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House File 2155 - Introduced continued

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1 1 Section 1. Section 422.7, Code Supplement 2009, is amended
1 2 by adding the following new subsection:

1 3 NEW SUBSECTION. 34. Subtract, to the extent not otherwise
1 4 deducted in computing adjusted gross income, the amounts paid
1 5 for the purchase of personal wellness services for the taxpayer
1 6 or the taxpayer's spouse or dependent. For purposes of this
1 7 subsection, "personal wellness services" means a fitness club
1 8 or gym membership, consultations with a personal trainer, or
1 9 consultations with a nutritionist or dietician.

1 10 Sec. 2. Section 422.9, subsection 2, paragraph g, Code
1 11 Supplement 2009, is amended to read as follows:

1 12 g. If the taxpayer has a deduction for medical care expenses
1 13 under section 213 of the Internal Revenue Code, the taxpayer
1 14 shall recompute for the purposes of this subsection the amount
1 15 of the deduction under section 213 by excluding from medical
1 16 care, as defined in section 213, the amount subtracted under
1 17 section 422.7, subsection 29 or section 422.7, subsection
1 18 34, to the extent the amount deducted under section 422.7,
1 19 subsection 34, is considered a medical care expense.

1 20 Sec. 3. RETROACTIVE APPLICABILITY. This Act applies
1 21 retroactively to January 1, 2010, for tax years beginning on
1 22 or after that date.

1 23 EXPLANATION

1 24 This bill provides a deduction from the computation of net
1 25 income for individual income tax purposes for amounts paid for
1 26 the purchase of personal wellness services for the taxpayer
1 27 or the taxpayer's spouse or dependent. "Personal wellness
1 28 services" means a fitness club or gym membership, consultations
1 29 with a personal trainer, or consultations with a nutritionist
1 30 or dietician. This deduction is taken prior to the taking of
1 31 either the standard deduction or itemized deductions.

1 32 Under certain circumstances, personal wellness services
1 33 might also qualify for medical care deductions. The bill
1 34 provides for the recomputation of the medical care itemized
1 35 deduction if personal wellness services have already been



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2 1 deducted when computing net income, to the extent those
2 2 personal wellness services are considered medical care.
2 3 The bill applies retroactively to January 1, 2010, for tax
2 4 years beginning on or after that date.
LSB 5382YH (9) 83
tw/sc



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House File 2156 - Introduced

HOUSE FILE
BY D. OLSON

A BILL FOR

1 An Act relating to an exemption from the fee for new
2 registration of a vehicle for vehicles used substantially in
3 interstate commerce.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 5753YH (2) 83
dea/nh



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House File 2156 - Introduced continued

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1 1 Section 1. Section 321.105A, subsection 2, paragraph c,
1 2 subparagraph (5), subparagraph division (c), Code Supplement
1 3 2009, is amended to read as follows:
1 4 (c) For the purposes of this subparagraph (5), if a vehicle
1 5 meets the requirement that twenty-five percent of the miles
1 6 operated accrues in states other than Iowa in each year of the
1 7 first four-year period of operation, the exemption from the
1 8 fee for new registration shall continue until the vehicle is
1 9 sold or transferred. If the vehicle is found to have not met
1 10 the exemption requirements or the exemption was revoked, the
1 11 value of the vehicle upon which the fee for new registration
1 12 shall be imposed is based on the original purchase price if
1 13 revocation or nonqualification for this exemption occurs
1 14 during the first year following registration. If revocation
1 15 or nonqualification for this exemption occurs after the first
1 16 year following registration, the value of the vehicle upon
1 17 which the fee shall be imposed is the book or market value,
1 18 whichever is less, at the time the exemption requirements were
1 19 not met or the exemption was revoked. Notwithstanding any
1 20 other provision, when performing an audit for the purpose of
1 21 verifying a vehicle's qualification for the exemption under
1 22 this subparagraph (5), the department shall consider only
1 23 records from the three years of operation of the vehicle
1 24 immediately preceding the year in which the audit is conducted.

1 25 EXPLANATION
1 26 Under current law, vehicles registered or operated under
1 27 proportional registration provisions and used substantially
1 28 in interstate commerce are exempt from the fee for new
1 29 registration, which was formerly imposed as the vehicle
1 30 use tax. To qualify for the exemption, at least 25 percent
1 31 of the vehicle's operating miles must be accrued in states
1 32 other than Iowa in each of the first four years of operation.
1 33 This bill limits the length of time the owner of a vehicle
1 34 is required to retain operating records to qualify for the
1 35 exemption by limiting audits by the department of revenue to



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- 2 1 the consideration of records from the three years of operation
 - 2 2 immediately preceding the year in which an audit is conducted.
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House File 2157 - Introduced

HOUSE FILE
BY HANSON

A BILL FOR

1 An Act providing for signs or decals identifying the motor
2 vehicles of certain novice drivers and making a penalty
3 applicable.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 5510HH (3) 83
dea/nh



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House File 2157 - Introduced continued

PAG LIN

1 1 Section 1. Section 321.180B, subsection 1, Code Supplement
1 2 2009, is amended to read as follows:

1 3 1. Instruction permit.

1 4 a. The department may issue an instruction permit to an
1 5 applicant between the ages of fourteen and eighteen years if
1 6 the applicant meets the requirements of sections 321.184 and
1 7 321.186, other than a driving demonstration, and pays the
1 8 required fee. An instruction permit issued under this section
1 9 shall be valid for a period not to exceed four years from the
1 10 licensee's birthday anniversary in the year of issuance. A
1 11 motorcycle instruction permit issued under this section is not
1 12 renewable.

1 13 b. Subject to the limitations in this subsection, an
1 14 instruction permit entitles the permittee, while having the
1 15 permit in the permittee's immediate possession, to operate a
1 16 motor vehicle other than a commercial motor vehicle or as a
1 17 chauffeur or a motor vehicle with a gross vehicle weight rating
1 18 of sixteen thousand one or more pounds upon the highways.

1 19 c. (1) Except as otherwise provided, a permittee who
1 20 is less than eighteen years of age and who is operating
1 21 a motor vehicle must be accompanied by a person issued a
1 22 driver's license valid for the vehicle operated who is the
1 23 parent, guardian, or custodian of the permittee, member of
1 24 the permittee's immediate family if the family member is at
1 25 least twenty-one years of age, an approved driver education
1 26 instructor, a prospective driver education instructor who is
1 27 enrolled in a practitioner preparation program with a safety
1 28 education program approved by the state board of education,
1 29 or a person at least twenty-five years of age if written
1 30 permission is granted by the parent, guardian, or custodian,
1 31 and who is actually occupying a seat beside the driver. A
~~1 32 permittee shall not operate a motor vehicle if the number of~~
~~1 33 passengers in the motor vehicle exceeds the number of passenger~~
~~1 34 safety belts in the motor vehicle. If the applicant for an~~
~~1 35 instruction permit holds a driver's license issued in this~~



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~~2 1 state valid for the operation of a motorized bicycle or a~~
~~2 2 motorcycle, the instruction permit shall be valid for such~~
~~2 3 operation without the requirement of an accompanying person.~~
2 4 (2) However, if If the permittee is operating a motorcycle
2 5 in accordance with this section, the accompanying person must
2 6 be within audible and visual communications distance from
2 7 the permittee and be accompanying the permittee on or in a
2 8 different motor vehicle. Only one permittee shall be under the
2 9 immediate supervision of an accompanying qualified person.
2 10 (3) If the applicant for an instruction permit holds a
2 11 driver's license issued in this state valid for the operation
2 12 of a motorized bicycle or a motorcycle, the instruction permit
2 13 shall be valid for such operation without the requirement of
2 14 an accompanying person.
2 15 d. A permittee shall not operate a motor vehicle if the
2 16 number of passengers in the motor vehicle exceeds the number of
2 17 passenger safety belts in the motor vehicle.
2 18 e. A permittee shall not be penalized for failing to have
2 19 the instruction permit in the permittee's immediate possession
2 20 if the permittee produces in court, within a reasonable time,
2 21 an instruction permit issued to the permittee and valid at the
2 22 time of the permittee's arrest or at the time the permittee
2 23 was charged with failure to have the permit in the permittee's
2 24 immediate possession.
2 25 f. A permittee operating a motor vehicle other than a
2 26 motorcycle or motorized bicycle shall display, on the rear
2 27 window of the motor vehicle, a removable sign or decal issued
2 28 by the department indicating that the driver of the motor
2 29 vehicle is a novice driver. The department shall design a
2 30 novice driver sign or decal, or both, and adopt rules providing
2 31 for their use. The department may charge a reasonable fee for
2 32 issuance of novice driver signs or decals. A permittee may be
2 33 issued more than one such sign or decal upon payment of the
2 34 required fee for each sign or decal.



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House File 2158 - Introduced

HOUSE FILE
BY WESSEL-KROESCHELL

A BILL FOR

1 An Act relating to eligibility for the preparation for adult
2 living program administered by the department of human
3 services.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TL5B 5266HH (4) 83
jp/nh



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1 1 Section 1. Section 234.46, subsection 1, paragraph c, Code
1 2 2009, is amended to read as follows:

1 3 c. At the time the person became age eighteen, ~~the~~ either of
1 4 the following circumstances applied:

1 5 (1) The person received foster care services that were paid
1 6 for by the state under section 234.35 and the person is no
1 7 longer receiving such services.

1 8 (2) The person received foster care services that were paid
1 9 for by the state under section 234.35 during all or a portion
1 10 of the forty-eight-month period prior to the person becoming
1 11 age eighteen, the person was adopted prior to becoming age
1 12 eighteen, and adoption subsidy payments are no longer being
1 13 made under section 600.17 on behalf of the person.

1 14 EXPLANATION

1 15 This bill relates to eligibility for the preparation for
1 16 adult living program administered by the department of human
1 17 services. The program provides support to young adults, age
1 18 18, 19, or 20 who were in foster care upon becoming age 18. The
1 19 support is limited to young adults who are attending school or
1 20 instructional programs, or postsecondary training or education,
1 21 or are engaged in employment or seeking employment.

1 22 The bill expands program eligibility to include persons who
1 23 received foster care paid for by the state at some point during
1 24 the 48-month period before becoming age 18 but were adopted.
1 25 The person is not eligible for the program if adoption subsidy
1 26 payments are still being made on behalf of the person.

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jp/nh



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House File 2159 - Introduced

HOUSE FILE
BY HELLAND

A BILL FOR

1 An Act repealing the prohibition on entering into agreements
2 with private sector entities to house inmates committed
3 to the custody of the director of the department of
4 corrections.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 5720YH (4) 83
jm/nh



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1 1 Section 1. PRIVATE PRISON == REQUEST FOR PROPOSAL. The
1 2 department of corrections shall develop and issue a request
1 3 for proposals for housing all of the inmates committed to the
1 4 custody of the director with a private sector entity.

1 5 Sec. 2. REPEAL. Section 904.119, Code 2009, is repealed.

1 6 EXPLANATION

1 7 This bill repeals the prohibition on entering into
1 8 agreements with private sector entities to house inmates
1 9 committed to the custody of the director of the department of
1 10 corrections.

1 11 The bill also requires the department of corrections to
1 12 develop and issue a request for proposals for housing all of
1 13 the inmates committed to the custody of the director of the
1 14 department of corrections with a private sector entity.

LSB 5720YH (4) 83

jm/nh



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House File 2160 - Introduced

HOUSE FILE
BY RUNNING-MARQUARDT

A BILL FOR

1 An Act relating to loan forgiveness under the residential
2 landlord business support program and including effective
3 date and applicability provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 5855HH (5) 83
tm/sc



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House File 2160 - Introduced continued

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1 1 Section 1. RESIDENTIAL LANDLORD BUSINESS SUPPORT
1 2 PROGRAM. Under the residential landlord business support
1 3 program administered by the department of economic development,
1 4 forgivable loans made pursuant to the program shall be
1 5 forgivable over a five-year period. One-fifth of the total
1 6 principal amount loaned shall be forgiven following each full
1 7 year the recipient owns the property for which the loan was
1 8 made, beginning on the date of the final disbursement of the
1 9 forgivable loan proceeds. To each financial award recipient
1 10 receiving assistance prior to the effective date of this Act,
1 11 the department shall offer to renegotiate the terms of the
1 12 financial assistance award contract in accordance with this
1 13 Act.

1 14 Sec. 2. EFFECTIVE UPON ENACTMENT AND APPLICABILITY. This
1 15 Act, being deemed of immediate importance, takes effect upon
1 16 enactment and applies to contracts entered into before and
1 17 after the effective date of this Act.

1 18 EXPLANATION

1 19 This bill relates to loan forgiveness under the residential
1 20 landlord business support program.

1 21 The bill provides that under the residential landlord
1 22 business support program administered by the department
1 23 of economic development, forgivable loans made pursuant to
1 24 the program shall be forgivable over a five-year period.
1 25 The bill provides that, to each financial award recipient
1 26 receiving assistance prior to the effective date of the bill,
1 27 the department shall offer to renegotiate the terms of the
1 28 financial assistance award contract in accordance with the
1 29 bill.

1 30 The bill takes effect upon enactment and applies to
1 31 contracts entered into before and after the effective date of
1 32 this bill.

LSB 5855HH (5) 83

tm/sc



Iowa General Assembly
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House Joint Resolution 2008 - Introduced

HOUSE JOINT RESOLUTION
BY HUNTER

HOUSE JOINT RESOLUTION

1 A Joint Resolution proposing an amendment to the Constitution
2 of the State of Iowa relating to the boundary lines of
3 counties.
4 BE IT RESOLVED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 5642HH (7) 83
md/sc



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House Joint Resolution 2008 - Introduced continued

PAG LIN

1 1 Section 1. The following amendment to the Constitution of
1 2 the State of Iowa is proposed:

1 3 1. Section 30 of Article III of the Constitution of the
1 4 State of Iowa is amended to read as follows:

~~1 5 Local or special laws == general and uniform == boundaries of~~
~~1 6 counties.~~SEC. 30. The General Assembly shall not pass local
1 7 or special laws in the following cases:

1 8 For the assessment and collection of taxes for State,
1 9 County, or road purposes;

1 10 For laying out, opening, and working roads or highways;

1 11 For changing the names of persons;

1 12 For the incorporation of cities and towns;

1 13 For vacating roads, town plats, streets, alleys, or public
1 14 squares;

1 15 For locating or changing county seats.

1 16 In all the cases above enumerated, and in all other cases
1 17 where a general law can be made applicable, all laws shall be
1 18 general, and of uniform operation throughout the State; ~~and~~
~~1 19 no law changing the boundary lines of any county shall have~~
~~1 20 effect until upon being submitted to the people of the counties~~
~~1 21 affected by the change, at a general election, it shall be~~
~~1 22 approved by a majority of the votes in each county, cast for~~
~~1 23 and against it.~~

1 24 2. Section 2 of Article XI of the Constitution of the State
1 25 of Iowa is repealed and the following adopted in lieu thereof:

1 26 Counties.SEC. 2. On or before July 1, 2015, the General
1 27 Assembly shall by law reduce the aggregate number of the
1 28 several Counties to not more than fifty unless the aggregate
1 29 number of Counties has otherwise been reduced to not more
1 30 than fifty prior to July 1, 2015. Such reduction shall be
1 31 accomplished by the merger, in whole or in part, of presently
1 32 existing Counties. Newly created Counties shall be composed of
1 33 contiguous territory and shall be reasonably compact.

1 34 The General Assembly shall by law name the Counties created
1 35 hereunder and shall by law select the place for the seat of the



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House Joint Resolution 2008 - Introduced continued

2 1 County government for each newly created County. The General
2 2 Assembly may by law provide such newly created Counties with
2 3 authority to create such offices of County Government within a
2 4 County as a County deems reasonable and necessary.

2 5 In the event the General Assembly fails to reduce the number
2 6 of Counties, select a County seat of government for each newly
2 7 created County, and name each newly created County as required
2 8 herein by July 1, 2015, the Chief Justice of the Supreme Court
2 9 shall do so or cause to have the same done.

2 10 After the reduction in the number of Counties has been
2 11 effectuated as herein required, the number or boundaries of
2 12 such newly created Counties shall not thereafter be changed.

2 13 The General Assembly shall enact all laws necessary to
2 14 effectuate this section.

2 15 3. Section 8 of Article XI of the Constitution of the State
2 16 of Iowa is amended to read as follows:

2 17 Seat of government established == state university.SEC.

2 18 8. The seat of Government is hereby permanently established,
2 19 as now fixed by law, at the City of Des Moines, ~~in the County~~
~~2 20 of Polk; and the State University, at Iowa City, in the County~~
~~2 21 of Johnson.~~

2 22 Sec. 2. REFERRAL AND PUBLICATION. The foregoing amendment
2 23 to the Constitution of the State of Iowa is referred to the
2 24 General Assembly to be chosen at the next general election
2 25 for members of the General Assembly, and the Secretary of
2 26 State is directed to cause the same to be published for three
2 27 consecutive months previous to the date of that election as
2 28 provided by law.

2 29 EXPLANATION

2 30 This joint resolution proposes an amendment to the
2 31 Constitution of the State of Iowa relating to the boundary
2 32 lines of counties. The joint resolution proposes new section
2 33 2 of Article XI requiring the general assembly to reduce the
2 34 aggregate number of counties to not more than 50 by statute on
2 35 or before July 1, 2015, unless the aggregate number of counties



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House Joint Resolution 2008 - Introduced continued

3 1 has otherwise been reduced to not more than 50 prior to July
3 2 1, 2015. The joint resolution allows such reduction to be
3 3 accomplished by the merger in whole or in part of presently
3 4 existing counties. Newly created counties, however, must be
3 5 composed of contiguous territory and be reasonably compact.
3 6 The joint resolution requires the general assembly to name
3 7 each new county created and to select the place for the seat of
3 8 the county government for each new county created. The joint
3 9 resolution allows the general assembly to authorize the newly
3 10 created counties to create offices of county government as a
3 11 county deems reasonable and necessary. The joint resolution
3 12 requires the general assembly to enact all laws necessary to
3 13 effectuate new section 2 of Article XI of the Constitution of
3 14 the State of Iowa.
3 15 The joint resolution provides that in the event the general
3 16 assembly fails to reduce the number of counties, select a
3 17 county seat of government for each newly created county,
3 18 or name each newly created county as required, the chief
3 19 justice of the supreme court is required to do so. The joint
3 20 resolution also provides that after the reduction in the number
3 21 of counties has been effectuated, the number and boundaries of
3 22 such newly created counties may not be changed.
3 23 The joint resolution strikes provisions requiring any law
3 24 that changes boundary lines of a county to first be approved
3 25 at a general election by the people of the counties affected
3 26 by the change.
3 27 The joint resolution proposes a corresponding amendment to
3 28 section 8 of Article XI of the Constitution of the State of
3 29 Iowa, which establishes the city of Des Moines in Polk County
3 30 as the seat of government and establishes the state university
3 31 at Iowa City in Johnson County, by removing the references to
3 32 Polk County and Johnson County.
3 33 The resolution, if adopted, would be referred to the next
3 34 General Assembly (Eighty-fourth) for adoption before being
3 35 submitted to the electorate for ratification.

LSB 5642HH (7) 83

md/sc



Iowa General Assembly
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House Study Bill 635

HOUSE FILE
BY (PROPOSED COMMITTEE ON
LOCAL GOVERNMENT BILL
BY CHAIRPERSON
GASKILL)

A BILL FOR

1 An Act relating to the determination of city population for
2 purposes of civil service commissions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 5539HC (1) 83
md/rj



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House Study Bill 635 continued

PAG LIN

1 1 Section 1. Section 400.1, subsection 2, Code Supplement
1 2 2009, is amended to read as follows:
1 3 2. For the purpose of determining the population of a city
1 4 under this chapter, the most recent decennial federal census
1 5 ~~conducted in 1980~~ shall be used. However, if a city had a
1 6 population of eight thousand or more according to any decennial
1 7 federal census conducted during or after 1980, the most recent
1 8 decennial federal census in which the city's population was
1 9 eight thousand or more shall be used for determining the
1 10 population of the city for any purpose under this chapter.

1 11 Sec. 2. IMPLEMENTATION OF ACT. Section 25B.2, subsection
1 12 3, shall not apply to this Act.

1 13 EXPLANATION

1 14 Code section 400.1 currently requires a city having a
1 15 population of 8,000 or more according to the federal census
1 16 conducted in 1980 and having a paid fire department or a paid
1 17 police department, to appoint a civil service commission. Code
1 18 chapter 400 also establishes several other powers and duties of
1 19 cities based on population as determined by the federal census
1 20 conducted in 1980.

1 21 This bill requires the most recent decennial federal census
1 22 to be used in determining the population of a city. The bill,
1 23 however, provides that if a city had a population of 8,000 or
1 24 more according to any decennial federal census conducted during
1 25 or after 1980, the most recent decennial federal census in
1 26 which the city's population was 8,000 or more shall be used for
1 27 determining the population of the city for any purpose under
1 28 Code chapter 400.

1 29 The bill may include a state mandate as defined in Code
1 30 section 25B.3. The bill makes inapplicable Code section 25B.2,
1 31 subsection 3, which would relieve a political subdivision from
1 32 complying with a state mandate if funding for the cost of
1 33 the state mandate is not provided or specified. Therefore,
1 34 political subdivisions are required to comply with any state
1 35 mandate included in the bill.

LSB 5539HC (1) 83

md/rj



Iowa General Assembly
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House Study Bill 636

HOUSE FILE
BY (PROPOSED COMMITTEE ON
LOCAL GOVERNMENT BILL
BY CHAIRPERSON
GASKILL)

A BILL FOR

1 An Act establishing certain definitions relating to instruments
2 affecting real estate and specifying information to be
3 contained in index records.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 5653HC (10) 83
md/sc



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House Study Bill 636 continued

PAG LIN

1 1 Section 1. Section 558.1B, Code 2009, is amended to read as
1 2 follows:

1 3 558.1B Definitions.

1 4 As used in this chapter, unless the context otherwise

1 5 requires: ~~,"book",~~

1 6 1. "Book", "list", "record", or "schedule" kept by a county
1 7 auditor, assessor, treasurer, recorder, sheriff, or other
1 8 county officer means the county system as defined in section
1 9 445.1.

1 10 2. "Grantee" means the name of the transferee in the
1 11 transaction used to create the recording index. For other
1 12 instruments affecting real estate, "grantee" includes but is
1 13 not limited to a buyer, mortgagee, lender, assignee, lessee, or
1 14 party to an affidavit who is not the affiant.

1 15 3. "Grantor" means the name of the transferor in the
1 16 transaction used to create the recording index. For other
1 17 instruments affecting real estate, "grantor" includes but is not
1 18 limited to a seller, mortgagor, borrower, assignor, lessor, or
1 19 affiant.

1 20 Sec. 2. Section 558.49, subsection 7, Code 2009, is amended
1 21 to read as follows:

1 22 7. The description of the real estate ~~conveyed~~ affected by
1 23 the instrument.

EXPLANATION

1 24 This bill defines the term "grantor" for the purposes of Code
1 25 chapter 558, relating to conveyances, to be the transferor in a
1 26 transaction used to create the recording index. The bill also
1 27 specifies that for other instruments affecting real estate,
1 28 "grantor" includes but is not limited to a seller, mortgagor,
1 29 borrower, assignor, lessor, or affiant. The bill also defines
1 30 the term "grantee" for purposes of Code chapter 558 to be the
1 31 transferee in a transaction used to create the recording index.
1 32 The bill also specifies that for other instruments affecting
1 33 real estate, "grantor" includes but is not limited to a buyer,
1 34 mortgagee, lender, assignee, lessee, or party to an affidavit
1 35



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House Study Bill 636 continued

2 1 who is not the affiant.

2 2 The bill amends Code section 558.49 relating to the types of
2 3 information kept in index records. The bill requires the index
2 4 to include the description of the real estate affected by the
2 5 instrument rather than the description of the real estate that
2 6 was conveyed.

LSB 5653HC (10) 83

md/sc



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House Study Bill 637

SENATE/HOUSE FILE
BY (PROPOSED DEPARTMENT
OF PUBLIC SAFETY BILL)

A BILL FOR

1 An Act relating to adjudications of persons with mental illness
2 and providing an effective date.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 5426DP (6) 83
rh/rj



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House Study Bill 637 continued

PAG LIN

1 1 Section 1. Section 229.24, subsection 1, Code 2009, is
1 2 amended to read as follows:
1 3 1. ~~All~~ Except as otherwise provided in this section,
1 4 all papers and records pertaining to any involuntary
1 5 hospitalization or application for involuntary hospitalization
1 6 of any person under this chapter, whether part of the permanent
1 7 record of the court or of a file in the department of human
1 8 services, are subject to inspection only upon an order of the
1 9 court for good cause shown. ~~Nothing in this~~ This section shall
1 10 not prohibit a hospital from complying with the requirements
1 11 of this chapter and of chapter 230 relative to financial
1 12 responsibility for the cost of care and treatment provided a
1 13 patient in that hospital, ~~nor or~~ from properly billing any
1 14 responsible relative or third-party payer for such care and
1 15 treatment.
1 16 Sec. 2. Section 229.24, Code 2009, is amended by adding the
1 17 following new subsection:
1 18 NEW SUBSECTION. 4. The clerk of the district court shall
1 19 provide to the department of public safety notice of all
1 20 adjudications of persons involuntarily committed to a mental
1 21 institution for inpatient or outpatient or other appropriate
1 22 treatment by reason of serious mental impairment under this
1 23 chapter. This notice shall only be used by the department to
1 24 submit information to the national instant criminal background
1 25 check system maintained by the federal bureau of investigation
1 26 and shall otherwise remain confidential.
1 27 Sec. 3. NEW SECTION. 229.46 Application for relief from
1 28 federal firearms prohibitions.
1 29 1. A person who has been adjudicated seriously mentally
1 30 impaired under this chapter and, as a result of such
1 31 adjudication, is subject to a federal firearms prohibition
1 32 pursuant to 18 U.S.C. { 922(g)(4), may apply to the district
1 33 court for relief from the prohibition. The application for
1 34 relief must comply with all of the following:
1 35 a. Be filed no earlier than ten years from the adjudication



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House Study Bill 637 continued

2 1 of serious mental impairment.
2 2 b. State facts upon which relief is sought, including
2 3 that the applicant no longer suffers from the mental health
2 4 condition that was the basis for the adjudication.
2 5 c. Describe the treatment that has been received since the
2 6 adjudication including all sources of treatment.
2 7 2. A hearing on the application shall be held by the court
2 8 not less than forty-five days after the application has been
2 9 filed. The applicant shall have the burden of establishing the
2 10 facts which warrant granting the application.
2 11 3. The court shall receive evidence and shall consider the
2 12 circumstances regarding the firearms disability imposed by 18
2 13 U.S.C. { 922(g)(4), the applicant's record, which must include,
2 14 at a minimum, mental health and criminal history records and
2 15 the applicant's reputation developed through character witness
2 16 statements, testimony, or other character evidence.
2 17 4. If the court finds that the applicant will not be
2 18 likely to act in a manner dangerous to the public safety
2 19 and that granting relief will not be contrary to the public
2 20 interest, the court may grant such relief from federal firearms
2 21 disability.
2 22 5. If the court denies the application for relief, the
2 23 applicant may apply for de novo judicial review to the supreme
2 24 court.
2 25 6. Following denial of an application and the denial of all
2 26 subsequent appeals, a subsequent application for relief may be
2 27 filed no earlier than three years from the date of the order
2 28 denying the applicant's previous application but only if new
2 29 facts are alleged to support the application.
2 30 Sec. 4. NEW SECTION. 724.31 Persons subject to mental and
2 31 substance abuse health-related orders, commitments, or findings
2 32 == disabilities == restoration of rights == reports.
2 33 1. Subsequent to the issuance of a court order listed in
2 34 subsection 2, a court shall determine whether the person who is
2 35 the subject of the order is a person to whom the provisions of



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3 1 18 U.S.C. { 922(d)(4) and (g)(4) apply, and if so, shall inform
3 2 the person of the applicable prohibitions and shall order
3 3 the person not to possess, receive, or transport or cause to
3 4 transport firearms or ammunition. The court shall also order
3 5 the person to make immediate arrangements for the disposition
3 6 of any firearms or ammunition owned or possessed by the person.
3 7 The clerk of the district court shall forward a copy of the
3 8 prohibition and disposition order to the department of public
3 9 safety, which in turn shall forward a copy of the order to the
3 10 federal bureau of investigation or its successor agency for
3 11 inclusion in the national instant criminal background check
3 12 system.

3 13 2. A court order that does any of the following is subject
3 14 to this section:

3 15 a. Orders commitment or treatment pursuant to section
3 16 125.84.

3 17 b. Orders commitment pursuant to section 222.31.

3 18 c. Orders commitment or treatment pursuant to section
3 19 229.14.

3 20 d. Finds a defendant incompetent to stand trial pursuant to
3 21 section 812.5.

3 22 3. a. A person who is the subject of a court order listed
3 23 in subsection 2 may petition the court that issued the order or
3 24 the court in the county where the person resides to cancel the
3 25 order and to restore the person's right to possess, receive,
3 26 or transport or cause to transport firearms or ammunition. A
3 27 copy of the petition shall also be served on the director of
3 28 human services and the county attorney at the county attorney's
3 29 office of the county in which the original order, commitment,
3 30 or finding occurred and the director or the county attorney may
3 31 appear, support, object to, and present evidence relevant to
3 32 the relief sought by the petitioner. In such a case, the court
3 33 shall receive evidence concerning all of the following:

3 34 (1) The circumstances surrounding the original issuance of
3 35 the prohibition and disposition order pursuant to subsection 1.



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4 1 (2) The petitioner's mental health and criminal history.

4 2 (3) The petitioner's reputation and character.

4 3 (4) Any changes in the petitioner's condition or

4 4 circumstances relevant to the relief sought.

4 5 b. The court shall grant a petition filed pursuant to
4 6 paragraph "a" if the court finds by a preponderance of the
4 7 evidence that the petitioner will not be likely to act in a
4 8 manner dangerous to the person's self or others and that the
4 9 granting of the relief would not be contrary to the public
4 10 interest. The petitioner may appeal a denial of the requested
4 11 relief and the review shall be de novo. A person may file a
4 12 petition for relief under this subsection not more than once
4 13 every two years.

4 14 c. If a court issues an order granting a petition for relief
4 15 under paragraph "b", the clerk of the district court shall
4 16 immediately forward a copy of the order to the department of
4 17 public safety which, upon receipt, shall immediately forward a
4 18 copy of the order to the federal bureau of investigation or its
4 19 successor agency for inclusion in the national instant criminal
4 20 background check system.

4 21 Sec. 5. EFFECTIVE DATE. This Act takes effect January 1,
4 22 2011.

4 23 EXPLANATION

4 24 This bill relates to adjudications of persons with mental
4 25 illness and provides a delayed effective date.

4 26 The bill requires the clerk of the district court to provide
4 27 to the department of public safety notice of all adjudications
4 28 of persons involuntarily committed to a mental institution
4 29 for inpatient or outpatient or other appropriate treatment by
4 30 reason of serious mental impairment under Code chapter 229.
4 31 This notice shall only be used by the department to submit
4 32 information to the national instant criminal background check
4 33 system maintained by the federal bureau of investigation.

4 34 The bill provides that a person who has been adjudicated
4 35 seriously mentally impaired under Code chapter 229 and, as a



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5 1 result, is subject to a federal firearms prohibition under
5 2 federal law, may apply to the district court for relief from
5 3 such prohibition if certain requirements are met.
5 4 The bill provides that subsequent to a court order that
5 5 orders commitment or treatment pursuant to Code section
5 6 125.84 (chemical substance abuse), Code section 222.31 (mental
5 7 retardation), Code section 229.14 (mental health), or that
5 8 finds a defendant incompetent to stand trial pursuant to Code
5 9 section 812.5, a court shall make a finding as to whether
5 10 the person who is the subject of the order is subject to a
5 11 federal firearms prohibition under federal law (18 U.S.C. {
5 12 922(d)(4) or (g)(4)), and if so, shall inform the person of
5 13 the applicable prohibitions and shall order the person not to
5 14 possess, receive, or transport or cause to transport a firearm
5 15 or offensive weapon. The court shall also order the person to
5 16 make immediate arrangements for the disposition of any firearms
5 17 or ammunition owned or possessed by the person. The clerk of
5 18 the district court shall forward a copy of the order to the
5 19 department of public safety, which in turn shall forward a copy
5 20 of the order to the federal bureau of investigation or its
5 21 successor agency for inclusion in the national instant criminal
5 22 background check system.
5 23 A person who is the subject of any of the underlying orders
5 24 may petition the court that issued the order or the court in
5 25 the county where the person resides to cancel the order and to
5 26 restore the person's right to possess, receive, or transport
5 27 or cause to transport a firearm or offensive weapon. A copy
5 28 of the petition shall also be served on the director of human
5 29 services and the county attorney at the county attorney's
5 30 office of the county in which the original order, commitment,
5 31 or finding occurred and the director or the county attorney may
5 32 appear, support, object to, and present evidence relevant to
5 33 the relief sought by the petitioner. The court shall grant a
5 34 petition if the court finds by a preponderance of the evidence
5 35 that the petitioner will not be likely to act in a manner



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House Study Bill 637 continued

6 1 dangerous to the person's self or others and that the granting
6 2 of the relief would not be contrary to the public interest.
6 3 The petitioner may appeal a denial of the requested relief and
6 4 the review shall be de novo. A person may file a petition for
6 5 relief not more than once every two years. When a court issues
6 6 an order granting a petition for relief, the clerk of the
6 7 district court shall immediately forward a copy of the order
6 8 to the department of public safety which, upon receipt, shall
6 9 immediately forward a copy of the order to the federal bureau
6 10 of investigation or its successor agency for inclusion in the
6 11 national instant criminal background check system.
6 12 The bill takes effect January 1, 2011.

LSB 5426DP (6) 83

rh/rj



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House Study Bill 638

HOUSE FILE
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY
CHAIRPERSON SWAIM)

A BILL FOR

1 An Act relating to the criminal offense of intimidation with a
2 dangerous weapon or motor vehicle, and providing penalties.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 5806HC (3) 83
jm/nh



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House Study Bill 638 continued

PAG LIN

1 1 Section 1. Section 708.6, Code 2009, is amended by striking
1 2 the section and inserting in lieu thereof the following:

1 3 708.6 Intimidation with a dangerous weapon or motor vehicle.

1 4 1. A person commits intimidation with a dangerous weapon
1 5 when the person shoots, throws, launches, or discharges a
1 6 dangerous weapon at, into, or in a building, vehicle, airplane,
1 7 railroad engine, railroad car, or boat, occupied by another
1 8 person, or within an assembly of people, and thereby places
1 9 the occupants or people in reasonable apprehension of serious
1 10 injury or threatens to commit such an act under circumstances
1 11 raising a reasonable expectation that the threat will be
1 12 carried out.

1 13 2. A person commits intimidation with a motor vehicle
1 14 when the person drives a motor vehicle at or into a building,
1 15 vehicle, airplane, railroad engine, railroad car, or boat,
1 16 occupied by another person, or at or into an assembly
1 17 of people, and thereby places the occupants or people in
1 18 reasonable apprehension of serious injury or threatens to
1 19 commit such an act under circumstances raising a reasonable
1 20 expectation that the threat will be carried out.

1 21 3. a. A person who commits intimidation with a dangerous
1 22 weapon is guilty of a class "D" felony.

1 23 b. A person who commits intimidation with a motor vehicle is
1 24 guilty of a class "D" felony.

1 25 4. a. A person who commits intimidation with a dangerous
1 26 weapon with the intent to injure or provoke fear or anger in
1 27 another is guilty of a class "C" felony.

1 28 b. A person who commits intimidation with a motor vehicle
1 29 with the intent to injure or provoke fear or anger in another
1 30 is guilty of a class "C" felony.

1 31 EXPLANATION

1 32 This bill relates to the criminal offense of intimidation
1 33 with a dangerous weapon or motor vehicle.

1 34 The bill reorganizes Code section 708.6 and creates the
1 35 criminal offense of intimidation with a motor vehicle.



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2 1 The bill does not modify the existing criminal offense of
2 2 intimidation with a dangerous weapon.

2 3 Under the bill, a person commits intimidation with a motor
2 4 vehicle if the person drives a motor vehicle at or into a
2 5 building, vehicle, airplane, railroad engine, railroad car, or
2 6 boat, occupied by another person, or at or into an assembly
2 7 of people, placing the occupants or people in reasonable
2 8 apprehension of serious injury or threatens to commit such an
2 9 act under circumstances raising a reasonable expectation that
2 10 the threat will be carried out.

2 11 A person who commits intimidation with a motor vehicle is
2 12 guilty of a class "D" felony.

2 13 A person who commits intimidation with a motor vehicle with
2 14 the intent to injure or provoke fear or anger in another is
2 15 guilty of a class "C" felony.

2 16 A class "D" felony is punishable by confinement for no more
2 17 than five years and a fine of at least \$750 but not more than
2 18 \$7,500. A class "C" felony is punishable by confinement for no
2 19 more than 10 years and a fine of at least \$1,000 but not more
2 20 than \$10,000.

LSB 5806HC (3) 83

jm/nh



Iowa General Assembly
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House Study Bill 639

HOUSE FILE

BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY
CHAIRPERSON SWAIM)

A BILL FOR

1 An Act relating to the status of posthumously conceived and
2 born children in the context of legitimacy, inheritance,
3 rights to claim an after-born child's share, and other
4 rights.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 6142HC (5) 83
pf/nh



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House Study Bill 639 continued

PAG LIN

1 1 Section 1. Section 252A.3, Code 2009, is amended by adding
1 2 the following new subsections:
1 3 NEW SUBSECTION. 4A. a. A child born of parents who at any
1 4 time prior to the birth of the child entered into a civil or
1 5 religious marriage ceremony is deemed the legitimate child of
1 6 both parents, regardless of the validity of such marriage, if
1 7 all of the following conditions are met:
1 8 (1) The marriage was not thereafter dissolved prior to the
1 9 death of either parent.
1 10 (2) The child was conceived and born after the death of
1 11 a parent or was born as the result of the implantation of an
1 12 embryo after the death of a parent.
1 13 (3) A genetic parent-child relationship between the child
1 14 and the deceased parent is established.
1 15 (4) The deceased parent, in a signed writing, authorized the
1 16 other parent to use the deceased parent's genetic material to
1 17 initiate the posthumous procedure that resulted in the child's
1 18 birth, or the deceased parent, by a specific reference to the
1 19 genetic material, bequeathed the genetic material to the other
1 20 parent in a valid will.
1 21 (5) The child is born within two years of the death of the
1 22 deceased parent.
1 23 b. For the purposes of this subsection, "genetic material"
1 24 means sperm, eggs, or embryos.
1 25 NEW SUBSECTION. 5A. a. A child born of parents who at
1 26 any time prior to the birth of the child held themselves out
1 27 as spouses by virtue of a common law marriage is deemed the
1 28 legitimate child of both parents, if all of the following
1 29 conditions are met:
1 30 (1) The marriage was not thereafter dissolved prior to the
1 31 death of either parent.
1 32 (2) The child was conceived and born after the death of
1 33 a parent or was born as the result of the implantation of an
1 34 embryo after the death of a parent.
1 35 (3) A genetic parent-child relationship between the child



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2 1 and the deceased parent is established.
2 2 (4) The deceased parent, in a signed writing, authorized the
2 3 other parent to use the deceased parent's genetic material to
2 4 initiate the posthumous procedure that resulted in the child's
2 5 birth, or the deceased parent, by a specific reference to the
2 6 genetic material, bequeathed the genetic material to the other
2 7 parent in a valid will.
2 8 (5) The child is born within two years of the death of the
2 9 deceased parent.
2 10 b. For purposes of this subsection, "genetic material" means
2 11 sperm, eggs, or embryos.
2 12 Sec. 2. NEW SECTION. 633.220A Posthumous child.
2 13 1. For the purposes of rules relating to intestate
2 14 succession, a child of an intestate conceived and born after
2 15 the intestate's death or born as the result of the implantation
2 16 of an embryo after the death of the intestate is deemed a child
2 17 of the intestate as if the child had been born during the
2 18 lifetime of the intestate and had survived the intestate, if
2 19 all of the following conditions are met:
2 20 a. A genetic parent-child relationship between the child and
2 21 the intestate is established.
2 22 b. The intestate, in a signed writing, authorized the
2 23 intestate's surviving spouse to use the deceased parent's
2 24 genetic material to initiate the posthumous procedure that
2 25 resulted in the child's birth.
2 26 c. The child is born within two years of the death of the
2 27 intestate.
2 28 2. Any heir of the intestate whose interest in the
2 29 intestate's estate would be reduced by the birth of a child
2 30 born as provided in subsection 1 shall have one year from the
2 31 birth of the child within which to bring an action challenging
2 32 the child's right to inherit under this chapter.
2 33 3. For the purposes of this section, "genetic material"
2 34 means sperm, eggs, or embryos.
2 35 Sec. 3. Section 633.267, Code 2009, is amended to read as



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3 1 follows:

3 2 633.267 Children born or adopted after execution of will.

3 3 1. If a testator fails to provide in the testator's will
3 4 for any child of the ~~testator's children~~ testator born to or
3 5 adopted by the testator after the execution of the testator's
3 6 last will, such child, whether born before or after the
3 7 testator's death, shall receive a share in the estate of the
3 8 testator equal in value to that which the child would have
3 9 received under section ~~633.211, 633.212, or~~ 633.219, after
3 10 taking into account the spouse's intestate share under section
3 11 633.211 or section 633.212, whichever section or sections are
3 12 applicable, if the testator had died intestate, unless it
3 13 appears from the will that such omission was intentional.

3 14 2. a. For the purposes of this section, a child born after
3 15 the testator's death includes a child of the testator conceived
3 16 and born after the testator's death, or a child born as the
3 17 result of the implantation of an embryo after the testator's
3 18 death, if all of the following conditions are met:

3 19 (1) A genetic parent-child relationship between the child
3 20 and the testator is established.

3 21 (2) The testator, in a signed writing, authorized the
3 22 testator's surviving spouse to use the deceased parent's
3 23 genetic material to initiate the posthumous procedure that
3 24 resulted in the child's birth or the testator by specific
3 25 reference to the genetic material, bequeathed the genetic
3 26 material to the other parent in a valid will.

3 27 (3) The child is born within two years of the death of the
3 28 testator.

3 29 b. For the purposes of this subsection, "genetic
3 30 material" means sperm, eggs, or embryos.

3 31 Sec. 4. Section 633.477, Code 2009, is amended by adding the
3 32 following new subsection:

3 33 NEW SUBSECTION. 13. A statement as to whether the
3 34 decendent left any genetic material, and if the decendent left
3 35 genetic material, if the personal representative has reserved



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4 1 sufficient estate assets to fund the distribution to which
4 2 posthumous heirs, if any, would be entitled to receive; that
4 3 the personal representative will wait until two years after the
4 4 decedent's date of death to make final distributions; and that
4 5 the personal representative will submit a supplemental report
4 6 after such final distributions have been made.

4 7 Sec. 5. Section 633A.3106, Code 2009, is amended to read as
4 8 follows:

4 9 633A.3106 Children born or adopted after execution of a
4 10 revocable trust.

4 11 1. When a settlor fails to provide in a revocable trust
4 12 for any of the settlor's children born to or adopted by the
4 13 settlor after the execution of the trust or the last amendment
4 14 to the trust, such child, whether born before or after the
4 15 settlor's death, shall receive a share of the trust equal in
4 16 value to that which the child would have received under section
4 17 633.211, 633.212, or 633.219, after taking into account the
4 18 spouse's intestate share under section 633.211 or section
4 19 633.212, whichever is applicable, as if the settlor had died
4 20 intestate, unless it appears from the terms of the trust or
4 21 decedent's will that such omission was intentional.

4 22 2. For the purposes of this section, a child born after the
4 23 death of the settlor who would have been entitled to a share
4 24 of the settlor's probate estate pursuant to section 633.267
4 25 shall be treated as a child of the settlor for purposes of this
4 26 section.

4 27 EXPLANATION

4 28 This bill relates to the status of posthumously conceived
4 29 and born children in the context of legitimacy, inheritance,
4 30 rights to claim an after-born child's share, and other rights.
4 31 The bill provides that if a child is born of parents who
4 32 entered into a civil or religious marriage ceremony or a common
4 33 law marriage at any time prior to the birth of the child,
4 34 the child is deemed the legitimate child of both parents,
4 35 regardless of the validity of such marriage, if the marriage



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5 1 was not thereafter dissolved prior to the death of either
5 2 parent, if the child was conceived and born after the death
5 3 of a parent, and if these conditions are met: a genetic
5 4 parent-child relationship between the child and the deceased
5 5 parent is established; the deceased parent authorized the other
5 6 parent, in a written instrument or by specific bequest in a
5 7 valid will, to use the deceased parent's genetic material to
5 8 initiate the posthumous procedure that resulted in the child's
5 9 birth; and the child is born within two years of the death of
5 10 the deceased parent.

5 11 In the context of intestate succession, the bill provides
5 12 that a child of an intestate conceived and born after the
5 13 intestate's death is the intestate's child just as if the
5 14 child had been born in the lifetime of the intestate and had
5 15 survived the intestate if three conditions are met: a genetic
5 16 parent-child relationship between the child and the intestate
5 17 is established; the intestate authorized the surviving spouse,
5 18 in a signed writing, to use the deceased parent's genetic
5 19 material to initiate the posthumous procedure that resulted in
5 20 the child's birth; and the child is born within two years of
5 21 the death of the intestate. Additionally, the bill provides
5 22 that any heir of the intestate whose interest in the estate
5 23 of the intestate will be reduced by the birth of a child born
5 24 posthumously, shall have one year from the birth of the child
5 25 within which to bring an action to challenge the child's right
5 26 to a share of the estate.

5 27 In the context of testate succession, the bill provides that
5 28 a child born after the testator's death includes a child of
5 29 the testator born after the testator's death, if the following
5 30 conditions are all met: a genetic parent-child relationship
5 31 between the child and the testator is established; the testator
5 32 authorized the surviving spouse, in a signed writing, to use
5 33 the testator's genetic material to initiate the posthumous
5 34 procedure that resulted in the child's birth; and the child
5 35 is born within two years of the death of the testator. Such



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6 1 after-born child would receive a share in the estate of the
6 2 testator equal in value to that which the child would have
6 3 received under the applicable Code sections relating to
6 4 intestate succession, unless it appears from the will that
6 5 omission from the will relative to the child was intentional.
6 6 In the context of a revocable trust, the bill provides that
6 7 a child born after death of the settlor who would have been
6 8 entitled to a share of the settlor's probate estate shall be
6 9 treated as a child of the settlor.

LSB 6142HC (5) 83

pf/nh



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SENATE/HOUSE FILE
BY (PROPOSED JUDICIAL
BRANCH BILL)

A BILL FOR

1 An Act relating to the appointment of judicial officers, senior
2 judges, court reporters, and clerks of the district court,
3 and creating a full-time magistrate office.

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

TLSB 5397DP (9) 83

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1 1 Section 1. Section 46.16, Code 2009, is amended by adding
1 2 the following new subsection:
1 3 NEW SUBSECTION. 4. Subject to removal for cause, the
1 4 initial term of office of a full-time magistrate shall be for
1 5 one year after appointment and until January 1 following the
1 6 next judicial election after expiration of such year, and the
1 7 regular term of office of a magistrate retained at a judicial
1 8 election shall be six years from the expiration of the initial
1 9 or previous regular term, as the case may be.

1 10 Sec. 2. Section 46.20, Code 2009, is amended to read as
1 11 follows:

1 12 46.20 Declaration of candidacy.

1 13 1. At least one hundred four days before the judicial
1 14 election preceding expiration of the initial or regular term
1 15 of office, a judge of the supreme court, court of appeals, or
1 16 district court including a district associate ~~judges~~ judge,
1 17 full-time associate juvenile ~~judges~~ judge, or full-time
1 18 associate probate ~~judges~~ judge, a full-time magistrate, or
1 19 a clerk of the district court who is required to stand for
1 20 retention under section 602.1216 may file a declaration of
1 21 candidacy with the state commissioner of elections to stand
1 22 for retention or rejection at that election. If a judge,
1 23 magistrate, or clerk fails to file the declaration, the office
1 24 shall be vacant at the end of the term. District associate
1 25 judges, full-time associate juvenile judges, ~~and~~ full-time
1 26 associate probate judges, and full-time magistrates filing the
1 27 declaration shall stand for retention in the judicial election
1 28 district of their residence except as provided in subsection 2.

1 29 2. a. If a full-time magistrate is a resident of a county
1 30 contiguous to the county of appointment and the counties are
1 31 located in different judicial election districts, the full-time
1 32 magistrate shall stand for retention in the judicial election
1 33 district in which the county of appointment is located.

1 34 b. If a full-time magistrate is appointed to serve in more
1 35 than one county and the counties are located in different



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2 1 judicial election districts, the full-time magistrate shall
 2 2 stand for retention simultaneously in each of the judicial
 2 3 election districts. For purposes of determining if a full-time
 2 4 magistrate is retained pursuant to section 46.24, the votes
 2 5 of the judicial election districts shall be combined and the
 2 6 full-time magistrate must receive more affirmative votes than
 2 7 negative votes from the combined vote totals.

2 8 Sec. 3. Section 46.21, Code 2009, is amended to read as
 2 9 follows:

2 10 46.21 Conduct of elections.

2 11 At least sixty-nine days before each judicial election, the
 2 12 state commissioner of elections shall certify to the county
 2 13 commissioner of elections of each county a list of the judges
 2 14 of the supreme court, court of appeals, and district court
 2 15 including district associate judges, full-time associate
 2 16 juvenile judges, and full-time associate probate judges,
 2 17 full-time magistrates, and clerks of the district court to
 2 18 be voted on in each county at that election. The county
 2 19 commissioner of elections shall place the names upon the ballot
 2 20 in the order in which they appear in the certificate. The
 2 21 state commissioner of elections shall rotate the names in the
 2 22 certificate by county. The names of all judges, full-time
 2 23 magistrates, and clerks to be voted on shall be placed upon one
 2 24 ballot, which shall be in substantially the following form:

2 25 STATE OF IOWA

2 26 JUDICIAL BALLOT

2 27 (Date)

2 28 vote on all names by placing an x in the appropriate box after each
 2 29 name.

2 30 SUPREME COURT

2 31 Shall the following judges of the Supreme Court be retained
 2 32 in office?

2 33 candidate's name	yes	no
2 34 candidate's name	yes	no~

2 35 COURT OF APPEALS



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3 1 Shall the following judges of the Court of Appeals be
 3 2 retained in office?
 3 3 candidate's name yes no
 3 4 candidate's name yes no
 3 5 DISTRICT COURT
 3 6 Shall the following judge, associate judge, associate
 3 7 juvenile judge, or associate probate judge of the District
 3 8 Court be retained in office?
 3 9 candidate's name yes no
 3 10 Shall the following full-time magistrate be retained in
 3 11 office?
 3 12 candidate's name yes no
 3 13 Shall the following clerk of the District Court be retained
 3 14 in office?
 3 15 candidate's name yes no
 3 16 Sec. 4. Section 46.24, Code 2009, is amended to read as
 3 17 follows:
 3 18 46.24 Results of election.
 3 19 1. A judge of the supreme court, court of appeals, or
 3 20 district court including a district associate judge, full-time
 3 21 associate juvenile judge, or full-time associate probate judge,
 3 22 a full-time magistrate, or a clerk of the district court must
 3 23 receive more affirmative than negative votes to be retained in
 3 24 office. When the poll is closed, the election judges shall
 3 25 publicly canvass the vote forthwith. The board of supervisors
 3 26 shall canvass the returns on the Monday or Tuesday after the
 3 27 election, and shall promptly certify the number of affirmative
 3 28 and negative votes on each judge, magistrate, or clerk to the
 3 29 state commissioner of elections.
 3 30 2. The state board of canvassers shall, at the time of
 3 31 canvassing the vote cast at a general election, open and
 3 32 canvass all of the returns for the judicial election. Each
 3 33 judge of the supreme court, court of appeals, or district court
 3 34 including a district associate judge, full-time associate
 3 35 juvenile judge, or full-time associate probate judge, full-time



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4 1 magistrate, or a clerk of the district court who has received
4 2 more affirmative than negative votes shall receive from
4 3 the state board of canvassers an appropriate certificate so
4 4 stating.
4 5 Sec. 5. Section 602.1215, subsection 1, Code 2009, is
4 6 amended to read as follows:
4 7 1. Subject to the provisions of section 602.1209,
4 8 subsection 3, the ~~district judges of each~~ chief judge of
4 9 ~~the judicial election~~ district, after consultation with the
4 10 ~~district judges of the district,~~ shall ~~by majority vote~~ appoint
4 11 persons to serve as clerks of the district court within the
4 12 ~~judicial election~~ district. The ~~district judges of a judicial~~
4 13 ~~election district~~ chief judge may appoint a person to serve
4 14 as clerk of the district court for more than one but not more
4 15 than four contiguous counties in the same judicial district.
4 16 A person does not qualify for appointment to the office of
4 17 clerk of the district court unless the person is at the time of
4 18 application a resident of the state. A clerk of the district
4 19 court may be removed from office for cause by a ~~majority vote~~
4 20 ~~of the district judges of the~~ chief judge of the judicial
4 21 ~~election~~ district. ~~Before~~ Prior to removal, the clerk of the
4 22 district court shall be notified of the cause for removal.
4 23 Sec. 6. NEW SECTION. 602.2301 Judicial officer appointment
4 24 == delay.
4 25 1. Notwithstanding section 46.12, the chief justice
4 26 may order the state commissioner of elections to delay, for
4 27 budgetary reasons, the sending of a notification to the proper
4 28 judicial nominating commission that a vacancy in the supreme
4 29 court, court of appeals, or district court has occurred or will
4 30 occur.
4 31 2. Notwithstanding sections 602.6304, 602.7103B, and
4 32 633.20B, the chief justice may order any county magistrate
4 33 appointing commission to delay, for budgetary reasons,
4 34 publicizing the notice of a vacancy for a district associate
4 35 judgeship, associate juvenile judgeship, or associate probate



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5 1 judgeship.

5 2 3. Notwithstanding section 602.6403, subsection 3, if a
5 3 magistrate position is vacant due to a death, resignation,
5 4 retirement, an increase in the number of positions authorized,
5 5 or to the removal of a magistrate, the chief justice may order
5 6 any county magistrate appointing commission to delay, for
5 7 budgetary reasons, the appointment of a magistrate to serve the
5 8 remainder of an unexpired term.

5 9 Sec. 7. Section 602.3201, Code 2009, is amended to read as
5 10 follows:

5 11 602.3201 Requirement of certification == use of title.

5 12 A person shall not engage in the profession of shorthand
5 13 reporting unless the person is certified pursuant to this
5 14 chapter, or otherwise exempted pursuant to section 602.6603,
5 15 ~~subsection 4~~ by court rule. Only a person who is certified by
5 16 the board may assume the title of certified shorthand reporter,
5 17 or use the abbreviation C.S.R., or any words, letters, or
5 18 figures to indicate that the person is a certified shorthand
5 19 reporter.

5 20 Sec. 8. Section 602.6105, subsection 3, Code 2009, is
5 21 amended to read as follows:

5 22 3. ~~a.~~ The chief judge of a judicial district shall
5 23 designate times and places for magistrates to hold court to
5 24 ensure accessibility of magistrates at all times throughout the
5 25 district, including the availability of a magistrate in each
5 26 county on a regular basis. The schedule of times and places of
5 27 availability of magistrates and any schedule changes shall be
5 28 disseminated by the chief judge to the peace officers within
5 29 the district.

5 30 ~~b.~~ ~~The chief judge of a judicial district shall schedule a~~
5 31 ~~magistrate to hold court in a city other than the county seat~~
5 32 ~~if all of the following apply:~~

5 33 ~~(1) Magistrate court was regularly scheduled in the city on~~
5 34 ~~or after July 1, 2001.~~

5 35 ~~(2) The population of the city is at least two times greater~~



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~~6 1 than the population of the county seat or the population of the~~
~~6 2 city is at least thirty thousand.~~
6 3 ~~(3) The city requests the chief judge to schedule magistrate~~
~~6 4 court.~~
6 5 ~~In addition to paying the costs in section 602.1303,~~
~~6 6 subsection 1, the city requesting the magistrate court shall~~
~~6 7 pay any other costs for holding magistrate court in the city~~
~~6 8 which would not otherwise have been incurred by the judicial~~
~~6 9 branch.~~
6 10 Sec. 9. NEW SECTION. 602.6113 Apportionment of certain
6 11 judicial officers == substantial disparity.
6 12 Notwithstanding section 602.6201, 602.6301, 602.6304,
6 13 602.7103B, or 633.20B, if a vacancy occurs in the office of a
6 14 district judge, district associate judge, associate juvenile
6 15 judge, or associate probate judge, and the chief justice of
6 16 the supreme court makes a finding that a substantial disparity
6 17 exists in the allocation of such judgeships and judicial
6 18 workload between judicial election districts, the chief
6 19 justice may apportion the vacant office from the judicial
6 20 election district where the vacancy occurs to another judicial
6 21 election district based upon the substantial disparity finding.
6 22 However, such a judgeship shall not be apportioned pursuant
6 23 to this section unless a majority of the judicial council
6 24 approves the apportionment. This section does not apply to a
6 25 district associate judge office authorized by section 602.6302
6 26 or 602.6307.
6 27 Sec. 10. Section 602.6305, subsections 2 and 3, Code 2009,
6 28 are amended to read as follows:
6 29 2. A person does not qualify for appointment to the office
6 30 of district associate judge unless the person is at the time
6 31 of appointment a resident of the ~~county~~ judicial election
6 32 district in which the vacancy exists, licensed to practice law
6 33 in Iowa, and will be able, measured by the person's age at the
6 34 time of appointment, to complete the initial term of office
6 35 prior to reaching age seventy=two. An applicant for district



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7 1 associate judge shall file a certified application form, to
7 2 be provided by the supreme court, with the chairperson of the
7 3 county magistrate appointing commission.

7 4 3. A district associate judge must be a resident of a
~~7 5 county~~ the judicial election district in which the office is
7 6 held during the entire term of office. A district associate
7 7 judge shall serve within the judicial district in which
7 8 appointed, as directed by the chief judge, and is subject to
7 9 reassignment under section 602.6108.

7 10 Sec. 11. Section 602.6401, subsection 2, Code Supplement
7 11 2009, is amended by adding the following new paragraph:

7 12 NEW PARAGRAPH. e. A case-related workload formula.

7 13 Sec. 12. Section 602.6401, subsection 3, Code Supplement
7 14 2009, is amended by striking the subsection.

7 15 Sec. 13. Section 602.6403, subsection 1, Code 2009, is
7 16 amended to read as follows:

7 17 1. By June 1 of each year in which magistrates' terms
7 18 expire, the county magistrate appointing commission shall
7 19 appoint, except as otherwise provided in section 602.6302 and
7 20 602.6406, the number of magistrates apportioned to the county
7 21 by the state court administrator under section 602.6401, the
7 22 number of magistrates required pursuant to substitution orders
7 23 in effect under section 602.6303, and may appoint an additional
7 24 magistrate when allowed by section 602.6402. The commission
7 25 shall not appoint more magistrates than are authorized for the
7 26 county by this article.

7 27 Sec. 14. Section 602.6403, subsection 3, Code 2009, is
7 28 amended to read as follows:

7 29 3. Within thirty days following receipt of notification of
7 30 a vacancy in the office of magistrate, the commission shall
7 31 appoint a person to the office to serve the remainder of the
7 32 unexpired term, except as provided in section 602.6406. For
7 33 purposes of this section, vacancy means a death, resignation,
7 34 retirement, or removal of a magistrate, or an increase in the
7 35 number of positions authorized.



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8 1 Sec. 15. Section 602.6404, subsection 1, Code Supplement
8 2 2009, is amended to read as follows:

8 3 1. A magistrate shall be a resident of the county of
8 4 appointment or a resident of a county contiguous to the county
8 5 of appointment during the magistrate's term of office. A

8 6 magistrate shall serve within the judicial district in which
8 7 appointed, as directed by the chief judge, provided that the
8 8 chief judge may assign a magistrate to hold court outside of
8 9 the county of ~~the magistrate's residence~~ appointment for the
8 10 orderly administration of justice. A magistrate is subject to
8 11 reassignment under section 602.6108.

8 12 Sec. 16. NEW SECTION. 602.6406 Appointment of full-time
8 13 magistrate.

8 14 1. The chief judge, upon approval of the supreme court,
8 15 may designate by order of substitution that a full-time
8 16 magistrate be appointed pursuant to this section in lieu of the
8 17 appointment of two magistrates appointed pursuant to section
8 18 602.6403 subject to the limitations of this section.

8 19 2. A full-time magistrate shall be subject to the same
8 20 appointment process, qualifications, and shall have the same
8 21 jurisdictional limits of a magistrate appointed pursuant
8 22 to sections 602.6403 through 602.6405, except as otherwise
8 23 provided in this section.

8 24 3. A full-time magistrate shall serve an initial term and
8 25 stand for retention in office as provided under sections 46.16
8 26 through 46.24.

8 27 4. A person does not qualify for appointment to the office
8 28 of full-time magistrate unless the person is at the time of
8 29 appointment a resident of the county in which the vacancy
8 30 exists or of a contiguous county, licensed to practice law in
8 31 Iowa, and will be able, measured by the person's age at the
8 32 time of appointment, to complete the initial term of office
8 33 prior to reaching age seventy-two. An applicant for full-time
8 34 magistrate shall file a certified application form, to be
8 35 provided by the supreme court, with the chairperson of the



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9 1 county magistrate appointing commission.
9 2 5. A full-time magistrate shall be a resident of a county in
9 3 which the office is held or of a contiguous county during the
9 4 entire term of office.
9 5 6. A full-time magistrate shall qualify for office as
9 6 provided in chapter 63 for district judges.
9 7 7. In the case of a full-time magistrate to be appointed
9 8 to serve in more than one county, the appointment shall be
9 9 from persons nominated by the county magistrate appointing
9 10 commissions acting jointly.
9 11 8. The appointment of a full-time magistrate shall be
9 12 subject to the following limitations:
9 13 a. The county of appointment must have two or more
9 14 magistrates apportioned to the county pursuant to section
9 15 602.6401. If the appointment is for service in more than one
9 16 county, the counties, in the aggregate, must have two or more
9 17 magistrates apportioned to the counties pursuant to section
9 18 602.6401.
9 19 b. A majority of district judges in the judicial election
9 20 district must vote in favor of the substitution and find that
9 21 the substitution will provide a more timely and efficient
9 22 performance of judicial business within the judicial election
9 23 district. In the case of a full-time magistrate to be
9 24 substituted for two magistrates from different judicial
9 25 election districts, the vote in favor of the substitution
9 26 requires a majority of the district judges in each judicial
9 27 election district affected.
9 28 9. An order of substitution shall not take effect unless,
9 29 a copy of the order is received by the chairperson of the
9 30 applicable county magistrate appointing commission no later
9 31 than May 31 of the year in which the substitution is to take
9 32 effect.
9 33 10. For a county in which a substitution order is in
9 34 effect, the number of magistrates actually appointed pursuant
9 35 to section 602.6403 shall be reduced by one for each full-time



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10 1 magistrate substituted under this section. However, if the
10 2 substitution order is for a full-time magistrate appointed to
10 3 serve more than one county, the reduction of the magistrate
10 4 shall be as provided in the order of the chief judge of
10 5 the judicial district. Upon a subsequent reduction in the
10 6 apportionment of a magistrate to a county, the magistrate
10 7 appointing commission shall further reduce the number of
10 8 magistrates appointed.

10 9 11. a. Except as provided in subsections 1 through 10,
10 10 a substitution shall not increase or decrease the number of
10 11 magistrates authorized by this article.

10 12 b. A substitution shall not be made where the apportionment
10 13 of magistrates to a county is insufficient to permit the
10 14 reduction of magistrates as required by subsection 10.

10 15 12. If an apportionment by the state court administrator
10 16 pursuant to section 602.6401 reduces the number of magistrates
10 17 in a county to less than the number required to be apportioned
10 18 for a substitution order to remain in effect, or if a majority
10 19 of the district judges in each affected judicial election
10 20 district determines that a substitution is no longer desirable,
10 21 the substituted office shall be terminated. However, a
10 22 reversion pursuant to this subsection, irrespective of cause,
10 23 shall not take effect until the substitute full-time magistrate
10 24 fails to be retained in office at a judicial election or
10 25 otherwise leaves office, whether voluntarily or involuntarily,
10 26 and the office becomes vacant. Upon reversion of the office,
10 27 appointments shall be made pursuant to section 602.6403 as
10 28 necessary to reestablish terms of office pursuant to section
10 29 602.6403, subsection 4.

10 30 Sec. 17. Section 602.9203, subsection 1, Code 2009, is
10 31 amended to read as follows:

10 32 1. A supreme court judge, court of appeals judge, district
10 33 judge, district associate judge, full-time associate juvenile
10 34 judge, or full-time associate probate judge, who qualifies
10 35 under subsection 2 may become a senior judge by filing with



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11 1 the clerk of the supreme court a written election in the form
11 2 specified by the ~~court administrator~~ supreme court. The
11 3 election shall be filed within six months of the date of
11 4 retirement.

11 5 Sec. 18. Section 602.9203, subsection 2, paragraph c, Code
11 6 2009, is amended to read as follows:

11 7 c. Agrees in writing on a form prescribed by the ~~court~~
~~11 8 administrator~~ supreme court to be available as long as the
11 9 judicial officer is a senior judge to perform judicial duties
11 10 as assigned by the supreme court for an aggregate period of
11 11 thirteen weeks out of each successive twelve-month period.

11 12 Sec. 19. Section 602.9203, subsection 5, paragraph b, Code
11 13 2009, is amended to read as follows:

11 14 b. A senior judge may be reappointed to ~~an additional~~
~~11 15 two-year~~ a one-year term upon attaining seventy-eight years of
11 16 age and to a succeeding one-year term, at the discretion of the
11 17 supreme court, if the judicial officer meets the requirements
11 18 of subsection 2.

11 19 Sec. 20. REPEAL. Section 602.6603, Code 2009, is repealed.

11 20 EXPLANATION

11 21 This bill relates to the appointment of judicial officers,
11 22 senior judges, court reporters, and clerks of the district
11 23 court, and creates a full-time magistrate office.

11 24 The amendments to Code sections 46.16, 46.20, 46.21, and
11 25 46.24, relate to the retention of a full-time magistrate
11 26 position created by the bill in new Code section 602.6406.

11 27 The bill creates new Code section 602.2301 granting
11 28 authority to the chief justice to delay the nomination of
11 29 a supreme court justice, court of appeals judge, district
11 30 judge, district associate judge, associate juvenile judge,
11 31 or associate probate judge. New Code section 602.2301 also
11 32 grants authority to the chief justice to delay the appointment
11 33 of a magistrate to serve the remainder of an unexpired term,
11 34 if the vacancy is due to a death, resignation, retirement,
11 35 an increase in the number of positions authorized, or to the



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12 1 removal of a magistrate. New Code section 602.2301 does not
12 2 grant authority to the chief justice to delay the appointment
12 3 of magistrates when all magistrates' terms expire pursuant to
12 4 Code section 602.6403(1). Currently, the chief justice has the
12 5 authority, until June 30, 2010, to delay for budgetary reasons,
12 6 the nomination of any judicial officer, except magistrates, for
12 7 up to 180 days.

12 8 The amendment to Code section 602.3201 strikes a reference
12 9 to Code section 602.6603 (court reporters) which is repealed by
12 10 the bill. The bill specifies that the supreme court, by court
12 11 rule, may designate when an uncertified court reporter may
12 12 engage in the profession of shorthand reporting. Currently,
12 13 Code section 602.6603 governs when an uncertified court
12 14 reporter may engage in the profession of shorthand reporting.

12 15 The amendment to Code section 602.1215 changes the method
12 16 by which the clerk of the district court is appointed. The
12 17 amendment permits the chief judge of each judicial district to
12 18 appoint the clerk of the district court and remove the clerk
12 19 for cause after consultation with the district judges of the
12 20 judicial district. The clerk under current law is appointed by
12 21 a majority vote of all district judges in the judicial election
12 22 district, and removed by a majority vote.

12 23 The amendment to Code section 602.6105 specifies that
12 24 the chief judge of a judicial district has the authority to
12 25 designate the time and location a magistrate may hold court
12 26 to ensure the availability of a magistrate in each county on
12 27 a regular basis. The amendment to Code section 602.6105 also
12 28 strikes a provision granting authority to the chief judge to
12 29 schedule magistrate court in a city other than the county seat.

12 30 The bill creates new Code section 602.6113 authorizing
12 31 the chief justice to apportion a vacancy in the office of
12 32 district judge, district associate judge, associate juvenile
12 33 judge, or associate probate judge, from the judicial election
12 34 district where the vacancy occurs to another judicial election
12 35 district. An apportionment from one judicial election district



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13 1 to another judicial election district shall not occur under the
13 2 bill, unless the chief justice finds a substantial disparity
13 3 exists in the allocation of judgeships and judicial workload
13 4 between judicial election districts, and the judicial council,
13 5 by a majority vote, approves the apportionment. Current law
13 6 does not permit the chief justice and the judicial council to
13 7 apportion vacant judgeships across judicial election district
13 8 boundaries.

13 9 The amendment to Code section 602.6305 requires a district
13 10 associate judge to reside in the judicial election district
13 11 at the time of appointment and throughout the entire term of
13 12 office. Currently, a district associate judge is required to
13 13 reside in the county where the vacancy exists at the time of
13 14 appointment and throughout the entire term of office.

13 15 The amendment to Code section 602.6401(2) modifies the
13 16 criteria used by the state court administrator to apportion
13 17 magistrates throughout the state. Under the bill, the state
13 18 court administrator must also consider a case-related workload
13 19 formula in addition to the other criteria listed in Code
13 20 section 602.6401(2).

13 21 The bill strikes Code section 602.6401(3) requiring at least
13 22 one magistrate in each county.

13 23 The amendment to Code section 602.6404(1) allows a
13 24 magistrate to be a resident of a county contiguous to the
13 25 county of appointment during the magistrate's term of office.
13 26 The bill permits the chief judge to assign a magistrate to hold
13 27 court outside of the magistrate's county of appointment for the
13 28 orderly administration of justice.

13 29 The bill creates new Code section 602.6406 providing for the
13 30 establishment of full-time magistrate positions. Under the
13 31 bill, the chief judge, upon approval of the supreme court, may
13 32 designate by order of substitution that a full-time magistrate
13 33 be appointed in lieu of two part-time magistrates.

13 34 The bill requires a full-time magistrate to stand for
13 35 retention every six years after serving an initial term and



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14 1 requires a full-time magistrate to be a lawyer licensed to
14 2 practice law in Iowa.

14 3 The bill creates special retention provisions for full-time
14 4 magistrates pursuant to Code section 46.20. Under the bill,
14 5 if a full-time magistrate is a resident of a county contiguous
14 6 to the county of appointment and the counties are located
14 7 in different judicial election districts, the full-time
14 8 magistrate shall stand for retention in the judicial election
14 9 district containing the county of appointment. If a full-time
14 10 magistrate is appointed to serve in more than one county under
14 11 the bill, and the counties are in different judicial election
14 12 districts, the full-time magistrate shall simultaneously stand
14 13 for retention in each judicial election district and the vote
14 14 totals from each judicial election district shall be combined
14 15 to determine if the full-time magistrate is retained.

14 16 Under the bill, if a full-time magistrate is appointed
14 17 to serve in more than one county, the appointment shall be
14 18 from persons nominated by the applicable county magistrate
14 19 appointing commissions acting jointly.

14 20 The bill specifies a full-time magistrate shall have the
14 21 same jurisdictional limits of a magistrate appointed pursuant
14 22 to Code sections 602.6403 through 602.6405.

14 23 The bill also places other limits on the appointment of
14 24 a full-time magistrate. The bill requires the county of
14 25 appointment to have two or more magistrates apportioned to the
14 26 county pursuant to Code section 602.6401, or in the case of an
14 27 appointment of a full-time magistrate to serve in more than one
14 28 county, the counties, in the aggregate, shall be apportioned
14 29 two or more magistrates.

14 30 The bill requires a majority of district judges in the
14 31 judicial election district to vote in favor of substituting
14 32 a full-time magistrate for two magistrates and find that
14 33 the substitution will provide a more timely and efficient
14 34 performance of judicial business. In the case of a full-time
14 35 magistrate to be substituted for two magistrates from



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15 1 different judicial election districts, the vote in favor of the
15 2 substitution requires a majority of the district judges in each
15 3 judicial election district affected.

15 4 In counties where a substitution order is in effect, the
15 5 bill requires the number of magistrates actually appointed in
15 6 the county to be reduced by one magistrate for each full-time
15 7 magistrate appointed. If the substitution order calls for
15 8 a full-time magistrate appointed to serve in more than one
15 9 county, the reduction of the magistrate shall be provided in
15 10 the substitution order of the chief judge of the judicial
15 11 district.

15 12 Under the bill, if an apportionment by the state court
15 13 administrator pursuant to Code section 602.6401 reduces the
15 14 number of magistrates in a county to less than the number
15 15 required to permit a substitution order to remain in effect, or
15 16 if a majority of the district judges in each affected judicial
15 17 election district determines that a substitution is no longer
15 18 desirable, then the substituted office shall be terminated.
15 19 The bill prohibits a reversion of a full-time magistrate office
15 20 back to two magistrate offices until the substitute full-time
15 21 magistrate fails to be retained in office at a judicial
15 22 election or otherwise leaves office, whether voluntarily or
15 23 involuntarily, and the office becomes vacant. Upon reversion
15 24 of the office, the bill requires the appointments of the two
15 25 magistrates to be made pursuant to Code section 602.6403 as
15 26 necessary to reestablish terms of office pursuant to Code
15 27 section 602.6403(4).

15 28 The amendments to Code section 602.9203(1) and (2) require
15 29 senior judge written forms to be prescribed by the supreme
15 30 court. Currently, the court administrator prescribes the
15 31 forms.

15 32 The amendment to Code section 602.9203(5) specifies that
15 33 a senior judge, upon attaining the age of 78, may serve a
15 34 one-year term and a succeeding one-year term at the discretion
15 35 of the supreme court. Currently, a senior judge, upon



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16 1 attaining the age of 78, may serve a two-year term at the
16 2 discretion of the supreme court.
16 3 The bill repeals Code section 602.6603, permitting a
16 4 district judge or district associate judge to appoint a
16 5 certified court reporter, and permitting the appointment of an
16 6 uncertified court reporter under certain circumstances.
LSB 5397DP (9) 83
jm/rj



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House Study Bill 641

SENATE/HOUSE FILE
BY (PROPOSED CRIMINAL
CODE REORGANIZATION
STUDY COMMITTEE BILL)

A BILL FOR

- 1 An Act relating to an assault causing serious injury.
- 2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 5214IC (2) 83
jm/rj



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1 1 Section 1. Section 702.11, subsection 2, Code 2009, is
1 2 amended by adding the following new paragraph:
1 3 NEW PARAGRAPH. f. Assault in violation of section 708.2,
1 4 subsection 4.
1 5 Sec. 2. Section 708.2, subsection 4, Code 2009, is amended
1 6 to read as follows:
1 7 4. A person who commits an assault, as defined in section
1 8 708.1, ~~and~~ without the intent to inflict serious injury,
1 9 but who causes serious injury, is guilty of a class "D" felony.

1 10 EXPLANATION
1 11 This bill modifies provisions related to an assault causing
1 12 serious injury.
1 13 The bill provides that a person who commits an assault
1 14 without the intent to inflict serious injury, but who causes
1 15 serious injury, commits a class "D" felony. The bill exempts
1 16 the modified assault provision from the definition of forcible
1 17 felony under Code section 702.11. By exempting the modified
1 18 assault provision from the definition of forcible felony, a
1 19 person convicted of such an offense is eligible to receive a
1 20 deferred judgment, or a suspended or deferred sentence under
1 21 Code section 907.3.
1 22 The bill does not modify related criminal offense provisions
1 23 for unjustified acts intended to cause serious injury under
1 24 Code sections 708.2 and 708.4.

LSB 5214IC (2) 83

jm/rj



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House Study Bill 642

SENATE/HOUSE FILE
BY (PROPOSED CRIMINAL
CODE REORGANIZATION
STUDY COMMITTEE BILL)

A BILL FOR

1 An Act relating to escapes or attempted escapes from custody
2 due to the commission of a criminal offense and providing a
3 penalty.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 5215IC (3) 83
jm/rj



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House Study Bill 642 continued

PAG LIN

1 1 Section 1. Section 719.4, Code 2009, is amended to read as
1 2 follows:

1 3 719.4 Escape or absence from custody.

1 4 1. A person convicted of a ~~felony~~ criminal offense,
1 5 or charged with or arrested for the commission of a
1 6 ~~felony~~ criminal offense, who intentionally escapes, or
1 7 attempts to escape, from a detention facility, community-based
1 8 correctional facility, or institution to which the person has
1 9 been committed by reason of the conviction, charge, or arrest,
1 10 or from the custody of any public officer, public employee, or
1 11 any other person to whom the person has been entrusted, commits
1 12 a class "D" felony.

~~1 13 2. A person convicted of, charged with, or arrested for
1 14 a misdemeanor, who intentionally escapes, or attempts to
1 15 escape, from a detention facility, community-based correctional
1 16 facility, or institution to which the person has been committed
1 17 by reason of the conviction, charge, or arrest, or from the
1 18 custody of any public officer, public employee, or any other
1 19 person to whom the person has been entrusted, commits a serious
1 20 misdemeanor.~~

1 21 ~~3.~~ 2. A person who has been committed to an institution
1 22 under the control of the Iowa department of corrections, to
1 23 a community-based correctional facility, or to a jail or
1 24 correctional institution, who knowingly and voluntarily is
1 25 absent from a place where the person is required to be, commits
1 26 a serious misdemeanor.

1 27 ~~4.~~ 3. A person who flees from the state to avoid
1 28 prosecution for a public offense which is a felony or
1 29 aggravated misdemeanor commits a class "D" felony.

1 30 ~~5.~~ 4. Except for subsection 4 ~~3~~, an offense committed under
1 31 this section includes any offense committed wholly outside the
1 32 state.

1 33 EXPLANATION

1 34 This bill relates to escapes from custody. The bill
1 35 equalizes the criminal penalty for all escapes or attempted



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2 1 escapes from custody.
2 2 Under the bill, a person convicted, charged, or arrested
2 3 for the commission of any criminal offense, who intentionally
2 4 escapes, or attempts to escape from a detention facility,
2 5 community-based correctional facility, or institution, or
2 6 escapes or attempts to escape from the custody of any public
2 7 officer, public employee, or any other person who has custody,
2 8 commits a class "D" felony.
2 9 Current law provides that a person commits a class "D" felony
2 10 for an escape or attempted escape if the underlying criminal
2 11 offense which leads to the custody of the person is a felony,
2 12 and if the underlying criminal offense which leads to the
2 13 custody of the person is a misdemeanor, the person commits a
2 14 serious misdemeanor.
2 15 A serious misdemeanor is punishable by confinement for no
2 16 more than one year and a fine of at least \$315 but not more than
2 17 \$1,875. A class "D" felony is punishable by confinement for no
2 18 more than five years and a fine of at least \$750 but not more
2 19 than \$7,500.

LSB 5215IC (3) 83

jm/rj



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House Study Bill 643

SENATE/HOUSE FILE
BY (PROPOSED CRIMINAL
CODE REORGANIZATION
STUDY COMMITTEE BILL)

A BILL FOR

1 An Act relating to expunging convictions of certain criminal
2 offenses.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 5188IC (4) 83
jm/rj



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House Study Bill 643 continued

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1 1 Section 1. Section 123.46, subsection 5, Code 2009, is
1 2 amended to read as follows:

1 3 5. Upon the expiration of two years following conviction
1 4 for a violation of this section, a person may petition the
1 5 court to ~~exonerate the person of~~ expunge the conviction, and
1 6 if the person has had no other criminal convictions, other
1 7 than simple misdemeanor violations of chapter 321 during the
1 8 two-year period, ~~the person shall be deemed exonerated of~~
~~1 9 the offense~~ conviction shall be expunged as a matter of law.

1 10 The court shall enter an order ~~exonerating the person of the~~
~~1 11 conviction, and ordering~~ that the record of the conviction be
1 12 expunged by the clerk of the district court.

1 13 Sec. 2. Section 123.47, Code 2009, is amended by adding the
1 14 following new subsection:

1 15 NEW SUBSECTION. 7. Upon the expiration of two years
1 16 following conviction for a violation of subsection 2 or of a
1 17 similar local ordinance, a person may petition the court to
1 18 expunge the conviction, and if the person has had no other
1 19 criminal convictions, other than local traffic violations
1 20 or simple misdemeanor violations of chapter 321 during the
1 21 two-year period, the conviction shall be expunged as a matter
1 22 of law. The court shall enter an order that the record of the
1 23 conviction be expunged by the clerk of the district court. An
1 24 expunged conviction shall not be considered a prior offense for
1 25 purposes of enhancement under subsection 3 or under a local
1 26 ordinance unless the new violation occurred prior to entry of
1 27 the order of expungement.

1 28 EXPLANATION

1 29 This bill relates to expunging certain criminal convictions.

1 30 The bill modifies provisions relating to expunging the
1 31 record of a conviction for public intoxication after two
1 32 years. Under the bill, two years after conviction for public
1 33 intoxication a person may petition the court to expunge the
1 34 record of the conviction if the person has not had other
1 35 criminal convictions other than simple misdemeanor violations



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2 1 of Code chapter 321 during the two-year period. Currently, a
2 2 person may petition the court to exonerate the person and have
2 3 the court enter an order exonerating the person as a matter of
2 4 law.

2 5 The bill establishes a similar expungement provision for
2 6 possessing, purchasing, or attempting to purchase alcohol
2 7 under legal age and for similar local ordinances. Under the
2 8 bill, two years after conviction for possessing, purchasing,
2 9 or attempting to purchase alcohol under legal age or under a
2 10 similar local ordinance, a person may petition the court
2 11 to expunge the record of the conviction if the person has
2 12 not had other criminal convictions other than local traffic
2 13 violations or simple misdemeanor violations of Code chapter 321
2 14 during the two-year period. The bill also provides that the
2 15 expunged conviction for possessing, purchasing, or attempting
2 16 to purchase alcohol or for a local ordinance shall not be
2 17 considered a prior offense for purposes of enhancement under
2 18 state law or under a local ordinance unless the new violation
2 19 occurred prior to entry of the order of expungement.

LSB 5188IC (4) 83

jm/rj



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House Study Bill 644

SENATE/HOUSE FILE
BY (RECOMMENDED BY THE
CRIMINAL CODE
REORGANIZATION STUDY
COMMITTEE BILL)

A BILL FOR

1 An Act relating to extending a period of probation and
2 including applicability provisions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 5217IC (5) 83
jm/rj



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1 1 Section 1. Section 907.7, subsection 1, Code 2009, is
1 2 amended to read as follows:
1 3 1. The length of the probation shall be for a ~~term~~ period as
1 4 the court shall fix but not to exceed five years if the offense
1 5 is a felony or not to exceed two years if the offense is a
1 6 misdemeanor. The period of probation may be extended for up
1 7 to one year including one year beyond the maximum period as
1 8 provided in section 908.11.

1 9 Sec. 2. Section 908.11, subsection 4, Code 2009, is amended
1 10 to read as follows:

1 11 4. If the violation is established, the court may continue
1 12 the probation or youthful offender status with or without
1 13 an alteration of the conditions of probation or a youthful
1 14 offender status. If the defendant is an adult or a youthful
1 15 offender the court may hold the defendant in contempt of court
1 16 and sentence the defendant to a jail term while continuing the
1 17 probation or youthful offender status, order the defendant
1 18 to be placed in a violator facility established pursuant to
1 19 section 904.207 while continuing the probation or youthful
1 20 offender status, extend the term of probation for up to one
1 21 year as authorized in section 907.7 while continuing the
1 22 probation or youthful offender status, or revoke the probation
1 23 or youthful offender status and require the defendant to serve
1 24 the sentence imposed or any lesser sentence, and, if imposition
1 25 of sentence was deferred, may impose any sentence which might
1 26 originally have been imposed.

1 27 Sec. 3. Section 910.4, subsection 1, paragraph b,
1 28 subparagraph (1), Code 2009, is amended to read as follows:

1 29 (1) If the court extends the period of probation, ~~it the~~
1 30 period of probation shall not be for more than the maximum
1 31 period of probation for the offense committed except for an
1 32 extension of a period of probation as ~~provided~~ authorized in
1 33 section 907.7. After discharge from probation or after
1 34 the expiration of the period of probation, as extended if
1 35 applicable, the failure of an offender to comply with the plan



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2 1 of restitution ordered by the court shall constitute contempt
2 2 of court.

2 3 Sec. 4. APPLICABILITY. This Act applies to criminal
2 4 offenses committed on or after July 1, 2010.

2 5 EXPLANATION

2 6 This bill relates to the extension of a period of
2 7 probation. The bill provides that a judge may extend a period
2 8 of probation, for up to one year including one year beyond
2 9 the maximum period, if a violation of probation has been
2 10 established.

2 11 The bill also requires the court to inform a defendant, at
2 12 the time of sentencing, that the period of probation may be
2 13 extended for up to one year if a violation of probation is
2 14 established.

2 15 The bill applies to criminal offenses committed on or after
2 16 July 1, 2010.

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House Study Bill 645

SENATE/HOUSE FILE
BY (RECOMMENDED BY THE
CRIMINAL CODE
REORGANIZATION STUDY
COMMITTEE BILL)

A BILL FOR

1 An Act relating to the definition of serious injury for purposes
2 of criminal offenses.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 5225IC (4) 83
jm/rj



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House Study Bill 645 continued

PAG LIN

1 1 Section 1. Section 235B.2, subsection 13, Code Supplement
 1 2 2009, is amended to read as follows:
 1 3 13. "Serious injury" means ~~a disabling mental illness, or~~
~~1 4 a bodily injury which creates a substantial risk of death or~~
~~1 5 which causes serious permanent disfigurement, or protracted~~
~~1 6 loss or impairment of the function of any bodily member or~~
~~1 7 organ the same as defined in section 702.18.~~
 1 8 Sec. 2. Section 321J.1, subsection 9, Code 2009, is amended
 1 9 to read as follows:
 1 10 9. "Serious injury" means ~~a bodily injury which creates a~~
~~1 11 substantial risk of death, or which causes serious permanent~~
~~1 12 disfigurement, or which causes protracted loss or impairment~~
~~1 13 of the function of any bodily organ or major bodily member, or~~
~~1 14 which causes the loss of any bodily member~~ the same as defined
1 15 in section 702.18.
 1 16 Sec. 3. Section 462A.2, subsection 36, Code 2009, is amended
 1 17 to read as follows:
 1 18 36. "Serious injury" means ~~a bodily injury which creates a~~
~~1 19 substantial risk of death, or which causes serious permanent~~
~~1 20 disfigurement, or which causes protracted loss or impairment~~
~~1 21 of the function of any bodily organ or major bodily member, or~~
~~1 22 which causes the loss of any bodily member~~ the same as defined
1 23 in section 702.18.

EXPLANATION

1 24 This bill relates to the definition of "serious injury".
 1 25 The bill modifies the definition of "serious injury" in
 1 26 Code chapters 235B (dependent adult abuse), 321J (operating
 1 27 while intoxicated), and 462A (water navigation regulations).
 1 28 The bill, by modifying the definitions of "serious injury" in
 1 29 the affected Code chapters, makes the definition of "serious
 1 30 injury" consistent with the definition of "serious injury" in
 1 31 Code section 702.18, applicable to the Iowa criminal code.

LSB 5225IC (4) 83

jm/rj



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House Study Bill 646

SENATE/HOUSE FILE
BY (PROPOSED CRIMINAL
CODE REORGANIZATION
STUDY COMMITTEE BILL)

A BILL FOR

1 An Act relating to the abuse of a corpse and providing
2 penalties.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 5221IC (4) 83
jm/rj



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1 1 Section 1. Section 229A.2, subsection 10, paragraph a, Code
 1 2 2009, is amended to read as follows:
 1 3 a. A violation of any provision of chapter 709, ~~except~~
~~1 4 section 709.18, subsection 2 or 3.~~
 1 5 Sec. 2. Section 692A.102, subsection 1, paragraph b,
 1 6 Code Supplement 2009, is amended by adding the following new
 1 7 subparagraph:
 1 8 NEW SUBPARAGRAPH. (130) Sexual abuse of a corpse in
 1 9 violation of section 709.18.
 1 10 Sec. 3. NEW SECTION. 708.14 Abuse of a corpse.
 1 11 1. A person commits abuse of a human corpse if the person
 1 12 does any of the following:
 1 13 a. Mutilates, disfigures, or dismembers a human corpse with
 1 14 the intent to conceal a crime.
 1 15 b. Hides or buries a human corpse with the intent to conceal
 1 16 a crime.
 1 17 2. A person who violates this section commits a class "D"
 1 18 felony.
 1 19 Sec. 4. Section 709.18, Code 2009, is amended to read as
 1 20 follows:
 1 21 709.18 ~~Abuse~~ Sexual abuse of a corpse.
 1 22 1. A person commits sexual abuse of a human corpse if the
 1 23 person knowingly and intentionally engages in a sex act, as
 1 24 defined in section 702.17, with a human corpse.
 1 25 ~~2. A person commits abuse of a human corpse if the person~~
~~1 26 mutilates, disfigures, or dismembers a human corpse with the~~
~~1 27 intent to conceal a crime.~~
 1 28 ~~3. A person commits abuse of a human corpse if the person~~
~~1 29 hides or buries a human corpse with the intent to conceal a~~
~~1 30 crime.~~
 1 31 ~~4.~~ 2. A person who violates this section commits a class
 1 32 "D" felony.

1 33 EXPLANATION

1 34 This bill relates to the criminal offense of abuse of a
 1 35 corpse.



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House Study Bill 646 continued

2 1 The bill transfers some "abuse of a corpse" provisions from
2 2 Code section 709.18 to Code chapter 708 (assault) and creates
2 3 new Code section 708.14. The bill renames the "abuse of a
2 4 corpse" offense remaining in Code section 709.18 as "sexual
2 5 abuse of a corpse".

2 6 The bill requires a person who commits sexual abuse of
2 7 a corpse to register as a tier II sex offender. A tier II
2 8 offender must verify the offender's relevant information with
2 9 the county sheriff of the principal place of residence every
2 10 six months.

2 11 The bill does not modify the penalty classification for the
2 12 criminal offense that remains in Code section 709.18 or for the
2 13 criminal offenses transferred to new Code section 708.14. A
2 14 person who commits a violation of the bill commits a class "D"
2 15 felony.

2 16 The bill does effect the criminal penalties applicable to
2 17 the criminal offenses transferred to new Code section 708.14.
2 18 Under the bill, as a result of transferring the criminal
2 19 offenses to new Code section 708.14, these transferred offenses
2 20 are no longer sexual offenses under Code chapter 709 and
2 21 therefore not subject to a special sentence pursuant to Code
2 22 section 903B.2.

LSB 5221IC (4) 83

jm/rj



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House Study Bill 647

SENATE/HOUSE FILE
BY (PROPOSED CRIMINAL
CODE REORGANIZATION
STUDY COMMITTEE BILL)

A BILL FOR

1 An Act relating to the criminal offense of intimidation with a
2 dangerous weapon.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 5216IC (4) 83
jm/nh



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House Study Bill 647 continued

PAG LIN

1 1 Section 1. Section 708.6, Code 2009, is amended to read as
1 2 follows:

1 3 708.6 Intimidation with a dangerous weapon.

1 4 1. A person commits a class "C" felony when the person,
1 5 with the intent to injure or provoke fear or anger in another,
1 6 shoots, throws, launches, or discharges a dangerous weapon at,
1 7 into, or in a building, vehicle, airplane, railroad engine,
1 8 railroad car, or boat, occupied by another person, or within an
1 9 assembly of people, and thereby places the occupants or people
1 10 in reasonable apprehension of serious injury or threatens to
1 11 commit such an act under circumstances raising a reasonable
1 12 expectation that the threat will be carried out.

1 13 2. A person commits a class "D" felony when the person
1 14 recklessly shoots, throws, launches, or discharges a dangerous
1 15 weapon at, into, or in a building, vehicle, airplane, railroad
1 16 engine, railroad car, or boat, occupied by another person, or
1 17 within an assembly of people, and thereby places the occupants
1 18 or people in reasonable apprehension of serious injury or
1 19 threatens to commit such an act under circumstances raising a
1 20 reasonable expectation that the threat will be carried out.

1 21 EXPLANATION

1 22 This bill relates to the criminal offense of intimidation
1 23 with a dangerous weapon.

1 24 The bill modifies the elements to prove a class "D" felony
1 25 offense of intimidation with a dangerous weapon by adding a
1 26 mens rea component to the offense. Under the bill, a person
1 27 commits a class "D" felony intimidation with a dangerous weapon
1 28 offense if a person "recklessly" performs the actions required
1 29 to be convicted of such an offense.

1 30 A class "D" felony is punishable by confinement for no more
1 31 than five years and a fine of at least \$750 but not more than
1 32 \$7,500.

LSB 5216IC (4) 83

jm/nh



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House Study Bill 648

SENATE/HOUSE FILE
BY (RECOMMENDED BY THE
CRIMINAL CODE
REORGANIZATION STUDY
COMMITTEE BILL)

A BILL FOR

1 An Act creating the criminal offense of robbery in the third
2 degree, and providing a penalty.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 5219IC (4) 83
jm/rj



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House Study Bill 648 continued

PAG LIN

1 1 Section 1. Section 702.11, subsection 2, Code 2009, is
1 2 amended by adding the following new paragraph:
1 3 NEW PARAGRAPH. dd. Robbery in the third degree in violation
1 4 of section 711.3A.

1 5 Sec. 2. Section 711.3, Code 2009, is amended to read as
1 6 follows:

1 7 711.3 Robbery in the second degree.

1 8 All robbery which is not robbery in the first degree is
1 9 robbery in the second degree, except as provided in section
1 10 711.3A. Robbery in the second degree is a class "C" felony.

1 11 Sec. 3. NEW SECTION. 711.3A Robbery in the third degree.

1 12 1. A person commits robbery in the third degree when,
1 13 while perpetrating a robbery, the person commits an assault as
1 14 defined in section 708.2, subsection 6, upon another person.

1 15 2. Robbery in the third degree is a class "D" felony.

1 16 EXPLANATION

1 17 This bill creates a criminal offense of robbery in the third
1 18 degree.

1 19 Under the bill, a person commits robbery in the third degree
1 20 if while perpetrating the robbery the person commits a simple
1 21 misdemeanor assault in violation of Code section 708.2(6). The
1 22 bill classifies robbery in the third degree as a class "D"
1 23 felony. A class "D" felony is punishable by confinement for no
1 24 more than five years and a fine of at least \$750 but not more
1 25 than \$7,500.

1 26 The bill also exempts robbery in the third degree from the
1 27 definition of forcible felony. By exempting robbery in the
1 28 third degree from the definition of forcible felony, a person
1 29 is eligible to receive a suspended or deferred sentence, or a
1 30 deferred judgment under Code section 907.3.

1 31 Currently, under the same set of facts and circumstances a
1 32 person commits a robbery in the second degree in violation of
1 33 Code section 711.3 and the offense is classified as a class "C"
1 34 felony 70 percent sentence under Code section 902.12.

LSB 5219IC (4) 83

jm/rj



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House Study Bill 649

SENATE/HOUSE FILE
BY (PROPOSED CRIMINAL
CODE REORGANIZATION
STUDY COMMITTEE BILL)

A BILL FOR

1 An Act relating to the criminal and juvenile justice planning
2 advisory council, establishing a public safety advisory
3 board, and providing for implementation.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 5019IC (10) 83
jm/nh



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House Study Bill 649 continued

PAG LIN

1 1 Section 1. Section 216A.131, Code 2009, is amended by adding
 1 2 the following new subsection:
 1 3 NEW SUBSECTION. 1A. "Board" means the public safety
 1 4 advisory board.
 1 5 Sec. 2. Section 216A.132, Code 2009, is amended to read as
 1 6 follows:
 1 7 216A.132 Council established == terms == compensation.
 1 8 1. A criminal and juvenile justice planning advisory
 1 9 council is established consisting of ~~twenty-three~~ twenty-five
 1 10 members.
 1 11 a. The governor shall appoint ~~seven~~ five members each for
 1 12 a four-year term beginning and ending as provided in section
 1 13 69.19 and subject to confirmation by the senate as follows:
 1 14 (1) ~~Three~~ Two persons, each of whom is a ~~county~~
~~1 15 supervisor, county sheriff, mayor, or a city chief of police,~~
~~1 16 or county attorney.~~
 1 17 (2) Two persons who ~~represent the general public and are~~
~~1 18 not employed in any law enforcement, judicial, or corrections~~
~~1 19 capacity~~ are knowledgeable about Iowa's juvenile justice
~~1 20 system.~~
 1 21 (3) ~~Two persons who are knowledgeable about Iowa's juvenile~~
~~1 22 justice system~~ One person representing a crime victim group.
 1 23 b. The departments of human services, corrections, and
 1 24 public safety, the division on the status of African-Americans,
 1 25 the ~~Iowa~~ department of public health, the chairperson of
 1 26 the board of parole, the attorney general, the state public
 1 27 defender, and the governor's office of drug control policy, ~~and~~
~~1 28 the chief justice of the supreme court~~ shall each designate a
 1 29 person to serve on the council. ~~The person appointed by the~~
~~1 30 Iowa department of public health shall be from the departmental~~
~~1 31 staff who administer the comprehensive substance abuse program~~
~~1 32 under chapter 125.~~
 1 33 c. The chief justice of the supreme court shall appoint ~~two~~
~~1 34 additional members currently serving as district judges~~ one
~~1 35 member who is a district judge and one member who is either~~



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2 1 a district associate judge or associate juvenile judge.
2 2 Two members of the senate and two members of the house
2 3 of representatives shall be ex officio members and shall
2 4 be appointed by the majority and minority leaders of the
2 5 senate and the speaker and minority leader of the house of
2 6 representatives pursuant to section 69.16 and shall serve
2 7 terms as provided in section 69.16B. The chairperson and
2 8 ranking member of the senate committee on judiciary shall be
2 9 members. In alternating four-year intervals, the chairperson
2 10 and ranking member of the house committee on judiciary or of
2 11 the house committee on public safety shall be members, with the
2 12 chairperson and ranking member of the house committee on public
2 13 safety serving during the initial interval. Nonlegislative
2 14 members appointed pursuant to this paragraph shall serve for
2 15 four-year terms beginning and ending as provided in section
2 16 69.19 unless the member ceases to serve as a district court
2 17 judge.
2 18 d. The Iowa state bar association and the American civil
2 19 liberties union of Iowa shall each designate a person to serve
2 20 on the council.
2 21 e. Two members representing peace officers shall be
2 22 designated by the Iowa association of chiefs of police and
2 23 peace officers, the Iowa state troopers association, and the
2 24 Iowa state sheriffs' and deputies' association on a rotating
2 25 basis. Every four years two of the associations shall
2 26 designate one peace officer from their respective association
2 27 who is not in a supervisory position at the peace officer's
2 28 place of employment to serve a four-year term. The Iowa
2 29 association of chiefs of police and peace officers and the Iowa
2 30 state troopers association shall designate the initial peace
2 31 officer members.
2 32 f. The Iowa county attorneys association shall designate a
2 33 person to serve on the council.
2 34 2. Members of the council shall receive reimbursement from
2 35 the state for actual and necessary expenses incurred in the



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3 1 performance of their official duties. Members may also be
3 2 eligible to receive compensation as provided in section 7E.6.
3 3 Sec. 3. Section 216A.133, subsection 1, Code 2009, is
3 4 amended to read as follows:
3 5 1. Identify issues and analyze the operation and impact
3 6 of present criminal and juvenile justice policy and make
3 7 recommendations for policy changes, ~~including recommendations~~
~~3 8 pertaining to efforts to curtail criminal gang activity.~~
3 9 Sec. 4. Section 216A.133, Code 2009, is amended by adding
3 10 the following new subsections:
3 11 NEW SUBSECTION. 8. Determine members of the public safety
3 12 advisory board pursuant to section 216A.133A.
3 13 NEW SUBSECTION. 9. Coordinate with the administrator to
3 14 develop and make recommendations to the department director
3 15 pursuant to section 216A.2.
3 16 NEW SUBSECTION. 10. Serve as a liaison between the general
3 17 public and the division.
3 18 NEW SUBSECTION. 11. Establish advisory committees to study
3 19 special issues.
3 20 Sec. 5. NEW SECTION. 216A.133A Public safety advisory board
3 21 == duties.
3 22 1. A public safety advisory board is established whose
3 23 membership shall be determined by the criminal and juvenile
3 24 justice planning advisory council and shall consist of current
3 25 members of the council. Any actions taken by the board shall
3 26 be considered separate and distinct from the council.
3 27 2. The purpose of the board is to provide the general
3 28 assembly with an analysis of current and proposed criminal code
3 29 provisions.
3 30 3. The duties of the board shall consist of the following:
3 31 a. Reviewing and making recommendations relating to current
3 32 sentencing provisions. In reviewing such provisions the board
3 33 shall consider the impact on all of the following:
3 34 (1) Potential disparity in sentencing.
3 35 (2) Truth in sentencing.



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4 1 (3) Victims.
4 2 (4) The proportionality of specific sentences.
4 3 (5) Sentencing procedures.
4 4 (6) Costs associated with the implementation of criminal
4 5 code provisions, including costs to the judicial branch,
4 6 department of corrections, and judicial district departments
4 7 of correctional services, costs for representing indigent
4 8 defendants, and costs incurred by political subdivisions of the
4 9 state.
4 10 (7) Best practices related to the department of corrections
4 11 including recidivism rates, safety and efficient use of
4 12 correctional staff, and compliance with correctional standards
4 13 set by the federal government and other jurisdictions.
4 14 (8) Best practices related to the Iowa child death review
4 15 team established in section 135.43 and the Iowa domestic abuse
4 16 death review team established in section 135.109.
4 17 b. Reviewing and making recommendations relating to proposed
4 18 legislation, in accordance with paragraph "a", as set by rule
4 19 by the general assembly or as requested by the executive or
4 20 judicial branch proposing such legislation.
4 21 c. Providing expertise and advice to the legislative
4 22 services agency, the department of corrections, the
4 23 judicial branch, and others charged with formulating fiscal,
4 24 correctional, or minority impact statements.
4 25 d. Reviewing data supplied by the division, the department
4 26 of management, the legislative services agency, the Iowa
4 27 supreme court, and other departments or agencies for the
4 28 purpose of determining the effectiveness and efficiency of the
4 29 collection of such data.
4 30 4. The board may call upon any department, agency, or office
4 31 of the state, or any political subdivision of the state, for
4 32 information or assistance as needed in the performance of its
4 33 duties. The information or assistance shall be furnished to
4 34 the extent that it is within the resources and authority of
4 35 the department, agency, office, or political subdivision.



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5 1 This section does not require the production or opening of
5 2 any records which are required by law to be kept private or
5 3 confidential.

5 4 5. The board shall report to the legislative government
5 5 oversight committee all sources of funding by December 1 of
5 6 each year.

5 7 6. Membership on the board shall be bipartisan as provided
5 8 in section 69.16 and gender balanced as provided in section
5 9 69.16A.

5 10 7. Meetings of the board shall be open to the public as
5 11 provided in chapter 21.

5 12 8. Members of the board shall receive reimbursement from
5 13 the state for actual and necessary expenses incurred in the
5 14 performance of their official duties. Members may also be
5 15 eligible to receive compensation as provided in section 7E.6.

5 16 Sec. 6. Section 216A.135, unnumbered paragraph 1, Code
5 17 2009, is amended to read as follows:

5 18 Beginning in 1989, and every five years thereafter, the
5 19 division shall develop a twenty-year criminal and juvenile
5 20 justice plan for the state which shall include ten-year,
5 21 fifteen-year, and twenty-year goals and a comprehensive
5 22 five-year plan for criminal and juvenile justice programs.
5 23 The five-year plan shall be updated annually and each
5 24 twenty-year plan and annual updates of the five-year plan
5 25 shall be submitted to the governor and the general assembly by
5 26 ~~February~~ December 1.

5 27 Sec. 7. APPOINTMENTS TO CRIMINAL AND JUVENILE JUSTICE
5 28 PLANNING ADVISORY COUNCIL. Notwithstanding chapter 69,
5 29 vacant positions on the criminal and juvenile justice planning
5 30 advisory council shall be filled in accordance with this
5 31 section. The member appointed to represent a crime victim
5 32 group on the criminal and juvenile justice planning advisory
5 33 council pursuant to this Act shall replace both general public
5 34 members appointed by the governor pursuant to section 216A.132,
5 35 subsection 1, paragraph "a", subparagraph (2), Code 2009, as



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6 1 of July 1, 2010, and shall serve a four-year term beginning
6 2 July 1, 2010. The member designated by the chief justice of
6 3 the supreme court pursuant to section 216A.132, subsection 1,
6 4 paragraph "b", Code 2009, shall cease being a member of the
6 5 council on June 30, 2010. A member appointed by the chief
6 6 justice pursuant to section 216A.132, subsection 1, paragraph
6 7 "c", Code 2009, shall cease being a member of the council
6 8 on June 30, 2010, and the member who is either a district
6 9 associate judge or associate juvenile judge shall become a
6 10 member July 1, 2010. The Iowa state bar association, the
6 11 American civil liberties union of Iowa, the Iowa association of
6 12 chiefs of police and peace officers, the Iowa state troopers
6 13 association, and the Iowa county attorneys association shall
6 14 each designate a person to serve on the council beginning July
6 15 1, 2010.

6 16 Sec. 8. IMPLEMENTATION == FUNDING. The section of this
6 17 Act amending section 216A.133 by expanding the duties of
6 18 the criminal and juvenile justice planning advisory council
6 19 and the section of this Act creating new section 216A.133A,
6 20 establishing the public safety advisory board shall not be
6 21 implemented until sufficient funding has been appropriated
6 22 to implement the expanded duties of the council and the
6 23 establishment of the board.

6 24 EXPLANATION

6 25 This bill relates to the criminal and juvenile justice
6 26 planning advisory council and the establishment of a public
6 27 safety advisory board.

6 28 The bill reduces the number of gubernatorial appointments to
6 29 the council from seven to five. The bill requires the governor
6 30 to appoint a county sheriff or a chief of police to fill two
6 31 appointments to the council rather than the three appointments
6 32 currently representing county supervisors, sheriffs, mayors,
6 33 chiefs of police, or county attorneys.

6 34 The bill eliminates two public member positions appointed to
6 35 the council by the governor and adds a member representing a



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7 1 crime victim group who is appointed by the governor.
7 2 The bill eliminates a member position on the council who
7 3 is designated by the chief justice of the supreme court.
7 4 The bill also revises the judicial members to be appointed
7 5 by the chief justice to include one district judge and one
7 6 district associate judge or associate juvenile judge. The
7 7 bill also specifies that the four legislative members shall
7 8 be the chairperson and ranking member of the senate judiciary
7 9 committee and the chairperson and ranking member of the house
7 10 judiciary committee or of the house public safety committee,
7 11 in alternate four-year terms.
7 12 The bill adds a member on the council designated by the Iowa
7 13 state bar association, a member designated by the American
7 14 civil liberties union of Iowa, and a member designated by the
7 15 Iowa county attorneys association. The bill also adds two
7 16 members on the council designated by the Iowa association of
7 17 chiefs of police and peace officers, the Iowa state troopers
7 18 association, or the Iowa state sheriffs' and deputies'
7 19 association who are not in a supervisory position at the peace
7 20 officer's place of employment to serve alternating four-year
7 21 terms beginning with members designated by the Iowa association
7 22 of chiefs of police and peace officers designee and the Iowa
7 23 state troopers association designee.
7 24 The bill expands the duties of the criminal and juvenile
7 25 justice planning advisory council. The bill requires the
7 26 council to coordinate with the administrator of the division
7 27 of criminal and juvenile justice planning to develop and make
7 28 recommendations to the director of the department of human
7 29 rights. The bill also requires the council to serve as a
7 30 liaison between the general public and the division of criminal
7 31 and juvenile justice planning.
7 32 The bill establishes a public safety advisory board, to
7 33 be comprised of members of the council, as determined by the
7 34 council. The bill provides that any actions taken by the board
7 35 shall be considered separate and distinct from the criminal



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8 1 and juvenile justice planning advisory council. The duties
8 2 of the board consist of reviewing and making recommendations
8 3 relating to current sentencing provisions. The bill requires
8 4 that in reviewing current sentencing provisions, the board
8 5 shall consider the impact on the following: potential
8 6 disparity in sentencing, truth in sentencing, the victim, the
8 7 proportionality of the sentence, sentencing procedures, costs,
8 8 and best practices of the department of corrections, the Iowa
8 9 child death review team, and the Iowa domestic abuse death
8 10 review team.

8 11 The bill also provides that the board shall review proposed
8 12 legislation, as set by rule by the general assembly or as
8 13 requested by executive branch or judicial branch.

8 14 The bill provides that the board shall provide expertise
8 15 and advice to the legislative fiscal bureau, the department
8 16 of corrections, the judicial branch, and other departments or
8 17 agencies charged with formulating fiscal, correctional, and
8 18 minority impact statements.

8 19 The bill provides that the board shall review data provided
8 20 by the division of criminal and juvenile justice and planning,
8 21 the department of management, the legislative fiscal bureau,
8 22 the judicial branch, and other departments or agencies for the
8 23 purpose of determining the effectiveness and efficiency of the
8 24 collection of such data.

8 25 The bill requires the board to report to the legislative
8 26 government oversight committee all sources of funding by
8 27 December 1 of each year.

8 28 The bill allows the board to call upon any department,
8 29 agency, or office of the state, or any political subdivision
8 30 of the state, for information or assistance as needed in the
8 31 performance of its duties and the information or assistance
8 32 shall be furnished to the extent that it is within the
8 33 resources and authority of the department, agency, office,
8 34 or political subdivision. The bill does not require the
8 35 production or opening of any records which are required by law



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9 1 to be kept private or confidential.
9 2 The bill requires the division of criminal and juvenile
9 3 justice planning to submit plans and annual updates to plans
9 4 relating to criminal and juvenile justice programs by December
9 5 1 each year. The plans and annual updates are to be submitted
9 6 to the governor and the general assembly. Current law requires
9 7 the plans and annual updates to the plans be submitted to the
9 8 governor and general assembly by February 1 of each year.
9 9 The sections of the bill expanding the duties of the criminal
9 10 and juvenile justice planning advisory council and establishing
9 11 the public safety advisory board shall not be implemented
9 12 until sufficient funding has been appropriated to implement
9 13 the expanded duties of the council or the establishment of the
9 14 board.

LSB 5019IC (10) 83

jm/nh



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House Study Bill 650

SENATE/HOUSE FILE
BY (PROPOSED DEPARTMENT
OF TRANSPORTATION
BILL)

A BILL FOR

1 An Act relating to driver's license sanctions, including
2 the issuance of temporary restricted licenses and certain
3 requirements relating to ignition interlock devices, and
4 providing penalties.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 5407DP (11) 83
rh/nh



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House Study Bill 650 continued

PAG LIN

1 1 Section 1. Section 321.215, subsection 2, Code 2009, is
1 2 amended to read as follows:
1 3 2. ~~a.~~ Upon conviction and the suspension or revocation
1 4 of a person's noncommercial driver's license under section
1 5 321.209, subsection 5 or 6~~+~~, or section 321.210~~+~~, 321.210A~~+~~, or
1 6 321.513; or upon revocation pursuant to a court order issued
1 7 under section 901.5, subsection 10; or upon the denial of
1 8 issuance of a noncommercial driver's license under section
1 9 321.560, based solely on offenses enumerated in section
1 10 321.555, subsection 1, paragraph "c", or section 321.555,
1 11 subsection 2; or ~~a juvenile, whose license has been suspended~~
~~1 12 or revoked upon suspension or revocation of a juvenile's~~
1 13 driver's license pursuant to a dispositional order under
1 14 section 232.52, subsection 2, paragraph "a", for a violation
1 15 of chapter 124 or 453B, or section 126.3; or upon suspension
1 16 of a driver's license pursuant to a court order under section
1 17 714.7D, a the person may petition the district court having
~~1 18 jurisdiction over the residence of the person apply to the~~
1 19 department for a temporary restricted license to operate a
1 20 motor vehicle for the limited purpose or purposes specified in
1 21 subsection 1. The petition shall include a current certified
~~1 22 copy of the petitioner's official driving record issued by the~~
~~1 23 department.~~ The application may be granted only if all of the
1 24 following criteria are satisfied:
1 25 (1) a. The temporary restricted license is requested only
1 26 for a case of extreme hardship or compelling circumstances
1 27 where alternative means of transportation do not exist.
1 28 (2) ~~The license applicant has not made an application for a~~
~~1 29 temporary restricted license in any district court in the state~~
~~1 30 which was denied.~~
1 31 (3) b. The temporary restricted license is restricted to
1 32 the limited purpose or purposes specified in subsection 1 at
1 33 times specified in the license.
1 34 (4) c. Proof of financial responsibility is established as
1 35 defined in chapter 321A. However, such proof is not required



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2 1 if the driver's license was suspended under section 321.210A
2 2 or 321.513 or revoked pursuant to a court order issued under
2 3 section 901.5, subsection 10.
2 4 ~~b. If the district court determines that a temporary~~
~~2 5 restricted license is necessary, the court shall order~~
~~2 6 the department to issue a temporary restricted license to~~
~~2 7 the applicant. The court shall forward a record of each~~
~~2 8 application for a temporary restricted license to the~~
~~2 9 department, together with the results of the disposition of the~~
~~2 10 request by the court.~~

2 11 Sec. 2. Section 321.560, subsection 1, paragraph b, Code
2 12 2009, is amended to read as follows:

2 13 b. A temporary restricted license may be issued pursuant to
2 14 section ~~321J.4, subsection 9~~ 321J.20, subsection 2, to a person
2 15 declared to be a habitual offender due to a combination of the
2 16 offenses listed under section 321.555, subsection 1, paragraphs
2 17 "b" and "c".

2 18 Sec. 3. Section 321J.2, subsection 2, paragraph a,
2 19 subparagraph (3), subparagraph divisions (a) and (b), Code
2 20 2009, are amended to read as follows:

2 21 (a) A defendant whose alcohol concentration is .08 or
2 22 more but not more than .10 shall not be eligible for any
2 23 temporary restricted license for at least thirty days if a
2 24 test was obtained and an accident resulting in personal injury
2 25 or property damage occurred. The department shall require
~~2 26 the defendant shall be ordered~~ to install an ignition interlock
2 27 device of a type approved by the commissioner of public safety
2 28 on all vehicles owned or operated by the defendant if the
2 29 defendant seeks a temporary restricted license. There shall be
2 30 no such period of ineligibility if no such accident occurred,
2 31 and the defendant shall not be ~~ordered~~ required to install an
2 32 ignition interlock device.

2 33 (b) A defendant whose alcohol concentration is more than .10
2 34 shall not be eligible for any temporary restricted license for
2 35 at least thirty days if a test was obtained, and an accident



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3 1 resulting in personal injury or property damage occurred or the
3 2 defendant's alcohol concentration exceeded .15. There shall be
3 3 no such period of ineligibility if no such accident occurred
3 4 and the defendant's alcohol concentration did not exceed .15.
3 5 In either case, where a defendant's alcohol concentration is
3 6 more than .10, the department shall require the defendant ~~shall~~
~~3 7 be ordered~~ to install an ignition interlock device of a type
3 8 approved by the commissioner of public safety on all vehicles
3 9 owned or operated by the defendant if the defendant seeks a
3 10 temporary restricted license.

3 11 Sec. 4. Section 321J.4, subsections 1 and 2, Code Supplement
3 12 2009, are amended to read as follows:

3 13 1. If a defendant is convicted of a violation of section
3 14 321J.2 and the defendant's driver's license or nonresident
3 15 operating privilege has not been revoked under section 321J.9
3 16 or 321J.12 for the occurrence from which the arrest arose, the
3 17 department shall revoke the defendant's driver's license or
3 18 nonresident operating privilege for one hundred eighty days
3 19 if the defendant submitted to chemical testing and has had
3 20 no previous conviction or revocation under this chapter and
3 21 shall revoke the defendant's driver's license or nonresident
3 22 operating privilege for one year if the defendant refused to
3 23 submit to chemical testing and has had no previous conviction
3 24 or revocation under this chapter. The defendant shall not be
3 25 eligible for any temporary restricted license for at least
3 26 ninety days if a test was refused under section 321J.9. The
3 27 department may presume the defendant refused chemical testing
3 28 absent evidence the defendant submitted to chemical testing.

3 29 a. A defendant whose alcohol concentration is .08 or
3 30 more but not more than .10 shall not be eligible for any
3 31 temporary restricted license for at least thirty days if a
3 32 test was obtained and an accident resulting in personal injury
3 33 or property damage occurred. The department shall require
3 34 the defendant ~~shall be ordered~~ to install an ignition interlock
3 35 device of a type approved by the commissioner of public safety



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4 1 on all vehicles owned or operated by the defendant if the
4 2 defendant seeks a temporary restricted license. There shall be
4 3 no such period of ineligibility if no such accident occurred,
4 4 and the defendant shall not be ~~ordered~~ required to install an
4 5 ignition interlock device.

4 6 b. A defendant whose alcohol concentration is more than .10
4 7 shall not be eligible for any temporary restricted license for
4 8 at least thirty days if a test was obtained and an accident
4 9 resulting in personal injury or property damage occurred or the
4 10 defendant's alcohol concentration exceeded .15. There shall be
4 11 no such period of ineligibility if no such accident occurred
4 12 and the defendant's alcohol concentration did not exceed .15.

4 13 In either case, where a defendant's alcohol concentration is
4 14 more than .10, the department shall require the defendant ~~shall~~
4 15 ~~be ordered~~ to install an ignition interlock device of a type
4 16 approved by the commissioner of public safety on all vehicles
4 17 owned or operated by the defendant if the defendant seeks a
4 18 temporary restricted license.

4 19 c. If the defendant is under the age of twenty-one, the
4 20 defendant shall not be eligible for a temporary restricted
4 21 license for at least sixty days after the effective date of
4 22 revocation.

4 23 2. If a defendant is convicted of a violation of section
4 24 321J.2, and the defendant's driver's license or nonresident
4 25 operating privilege has not already been revoked under section
4 26 321J.9 or 321J.12 for the occurrence from which the arrest
4 27 arose, the department shall revoke the defendant's driver's
4 28 license or nonresident operating privilege for ~~two years~~ one
4 29 year if the defendant submitted to chemical testing and has
4 30 had a previous conviction or revocation under this chapter and
4 31 shall revoke the defendant's driver's license or nonresident
4 32 operating privilege for two years if the defendant refused to
4 33 submit to chemical testing and has had a previous revocation
4 34 under this chapter. The defendant shall not be eligible for
4 35 any temporary restricted license for forty-five days after the



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5 1 effective date of revocation if the defendant submitted to
5 2 chemical testing and shall not be eligible for any temporary
5 3 restricted license for ninety days after the effective date
5 4 of revocation if the defendant refused chemical testing.
5 5 The department may presume the defendant refused chemical
5 6 testing absent evidence the defendant submitted to chemical
5 7 testing. A temporary restricted license issued under this
5 8 section shall be issued in accordance with section 321J.20,
5 9 subsection 2. The department shall require the defendant ~~shall~~
~~5 10 be ordered to install an ignition interlock device of a type~~
5 11 approved by the commissioner of public safety on all vehicles
5 12 owned or operated by the defendant if the defendant seeks a
5 13 temporary restricted license at the end of the minimum period
5 14 of ineligibility. A temporary restricted license shall not
5 15 be granted by the department until the defendant installs the
5 16 ignition interlock device.

5 17 Sec. 5. Section 321J.4, subsection 3, paragraphs a and b,
5 18 Code Supplement 2009, are amended to read as follows:

5 19 a. A defendant whose alcohol concentration is .08 or
5 20 more but not more than .10 shall not be eligible for any
5 21 temporary restricted license for at least thirty days if a
5 22 test was obtained and an accident resulting in personal injury
5 23 or property damage occurred. The department shall require
5 24 the defendant ~~shall be ordered~~ to install an ignition interlock
5 25 device of a type approved by the commissioner of public safety
5 26 on all vehicles owned or operated by the defendant if the
5 27 defendant seeks a temporary restricted license. There shall be
5 28 no such period of ineligibility if no such accident occurred,
5 29 and the defendant shall not be ~~ordered~~ required to install an
5 30 ignition interlock device.

5 31 b. A defendant whose alcohol concentration is more than .10
5 32 shall not be eligible for any temporary restricted license for
5 33 at least thirty days if a test was obtained and an accident
5 34 resulting in personal injury or property damage occurred or the
5 35 defendant's alcohol concentration exceeded .15. There shall be



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6 1 no such period of ineligibility if no such accident occurred
6 2 and the defendant's alcohol concentration did not exceed .15.
6 3 In either case, where a defendant's alcohol concentration is
6 4 more than .10, the department shall require the defendant ~~shall~~
~~6 5 be ordered~~ to install an ignition interlock device of a type
6 6 approved by the commissioner of public safety on all vehicles
6 7 owned or operated by the defendant if the defendant seeks a
6 8 temporary restricted license.
6 9 Sec. 6. Section 321J.4, subsection 4, Code Supplement 2009,
6 10 is amended to read as follows:
6 11 4. Upon a plea or verdict of guilty of a third or subsequent
6 12 violation of section 321J.2, ~~the court shall order~~ the
6 13 department ~~to~~ shall revoke the defendant's driver's license
6 14 or nonresident operating privilege for a period of six years.
6 15 The defendant shall not be eligible for a temporary restricted
6 16 license for at least one year after the effective date of the
6 17 revocation. ~~The court shall require the defendant to surrender~~
~~6 18 to it all Iowa licenses or permits held by the defendant,~~
~~6 19 which the court shall forward to the department with a copy~~
~~6 20 of the order for revocation.~~ The department shall require
6 21 the defendant shall be ordered to install an ignition interlock
6 22 device of a type approved by the commissioner of public safety
6 23 on all vehicles owned or operated by the defendant if the
6 24 defendant seeks a temporary restricted license at the end of
6 25 the minimum period of ineligibility. A temporary restricted
6 26 license shall not be granted by the department until the
6 27 defendant installs the ignition interlock device.
6 28 Sec. 7. Section 321J.4, subsection 9, Code Supplement 2009,
6 29 is amended by striking the subsection.
6 30 Sec. 8. Section 321J.9, subsection 2, Code 2009, is amended
6 31 to read as follows:
6 32 2. a. A person whose driver's license or nonresident
6 33 operating privileges are revoked under subsection 1, ~~paragraph~~
~~6 34 "a",~~ shall not be eligible for a temporary restricted license
6 35 for at least ninety days after the effective date of the



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7 1 revocation. ~~A person whose driver's license or nonresident~~
~~7 2 operating privileges are revoked under subsection 1, paragraph~~
~~7 3 "b", shall not be eligible for a temporary restricted~~
~~7 4 license for at least one year after the effective date of the~~
~~7 5 revocation.~~

7 6 b. The department shall require the defendant ~~shall be~~
~~7 7 ordered~~ to install an ignition interlock device of a type
7 8 approved by the commissioner of public safety on all vehicles
7 9 owned or operated by the defendant if the defendant seeks a
7 10 temporary restricted license at the end of the minimum period
7 11 of ineligibility. A temporary restricted license shall not
7 12 be granted by the department until the defendant installs the
7 13 ignition interlock device.

7 14 Sec. 9. Section 321J.12, subsection 2, Code 2009, is amended
7 15 to read as follows:

7 16 2. a. A person whose driver's license or nonresident
7 17 operating privileges have been revoked under subsection 1,
7 18 paragraph "a", whose alcohol concentration is .08 or more but
7 19 not more than .10 shall not be eligible for any temporary
7 20 restricted license for at least thirty days after the effective
7 21 date of the revocation if a test was obtained and an accident
7 22 resulting in personal injury or property damage occurred. The
7 23 department shall require the defendant ~~shall be ordered~~ to
7 24 install an ignition interlock device of a type approved by
7 25 the commissioner of public safety on all vehicles owned or
7 26 operated by the defendant if the defendant seeks a temporary
7 27 license. There shall be no such period of ineligibility if
7 28 no such accident occurred, and the defendant shall not be
7 29 ~~ordered~~ required to install an ignition interlock device.

7 30 b. A defendant whose alcohol concentration is more than .10
7 31 shall not be eligible for any temporary restricted license for
7 32 at least thirty days if a test was obtained and an accident
7 33 resulting in personal injury or property damage occurred or the
7 34 defendant's alcohol concentration exceeded .15. There shall be
7 35 no such period of ineligibility if no such accident occurred



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8 1 and the defendant's alcohol concentration did not exceed .15.
8 2 In either case, where a defendant's alcohol concentration is
8 3 more than .10, the department shall require the defendant ~~shall~~
~~8 4 be ordered~~ to install an ignition interlock device of a type
8 5 approved by the commissioner of public safety on all vehicles
8 6 owned or operated by the defendant if the defendant seeks a
8 7 temporary restricted license.

8 8 c. If the person is under the age of twenty-one, the person
8 9 shall not be eligible for a temporary restricted license for at
8 10 least sixty days after the effective date of the revocation.

8 11 d. A person whose license or privileges have been revoked
8 12 under subsection 1, paragraph "b", for one year shall not
8 13 be eligible for any temporary restricted license for one
8 14 year after the effective date of the revocation, and the
8 15 department shall require the person ~~shall be ordered~~ to
8 16 install an ignition interlock device of a type approved by the
8 17 commissioner of public safety on all vehicles owned or operated
8 18 by the defendant if the defendant seeks a temporary restricted
8 19 license at the end of the minimum period of ineligibility.

8 20 A temporary restricted license issued under this paragraph
8 21 shall be issued pursuant to section 321J.20, subsection 2. A
8 22 temporary restricted license shall not be granted by the
8 23 department until the defendant installs the ignition interlock
8 24 device.

8 25 Sec. 10. Section 321J.17, subsection 3, Code 2009, is
8 26 amended to read as follows:

8 27 3. The department shall also require certification of
8 28 installation of an ignition interlock device of a type approved
8 29 by the commissioner of public safety on all motor vehicles
8 30 owned or operated by any person seeking reinstatement following
8 31 a second or subsequent ~~conviction for a violation of section~~
~~8 32 321J.2~~ revocation under section 321J.4, 321J.9, or 321J.12,
8 33 unless such a person has previously received a temporary
8 34 restricted license during the term of the revocation as
8 35 authorized by this chapter. The requirement for the



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9 1 installation of an approved ignition interlock device shall be
9 2 for one year from the date of reinstatement unless a different
9 3 time period is required by statute.

9 4 Sec. 11. Section 321J.20, Code 2009, is amended to read as
9 5 follows:

9 6 321J.20 Temporary restricted license == ignition interlock
9 7 devices.

9 8 1. a. The department may, on application, issue a temporary
9 9 restricted license to a person whose noncommercial driver's
9 10 license is revoked under this chapter allowing the person to
9 11 drive to and from the person's home and specified places at
9 12 specified times which can be verified by the department and
9 13 which are required by the person's full-time or part-time
9 14 employment, continuing health care or the continuing health
9 15 care of another who is dependent upon the person, continuing
9 16 education while enrolled in an educational institution on a
9 17 part-time or full-time basis and while pursuing a course of
9 18 study leading to a diploma, degree, or other certification of
9 19 successful educational completion, substance abuse treatment,
9 20 court-ordered community service responsibilities, and
9 21 appointments with the person's parole or probation officer if
9 22 the person's driver's license has not been revoked previously
9 23 under section 321J.4, 321J.9, or 321J.12 and if any of the
9 24 following apply:

9 25 ~~a.~~ (1) The person's noncommercial driver's license
9 26 is revoked under section 321J.4 and the minimum period of
9 27 ineligibility for issuance of a temporary restricted license
9 28 has expired. This subsection shall not apply to a revocation
9 29 ordered under section 321J.4 resulting from a plea or verdict
9 30 of guilty of a violation of section 321J.2 that involved a
9 31 death.

9 32 ~~b.~~ (2) The person's noncommercial driver's license is
9 33 revoked under section 321J.9 and the person has entered a plea
9 34 of guilty on a charge of a violation of section 321J.2 which
9 35 arose from the same set of circumstances which resulted in



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10 1 the person's driver's license revocation under section 321J.9
10 2 and the guilty plea is not withdrawn at the time of or after
10 3 application for the temporary restricted license, and the
10 4 minimum period of ineligibility for issuance of a temporary
10 5 restricted license has expired.

10 6 ~~e.~~ (3) The person's noncommercial driver's license is
10 7 revoked under section 321J.12, and the minimum period of
10 8 ineligibility for issuance of a temporary restricted license
10 9 has expired.

10 10 b. ~~However, a~~ A temporary restricted license may be issued
10 11 under this subsection if the person's noncommercial driver's
10 12 license is revoked for two years under ~~section 321J.9, and the~~
~~10 13 revocation is a second revocation under this chapter~~ section
10 14 321J.4, subsection 2, or section 321J.9, subsection 1,
10 15 paragraph "b", and the first three hundred sixty-five days of
10 16 the revocation have expired.

10 17 ~~2.~~ c. This ~~section~~ subsection does not apply to a person
10 18 whose license was revoked under section 321J.2A or section
10 19 321J.4, subsection 4 or 6, or to a person whose license is
10 20 suspended or revoked for another reason.

10 21 d. Following the applicable minimum period of ineligibility,
10 22 a temporary restricted license under this subsection shall not
10 23 be issued until the applicant installs an ignition interlock
10 24 device of a type approved by the commissioner of public safety
10 25 on all motor vehicles owned or operated by the applicant in
10 26 accordance with section 321J.2, 321J.4, 321J.9, or 321J.12.
10 27 Installation of an ignition interlock device under this
10 28 subsection shall be required for the period of time for which
10 29 the temporary restricted license is issued.

10 30 2. a. A person whose noncommercial driver's license has
10 31 either been revoked under this chapter, or revoked or suspended
10 32 under chapter 321 solely for violations of this chapter, or who
10 33 has been determined to be a habitual offender under chapter 321
10 34 based solely on violations of this chapter or on violations
10 35 listed in section 321.560, subsection 1, paragraph "b", and



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11 1 who is not eligible for a temporary restricted license under
11 2 subsection 1 may apply to the department upon the expiration of
11 3 the minimum period of ineligibility for a temporary restricted
11 4 license provided for under section 321J.4, 321J.9, 321J.12,
11 5 or 321.560 for a temporary restricted license notwithstanding
11 6 section 321.560.

11 7 b. The department shall determine if the temporary
11 8 restricted license is necessary for the person to maintain the
11 9 person's present employment. However, a temporary restricted
11 10 license shall not be issued for a violation of section 321J.2A
11 11 or to a person under the age of twenty-one whose license is
11 12 revoked under section 321J.4, 321J.9, or 321J.12. If the
11 13 department determines that the temporary restricted license
11 14 is necessary for the person to maintain the person's present
11 15 employment, and that the minimum period of ineligibility for
11 16 receipt of a temporary restricted license has expired, the
11 17 department may issue to the person a temporary restricted
11 18 license conditioned upon the installation of an approved
11 19 ignition interlock device on all motor vehicles owned or
11 20 operated by the person. A person whose driver's license or
11 21 nonresident operating privilege has been revoked under section
11 22 321J.21 may apply to the department for a temporary restricted
11 23 license without the requirement of an ignition interlock device
11 24 if at least twelve years have elapsed since the end of the
11 25 underlying revocation period for a violation of section 321J.2.

11 26 c. Notwithstanding paragraph "b", a temporary restricted
11 27 license issued to a person whose noncommercial driver's license
11 28 has been revoked under section 321J.4, subsection 2, section
11 29 321J.9, subsection 1, paragraph "b", or section 321J.12,
11 30 subsection 1, paragraph "b", may not be issued for any purpose
11 31 not permitted by 23 U.S.C. { 164. This restriction applies
11 32 only during the first three hundred sixty-five days of the
11 33 person's revocation period.

11 34 3. If a person required to install an ignition interlock
11 35 device operates a motor vehicle which does not have an approved



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12 1 ignition interlock device or if the person tampers with or
12 2 circumvents an ignition interlock device, in addition to other
12 3 penalties provided, the person's temporary restricted license
12 4 shall be revoked.

12 5 ~~3.~~ 4. A person holding a temporary restricted license
12 6 issued by the department under this section shall not operate
12 7 a motor vehicle for pleasure.

12 8 ~~4.~~ 5. A person holding a temporary restricted license
12 9 issued by the department under this section shall not operate
12 10 a commercial motor vehicle on a highway if a commercial
12 11 driver's license is required for the person's operation of the
12 12 commercial motor vehicle.

12 13 ~~5.~~ 6. A person holding a temporary license issued by
12 14 the department under this chapter shall be prohibited from
12 15 operating a school bus.

~~12 16 6. Following certain minimum periods of ineligibility, a~~
~~12 17 temporary restricted license under this section shall not be~~
~~12 18 issued until such time as the applicant installs an ignition~~
~~12 19 interlock device of a type approved by the commissioner of~~
~~12 20 public safety on all motor vehicles owned or operated by the~~
~~12 21 applicant, in accordance with section 321J.2, 321J.4, 321J.9,~~
~~12 22 or 321J.12. Installation of an ignition interlock device under~~
~~12 23 this section shall be required for the period of time for which~~
~~12 24 the temporary restricted license is issued.~~

12 25 7. Notwithstanding any provision of this chapter to the
12 26 contrary, the department may issue a temporary restricted
12 27 license to a person otherwise eligible for a temporary
12 28 restricted license under this section, whose period of
12 29 revocation under this chapter has expired, but who has not met
12 30 all requirements for reinstatement of the person's driver's
12 31 license or nonresident operating privileges.

12 32 8. A person who tampers with or circumvents an ignition
12 33 interlock device installed as required in this chapter and
12 34 while the requirement for the ignition interlock device is in
12 35 effect commits a serious misdemeanor.



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13 1 Sec. 12. Section 707.6A, subsection 1, Code 2009, is amended
13 2 to read as follows:

13 3 1. A person commits a class "B" felony when the person
13 4 unintentionally causes the death of another by operating a
13 5 motor vehicle while intoxicated, as prohibited by section
13 6 321J.2.

13 7 1A. Upon a plea or verdict of guilty of a violation of
13 8 ~~this subsection 1, the court shall do the following:~~

~~13 9 a. Order the state department of transportation to revoke
13 10 the defendant's driver's license or nonresident operating
13 11 privileges for a period of six years. The defendant shall
13 12 surrender to the court any Iowa license or permit and the court
13 13 shall forward the license or permit to the department with
13 14 a copy of the ~~revocation~~ order of conviction. Upon receipt
13 15 of the order of conviction, the department shall revoke the
13 16 defendant's driver's license or nonresident operating privilege
13 17 for a period of six years. The defendant shall not be eligible
13 18 for a temporary restricted license for at least two years after
13 19 the revocation.~~

13 20 1B. ~~b. Order~~ Upon a plea or verdict of guilty of a
13 21 violation of subsection 1, the court shall order the defendant,
13 22 at the defendant's expense, to do the following:

13 23 a. ~~(1)~~ Enroll, attend, and satisfactorily complete a course
13 24 for drinking drivers, as provided in section 321J.22.

13 25 b. ~~(2)~~ Submit to evaluation and treatment or rehabilitation
13 26 services.

13 27 1C. ~~e.~~ A driver's license or nonresident operating
13 28 privilege shall not be reinstated until proof of completion of
13 29 the requirements of ~~paragraph "b"~~ subsection 1B is presented to
13 30 the department.

13 31 1D. ~~d.~~ Where the program is available and appropriate for
13 32 the defendant, the court shall also order the defendant to
13 33 participate in a reality education substance abuse prevention
13 34 program as provided in section 321J.24.



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14 1 EXPLANATION
14 2 This bill relates to driver's license sanctions, including
14 3 the issuance of temporary restricted licenses and certain
14 4 requirements relating to ignition interlock devices, and
14 5 provides a penalty.
14 6 The bill amends Code section 321.215 to allow the department
14 7 of transportation to issue a temporary restricted license to
14 8 a person whose noncommercial driver's license is suspended or
14 9 revoked under Code chapter 321 (motor vehicles and laws of the
14 10 road) without requiring the court to order the department to
14 11 do so.
14 12 The bill amends Code section 321J.2 (Iowa's operating
14 13 while intoxicated (OWI) law) to allow the department of
14 14 transportation to issue a temporary restricted license under
14 15 Code chapter 321J without requiring the court to order the
14 16 department to do so. The bill makes conforming changes to Code
14 17 sections 321J.4 (revocations relating to OWI offenses), 321J.9
14 18 (refusals to submit to chemical testing), and 321J.12 (test
14 19 result revocations).
14 20 The bill amends Code section 321J.4 (revocations for OWI
14 21 offenses) to allow repeat (second or subsequent) OWI offenders
14 22 to obtain a temporary restricted license after a 45-day hard
14 23 suspension in compliance with the purposes allowed under
14 24 federal law, pursuant to 23 U.S.C. { 164 (minimum penalties
14 25 for repeat offenders for driving while intoxicated or driving
14 26 under the influence). Corresponding changes are made in Code
14 27 sections 321J.9, 321J.12, and 321J.20 (temporary restricted
14 28 licenses issued for revocations under Code chapter 321J).
14 29 The bill also amends Code section 321J.4, to allow the
14 30 department of transportation to trigger the six-year revocation
14 31 period for a third or subsequent OWI conviction upon the
14 32 department's receipt of the order of conviction, rather than
14 33 requiring the court to order the department to impose the
14 34 revocation.
14 35 The bill amends Code section 321J.9 to allow a person whose



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15 1 license is revoked after refusing to submit to chemical testing
15 2 for OWI and who has a previous OWI revocation to apply for a
15 3 temporary restricted license after a hard 90-day revocation.
15 4 Under current law, a person is not eligible for a temporary
15 5 restricted license for at least one year after the effective
15 6 date of the revocation.
15 7 The bill amends Code section 321J.12 to allow second and
15 8 subsequent OWI offenders to obtain a temporary restricted
15 9 license after a 45-day hard suspension in compliance with the
15 10 purposes allowed under 23 U.S.C. { 164. Conforming changes are
15 11 made in Code sections 321J.4, 321J.9, and 321J.20.
15 12 The bill amends Code section 321J.17 to clarify that an
15 13 ignition interlock device is required following a second or
15 14 subsequent OWI offense revocation rather than a second or
15 15 subsequent OWI conviction.
15 16 The bill amends Code section 321J.20 to allow second or
15 17 subsequent OWI offenders to obtain a temporary restricted
15 18 license after a 45-day hard suspension in compliance with the
15 19 purposes allowed under 23 U.S.C. { 164. The bill provides
15 20 that a person who tampers with or circumvents an ignition
15 21 interlock device installed as required under Code chapter 321J
15 22 and while the requirement for the ignition interlock device is
15 23 in effect commits a serious misdemeanor. A serious misdemeanor
15 24 is punishable by confinement for no more than one year and
15 25 a fine of at least \$315 but not more than \$1,875. Current
15 26 law provides that a person who tampers with or circumvents
15 27 an ignition interlock device installed under a court order
15 28 while an order is in effect commits a serious misdemeanor.
15 29 Conforming changes are made in Code sections 321.560, 321J.4,
15 30 321J.9, and 321J.12. The bill amends Code section 707.6A to
15 31 allow the department to revoke the defendant's driver's license
15 32 or nonresident operating privilege for a period of six years
15 33 for the defendant's conviction of homicide or serious injury by
15 34 vehicle upon the department's receipt of the conviction rather
15 35 than requiring the court to order the department to impose the



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16 1 revocation.
LSB 5407DP (11) 83
rh/nh



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House Study Bill 651

SENATE/HOUSE FILE
BY (PROPOSED DEPARTMENT
OF REVENUE BILL)

A BILL FOR

1 An Act relating to the technical administration of the tax
2 and related laws by the department of revenue, including
3 administration of income taxes, moneys and credits tax,
4 insurance premiums tax, sales and use taxes, fees for new
5 vehicle registration, franchise fees, and the environmental
6 protection charge, making penalties applicable, and
7 including retroactive applicability provisions.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TL5B 5383XD (6) 83

tw/sc



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PAG LIN

1 1 Section 1. Section 15.119, subsection 1, Code Supplement
1 2 2009, is amended to read as follows:
1 3 1. Notwithstanding any provision to the contrary in
1 4 sections 15.327 through 15.336, section 15.393, ~~section 15A.9,~~
~~1 5 subsection 8,~~ sections 15E.191 through 15E.197, 422.11E,
1 6 and section 422.33, subsection 9, the department shall not
1 7 authorize an amount of tax credits for purposes specified in
1 8 subsection 2 in excess of one hundred eighty-five million
1 9 dollars for any fiscal year. However, the department may
1 10 authorize an amount of tax credits in one fiscal year in excess
1 11 of one hundred eighty-five million, and such excess amount
1 12 shall be counted against the total amount of tax credits that
1 13 may be authorized in the next fiscal year.
1 14 Sec. 2. Section 15.119, subsection 2, paragraph c, Code
1 15 Supplement 2009, is amended by striking the paragraph.
1 16 Sec. 3. Section 15.293A, subsection 2, paragraph f, Code
1 17 2009, is amended to read as follows:
1 18 f. A tax credit shall not be claimed by a transferee
1 19 under this section until a replacement tax credit certificate
1 20 identifying the transferee as the proper holder has been
1 21 issued. The transferee may use the amount of the tax credit
1 22 transferred against the taxes imposed in chapter 422, divisions
1 23 II, III, and V, and in chapter 432, and against the moneys and
1 24 credits tax imposed in section 533.329, for any tax year the
1 25 original transferor could have claimed the tax credit. Any
1 26 consideration received for the transfer of the tax credit shall
1 27 not be included as income under chapter 422, divisions II, III,
1 28 and V, ~~under chapter 432, or against the moneys and credits tax~~
~~1 29 imposed in section 533.329.~~ Any consideration paid for the
1 30 transfer of the tax credit shall not be deducted from income
1 31 under chapter 422, divisions II, III, and V, ~~under chapter~~
~~1 32 432, or against the moneys and credits tax imposed in section~~
~~1 33 533.329.~~
1 34 Sec. 4. Section 15.329, subsection 3, Code Supplement 2009,
1 35 is amended by striking the subsection.



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2 1 Sec. 5. Section 15.393, subsection 2, paragraph a,
2 2 subparagraph (3), Code Supplement 2009, is amended to read as
2 3 follows:
2 4 (3) After verifying the eligibility for a tax credit under
2 5 this paragraph "a", the department of economic development
2 6 shall issue a film, television, and video project promotion
2 7 program tax credit certificate to be attached to the person's
2 8 tax return. The tax credit certificate shall contain the
2 9 taxpayer's name, address, tax identification number, the date
2 10 of project completion, the amount of credit, other information
2 11 required by the department of revenue, and a place for the name
2 12 and tax identification number of a transferee and the amount
2 13 of the tax credit being transferred. Tax credit certificates
2 14 issued under this paragraph "a" may be transferred to any person
2 15 or entity. Within ninety days of transfer, the transferee
2 16 shall submit the transferred tax credit certificate to the
2 17 department of revenue along with a statement containing the
2 18 transferee's name, tax identification number, and address,
2 19 and the denomination that each replacement tax credit
2 20 certificate is to carry and any other information required by
2 21 the department of revenue. Within thirty days of receiving
2 22 the transferred tax credit certificate and the transferee's
2 23 statement, the department of revenue shall issue one or more
2 24 replacement tax credit certificates to the transferee. Each
2 25 replacement tax credit certificate must contain the information
2 26 required for the original tax credit certificate and must have
2 27 the same expiration date that appeared in the transferred
2 28 tax credit certificate. Tax credit certificate amounts
2 29 of less than the minimum amount established by rule of the
2 30 department of economic development shall not be transferable.
2 31 A tax credit shall not be claimed by a transferee under this
2 32 paragraph "a" until a replacement tax credit certificate
2 33 identifying the transferee as the proper holder has been
2 34 issued. The transferee may use the amount of the tax credit
2 35 transferred against the taxes imposed in chapter 422, divisions



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3 1 II, III, and V, and in chapter 432, and against the moneys and
3 2 credits tax imposed in section 533.329, for any tax year the
3 3 original transferor could have claimed the tax credit. Any
3 4 consideration received for the transfer of the tax credit shall
3 5 not be included as income under chapter 422, divisions II, III,
3 6 and V, ~~under chapter 432, or against the moneys and credits tax~~
~~3 7 imposed in section 533.329.~~ Any consideration paid for the
3 8 transfer of the tax credit shall not be deducted from income
3 9 under chapter 422, divisions II, III, and V, ~~under chapter~~
~~3 10 432, or against the moneys and credits tax imposed in section~~
~~3 11 533.329.~~

3 12 Sec. 6. Section 15.393, subsection 2, paragraph b,
3 13 subparagraph (2), Code Supplement 2009, is amended to read as
3 14 follows:

3 15 (2) After verifying the eligibility for a tax credit under
3 16 this paragraph "b", the department of economic development
3 17 shall issue a film, television, and video project promotion
3 18 program tax credit certificate to be attached to the person's
3 19 tax return. The tax credit certificate shall contain the
3 20 taxpayer's name, address, tax identification number, the date
3 21 of project completion, the amount of credit, other information
3 22 required by the department of revenue, and a place for the name
3 23 and tax identification number of a transferee and the amount
3 24 of the tax credit being transferred. Tax credit certificates
3 25 issued under this paragraph "b" may be transferred to any person
3 26 or entity. Within ninety days of transfer, the transferee
3 27 shall submit the transferred tax credit certificate to the
3 28 department of revenue along with a statement containing the
3 29 transferee's name, tax identification number, and address,
3 30 and the denomination that each replacement tax credit
3 31 certificate is to carry and any other information required by
3 32 the department of revenue. Within thirty days of receiving
3 33 the transferred tax credit certificate and the transferee's
3 34 statement, the department of revenue shall issue one or more
3 35 replacement tax credit certificates to the transferee. Each



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4 1 replacement tax credit certificate must contain the information
4 2 required for the original tax credit certificate and must have
4 3 the same expiration date that appeared in the transferred
4 4 tax credit certificate. Tax credit certificate amounts
4 5 of less than the minimum amount established by rule of the
4 6 department of economic development shall not be transferable.
4 7 A tax credit shall not be claimed by a transferee under this
4 8 paragraph "b" until a replacement tax credit certificate
4 9 identifying the transferee as the proper holder has been
4 10 issued. The transferee may use the amount of the tax credit
4 11 transferred against the taxes imposed in chapter 422, divisions
4 12 II, III, and V, and in chapter 432, and against the moneys and
4 13 credits tax imposed in section 533.329, for any tax year the
4 14 original transferor could have claimed the tax credit. Any
4 15 consideration received for the transfer of the tax credit shall
4 16 not be included as income under chapter 422, divisions II, III,
4 17 and V, ~~under chapter 432, or against the moneys and credits tax~~
~~4 18 imposed in section 533.329.~~ Any consideration paid for the
4 19 transfer of the tax credit shall not be deducted from income
4 20 under chapter 422, divisions II, III, and V, ~~under chapter~~
~~4 21 432, or against the moneys and credits tax imposed in section~~
~~4 22 533.329.~~

4 23 Sec. 7. Section 364.2, subsection 4, paragraph f, Code
4 24 Supplement 2009, is amended to read as follows:
4 25 f. (1) A franchise fee assessed by a city may be based
4 26 upon a percentage of gross revenues generated from sales of the
4 27 franchisee within the city not to exceed five percent, without
4 28 regard to the city's cost of inspecting, supervising, and
4 29 otherwise regulating the franchise. Franchise fees collected
4 30 pursuant to an ordinance in effect on May 26, 2009, shall be
4 31 deposited in the city's general fund and such fees collected
4 32 in excess of the amounts necessary to inspect, supervise, and
4 33 otherwise regulate the franchise may be used by the city for
4 34 any other purpose authorized by law. Franchise fees collected
4 35 pursuant to an ordinance that is adopted or amended on or



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5 1 after May 26, 2009, to increase the percentage rate at which
5 2 franchise fees are assessed shall be credited to the franchise
5 3 fee account within the city's general fund and used pursuant
5 4 to section 384.3A. If a city franchise fee is assessed to
5 5 customers of a franchise, the fee shall not be assessed to the
5 6 city as a customer. Before a city adopts or amends a franchise
5 7 fee rate ordinance or franchise ordinance to increase the
5 8 percentage rate at which franchise fees are assessed, a revenue
5 9 purpose statement shall be prepared specifying the purpose or
5 10 purposes for which the revenue collected from the increased
5 11 rate will be expended. If property tax relief is listed as
5 12 a purpose, the revenue purpose statement shall also include
5 13 information regarding the amount of the property tax relief to
5 14 be provided with revenue collected from the increased rate.
5 15 The revenue purpose statement shall be published as provided
5 16 in section 362.3.

5 17 (2) If a city adopts, amends, or repeals an ordinance
5 18 imposing a franchise fee, the city shall promptly notify the
5 19 director of revenue of such action.

5 20 Sec. 8. Section 421.27, subsections 1 and 4, Code 2009, are
5 21 amended to read as follows:

5 22 1. Failure to timely file a return or deposit form or to
5 23 timely remit tax. If a person fails to file with the department
5 24 on or before the due date a return or deposit form or, if
5 25 no return is required, fails to timely remit the tax due or
5 26 required to be shown due, there shall be added to the tax shown
5 27 due or required to be shown due a penalty of ten percent of the
5 28 tax shown due or required to be shown due. The penalty, if
5 29 assessed, shall be waived by the department upon a showing of
5 30 any of the following conditions:

5 31 a. At least ninety percent of the tax required to be shown
5 32 due has been paid by the due date of the tax.

5 33 b. Those taxpayers who are required to file quarterly
5 34 returns, or monthly or semimonthly deposit forms may have one
5 35 late return or deposit form within a three-year period. The



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6 1 use of any other penalty exception will not count as a late
6 2 return or deposit form for purposes of this exception.

6 3 c. The death of a taxpayer, death of a member of the
6 4 immediate family of the taxpayer, or death of the person
6 5 directly responsible for filing the return and paying the tax,
6 6 when the death interferes with timely filing.

6 7 d. The onset of serious, long-term illness or
6 8 hospitalization of the taxpayer, of a member of the immediate
6 9 family of the taxpayer, or of the person directly responsible
6 10 for filing the return and paying the tax.

6 11 e. Destruction of records by fire, flood, or other act of
6 12 God.

6 13 f. The taxpayer presents proof that the taxpayer relied
6 14 upon applicable, documented, written advice specifically
6 15 made to the taxpayer, to the taxpayer's preparer, or to an
6 16 association representative of the taxpayer from the department,
6 17 state department of transportation, county treasurer, or
6 18 federal internal revenue service, whichever is appropriate,
6 19 that has not been superseded by a court decision, ruling by a
6 20 quasi-judicial body, or the adoption, amendment, or repeal of
6 21 a rule or law.

6 22 g. Reliance upon results in a previous audit was a direct
6 23 cause for the failure to file where the previous audit
6 24 expressly and clearly addressed the issue and the previous
6 25 audit results have not been superseded by a court decision, or
6 26 the adoption, amendment, or repeal of a rule or law.

6 27 h. Under rules prescribed by the director, the taxpayer
6 28 presents documented proof of substantial authority to rely
6 29 upon a particular position or upon proof that all facts and
6 30 circumstances are disclosed on a return or deposit form.

6 31 i. The return, deposit form, or payment is timely, but
6 32 erroneously, mailed with adequate postage to the internal
6 33 revenue service, another state agency, or a local government
6 34 agency and the taxpayer provides proof of timely mailing with
6 35 adequate postage.



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7 1 j. The tax has been paid by the wrong licensee and the
7 2 payments were timely remitted to the department for one or more
7 3 tax periods prior to notification by the department.

7 4 k. The failure to file was discovered through a sanctioned
7 5 self-audit program conducted by the department.

7 6 l. If the availability of funds in payment of tax required
7 7 to be made through electronic funds transfer is delayed and the
7 8 delay of availability is due to reasons beyond the control of
7 9 the taxpayer. "Electronic funds transfer" means any transfer
7 10 of funds, other than a transaction originated by check, draft,
7 11 or similar paper instrument, that is initiated through an
7 12 electronic terminal telephone, computer, magnetic tape, or
7 13 similar device for the purpose of ordering, instructing, or
7 14 authorizing a financial institution to debit or credit an
7 15 account.

7 16 m. The failure to file a timely inheritance tax return
7 17 resulting solely from a disclaimer that required the personal
7 18 representative to file an inheritance tax return. The penalty
7 19 shall be waived if such return is filed and any tax due is paid
7 20 within the later of nine months from the date of death or sixty
7 21 days from the delivery or filing of the disclaimer pursuant to
7 22 section 633E.12.

7 23 n. That an Iowa inheritance tax return is filed for an
7 24 estate within the later of nine months from the date of
7 25 death or sixty days from the filing of a disclaimer by the
7 26 beneficiary of the estate refusing to take the property or
7 27 right or interest in the property.

7 28 4. Willful failure to file a return or deposit form or to
7 29 timely remit tax.

7 30 a. In case of If there is a willful failure by a taxpayer to
7 31 file a return or deposit form with the intent to evade tax, or
7 32 in case of willfully filing, if no return is required, to
7 33 timely remit the tax due or required to be shown due, or if the
7 34 taxpayer willfully files a false return or deposit form with
7 35 the intent to evade tax, in lieu of the penalties otherwise



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8 1 provided in this section, a penalty of seventy-five percent
8 2 shall be added to the amount shown due or required to be shown
8 3 due as tax on the return or deposit form, or the amount due
8 4 if no return is required. If penalties are applicable for
8 5 failure to file a return or deposit form and failure to pay
8 6 the tax shown due or required to be shown due on the return or
8 7 deposit form, the penalty provision for failure to file shall
8 8 be in lieu of the penalty provisions for failure to pay the tax
8 9 shown due or required to be shown due on the return or deposit
8 10 form, except in the case of willful failure to file a return or
8 11 deposit form or willfully filing a false return or deposit form
8 12 with intent to evade tax.

8 13 b. The penalties imposed under this subsection are not
8 14 subject to waiver.

8 15 Sec. 9. Section 422.7, subsection 9, Code Supplement 2009,
8 16 is amended to read as follows:

8 17 9. Subtract the amount of the alcohol ~~fuel~~ and cellulosic
8 18 biofuel fuels credit allowable for the tax year under section
8 19 40 of the Internal Revenue Code to the extent that the credit
8 20 increased federal adjusted gross income.

8 21 Sec. 10. Section 422.33, subsection 5, paragraph f, Code
8 22 Supplement 2009, is amended by striking the paragraph.

8 23 Sec. 11. Section 422.33, subsection 12, paragraph b, Code
8 24 Supplement 2009, is amended to read as follows:

8 25 b. The taxes imposed under this division shall be
8 26 reduced by investment tax credits authorized pursuant to
8 27 ~~sections section 15.333, 15A.9, subsection 4,~~ and section
8 28 15E.193B, subsection 6.

8 29 Sec. 12. Section 422.35, subsection 7, Code Supplement
8 30 2009, is amended to read as follows:

8 31 7. Subtract the amount of the alcohol ~~fuel~~ and cellulosic
8 32 biofuel fuels credit allowable for the tax year under section
8 33 40 of the Internal Revenue Code to the extent that the credit
8 34 increased federal taxable income.



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9 1 Sec. 13. Section 422.36, subsection 4, Code 2009, is amended
9 2 to read as follows:

9 3 4. Foreign and domestic corporations shall file a copy of
9 4 their federal income tax return for the current tax year with
9 5 the return required by this section.

9 6 Sec. 14. Section 422.89, subsection 3, unnumbered paragraph
9 7 1, Code 2009, is amended to read as follows:

9 8 An amount equal to ~~ninety~~ one hundred percent of the tax for
9 9 the taxable year computed by placing on an annualized basis the
9 10 taxable income:

9 11 Sec. 15. Section 423.3, subsection 40, Code Supplement
9 12 2009, is amended to read as follows:

9 13 40. The sales price from the sale of automotive fluids
9 14 to a retailer to be used either in providing a service which
9 15 includes the installation or application of the fluids in
9 16 or on a motor vehicle, which service is subject to section
9 17 423.2, subsection 6, or to be installed in or applied to a
9 18 motor vehicle which the retailer intends to sell, which sale
9 19 is subject to section ~~423.26~~ 321.105A. For purposes of this
9 20 subsection, automotive fluids are all those which are refined,
9 21 manufactured, or otherwise processed and packaged for sale
9 22 prior to their installation in or application to a motor
9 23 vehicle. They include but are not limited to motor oil and
9 24 other lubricants, hydraulic fluids, brake fluid, transmission
9 25 fluid, sealants, undercoatings, antifreeze, and gasoline
9 26 additives.

9 27 Sec. 16. Section 423.36, subsection 3, paragraph a, Code
9 28 2009, is amended to read as follows:

9 29 a. The department shall grant and issue to each applicant
9 30 a permit for each place of business in this state where sales
9 31 or use tax is collected. A permit is not assignable and is
9 32 valid only for the person in whose name it is issued and for the
9 33 transaction of business at the place designated or at a place
9 34 of relocation within the ~~state~~ same county, if the ownership
9 35 remains the same.



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10 1 Sec. 17. Section 423.37, subsections 1 and 2, Code 2009, are
10 2 amended to read as follows:

10 3 1. As soon as practicable after a return is filed and in
10 4 any event within three years after the return is filed, the
10 5 department shall examine it, assess and determine the tax due
10 6 if the return is found to be incorrect, and give notice to the
10 7 person liable for the tax of the assessment and determination
10 8 as provided in subsection 2. The period for the examination
10 9 and determination of the correct amount of tax is unlimited in
10 10 the case of a false or fraudulent return made with the intent
10 11 to evade tax or in the case of a failure to file a return or, if
10 12 no return is required, in the case of a failure to pay the tax
10 13 due or required to be shown due.

10 14 2. If a return required by this subchapter is not filed,
10 15 or if a return when filed is incorrect or insufficient and
10 16 the maker fails to file a corrected or sufficient return
10 17 within twenty days after the same is required by notice from
10 18 the department, or if tax is due but no return is required,
10 19 the department shall determine the amount of tax due from
10 20 information as the department may be able to obtain and, if
10 21 necessary, may estimate the tax on the basis of external
10 22 indices, such as number of employees of the person concerned,
10 23 rentals paid by the person, stock on hand, or other factors.
10 24 The determination may be made using any generally recognized
10 25 valid and reliable sampling technique, whether or not the
10 26 person being audited has complete records, as mutually agreed
10 27 upon by the department and the taxpayer. The department shall
10 28 give notice of the determination to the person liable for the
10 29 tax. The determination shall fix the tax unless the person
10 30 against whom it is assessed shall, within sixty days after the
10 31 giving of notice of the determination, apply to the director
10 32 for a hearing or unless the taxpayer contests the determination
10 33 by paying the tax, interest, and penalty and timely filing a
10 34 claim for refund. At the hearing, evidence may be offered to
10 35 support the determination or to prove that it is incorrect.



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11 1 After the hearing the director shall give notice of the
11 2 decision to the person liable for the tax.
11 3 Sec. 18. Section 423.57, Code 2009, is amended to read as
11 4 follows:
11 5 423.57 Statutes applicable.
11 6 The director shall administer this subchapter as it relates
11 7 to the taxes imposed in this chapter in the same manner and
11 8 subject to all the provisions of, and all of the powers,
11 9 duties, authority, and restrictions contained in sections
11 10 423.14, 423.15, 423.16, 423.17, 423.19, 423.20, 423.21, 423.22,
11 11 423.23, 423.24, 423.25, ~~423.28~~, 423.29, 423.31, 423.32, 423.33,
11 12 423.34, 423.34A, 423.35, 423.37, 423.38, 423.39, 423.40,
11 13 423.41, and 423.42, section 423.43, subsection 1, and sections
11 14 423.45, 423.46, and 423.47.
11 15 Sec. 19. Section 424.2, subsections 6, 10, and 13, Code
11 16 2009, are amended to read as follows:
11 17 6. "Depositor" means the person who deposits petroleum into
11 18 an underground storage tank subject to regulation under chapter
11 19 455G or an aboveground petroleum storage tank as defined
11 20 in section 101.21, located at a retail motor ~~vehicle~~ fuel
11 21 outlet if the aboveground storage tank is physically connected
11 22 directly to pumps which dispense petroleum that is sold at the
11 23 motor ~~vehicle~~ fuel outlet on a retail basis.
11 24 10. "Owner or operator" means "owner or operator" of an
11 25 underground storage tank as used in chapter 455G or the
11 26 "owner" or "operator" of an aboveground petroleum storage
11 27 tank as defined in section 101.21, located at a retail
11 28 motor ~~vehicle~~ fuel outlet if the aboveground storage tank is
11 29 physically connected directly to pumps which dispense petroleum
11 30 that is sold at the motor ~~vehicle~~ fuel outlet on a retail
11 31 basis.
11 32 13. "Tank" means an underground storage tank subject to
11 33 regulation under chapter 455G or an aboveground petroleum
11 34 storage tank as defined in section 101.21, located at a retail
11 35 motor ~~vehicle~~ fuel outlet if the aboveground storage tank is



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12 1 physically connected directly to pumps which dispense petroleum
12 2 that is sold at the motor ~~vehiele~~ fuel outlet on a retail
12 3 basis.

12 4 Sec. 20. REPEAL. Section 423.28, Code 2009, is repealed.

12 5 Sec. 21. REPEAL. Section 15A.9, Code Supplement 2009, is
12 6 repealed.

12 7 Sec. 22. RETROACTIVE APPLICABILITY. The section of this
12 8 Act amending section 422.89 applies retroactively to January 1,
12 9 2010, for tax years beginning on or after that date.

12 10 EXPLANATION

12 11 This bill relates to the technical administration of the tax
12 12 and related laws by the department of revenue.

12 13 The bill amends Code sections 15.293A and 15.393 to
12 14 eliminate certain income-related references to the insurance
12 15 premium tax and moneys and credits tax which are not imposed
12 16 on an income basis. The amended Code sections relate to the
12 17 tax credits available for brownfields redevelopment, film
12 18 expenditures, and film investment.

12 19 The bill repeals Code section 15A.9, which is the quality
12 20 jobs enterprise zone program. The program commonly known as
12 21 the enterprise zone program is currently administered pursuant
12 22 to Code sections 15E.191 through 15E.198, and the last contract
12 23 issued under the quality jobs enterprise zone program is now
12 24 expired making Code section 15A.9 no longer necessary. The
12 25 bill makes changes to Code sections 15.119, 15.329, and 422.33
12 26 in conformance with the repeal of this Code section.

12 27 The bill amends Code section 364.2, relating to franchise
12 28 fees imposed by cities, to require a city to notify the
12 29 department whenever an ordinance imposing a franchise fee is
12 30 adopted, amended, or repealed. Because the imposition of
12 31 a franchise fee requires utilities to stop collecting the
12 32 local option sales and services tax and instead collect the
12 33 franchise fee, the adoption, amendment, or repeal of such a fee
12 34 impacts the department's distribution of local option sales and
12 35 services tax revenue to local governments.



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13 1 The bill amends Code section 421.27 to clarify existing
13 2 departmental policy regarding the penalty that applies not only
13 3 for failure to timely file a return but also for a failure
13 4 to timely remit taxes to the department. By operation of
13 5 law, the changes to Code section 421.27 also apply to Code
13 6 sections 423.40, 424.17, 437A.13, 450.63, 452A.65, 453A.28, and
13 7 453A.46(3).

13 8 The bill amends Code sections 422.7 and 422.35 to update
13 9 the name of the individual and corporate tax credits for the
13 10 production of alcohol and biofuels to be the same as the name
13 11 of the credit available in section 40 of the federal Internal
13 12 Revenue Code.

13 13 The bill amends Code section 422.36 to provide that domestic
13 14 corporations must provide a copy of their federal income tax
13 15 return when filing their Iowa corporation income tax return.
13 16 Currently, foreign corporations are subject to the same
13 17 requirement and this change reflects the current practices of
13 18 the department.

13 19 In 2009, certain provisions were amended to increase the
13 20 standard for the exception to the underpayment of estimated
13 21 tax penalty for Iowa corporation income tax for annualization
13 22 of income from 90 percent of the tax liability to 100 percent
13 23 of the tax liability. Code section 422.89, which contains a
13 24 similar provision, was not amended at that time. The bill
13 25 amends Code section 422.89 to reflect the substance of the
13 26 changes made in 2009. This provision of the bill applies
13 27 retroactively to January 1, 2010, for tax years beginning on
13 28 or after that date.

13 29 Code section 423.3 is amended to correct an internal
13 30 reference to Code section 321.105A relating to the sale of a
13 31 motor vehicle and the fee for a new vehicle registration.

13 32 Code section 423.28 required motor vehicle dealers to file
13 33 reports related to the paying of the sales tax for the sale of
13 34 motor vehicles. Because such sales are now subject to the fee
13 35 for new vehicle registration and such reports are no longer



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14 1 required, the bill repeals Code section 423.28. The bill makes
14 2 a conforming amendment to Code section 423.57.

14 3 The bill amends Code section 423.36 to provide that a new
14 4 sales tax permit must be obtained if a place of business is
14 5 relocated to a new county. This change reflects the current
14 6 practice of the department and impacts the distribution of
14 7 local option sales tax revenue.

14 8 The bill amends Code section 423.37 to specify that the
14 9 period for examination and determination of the correct amount
14 10 of tax is unlimited, not only for failure to timely file a
14 11 return but also for failure to timely remit the tax due when
14 12 no return is required to be filed. Code section 423.37 is
14 13 further amended to specify that certain authority related
14 14 to determining the amount of tax due applies not only to an
14 15 incorrectly or insufficiently filed return, or to a failure to
14 16 timely file a return, but also to a failure to timely remit
14 17 taxes when no return is required to be filed.

14 18 The bill amends Code section 424.2, pertaining to the
14 19 environmental protection charge, by correcting out-of-date
14 20 language relating to motor fuel outlets. The amendment makes
14 21 language in Code section 424.2 consistent with similar language
14 22 used in Code chapter 452A, relating to motor fuel and special
14 23 fuel taxes.

LSB 5383XD (6) 83

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SENATE/HOUSE FILE
BY (PROPOSED DEPARTMENT
OF REVENUE BILL)

A BILL FOR

1 An Act updating the Code references to the Internal Revenue
2 Code, providing for decoupling from certain bonus
3 depreciation provisions, and including effective date and
4 retroactive applicability provisions.

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

TL5B 5436XD (8) 83

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1 1 Section 1. Section 15.335, subsection 1, paragraphs b and c,
1 2 Code Supplement 2009, are amended to read as follows:

1 3 b. In lieu of the credit amount computed in paragraph
1 4 "a", subparagraph (1), an eligible business may elect to
1 5 compute the credit amount for qualified research expenses
1 6 incurred in this state in a manner consistent with the
1 7 alternative ~~incremental~~ simplified credit described in section
1 8 ~~41(e)(4)~~ 41(c)(5) of the Internal Revenue Code. The taxpayer
1 9 may make this election regardless of the method used for the
1 10 taxpayer's federal income tax. The election made under this
1 11 paragraph is for the tax year and the taxpayer may use another
1 12 or the same method for any subsequent year.

1 13 c. For purposes of the alternate credit computation
1 14 method in paragraph "b", the credit percentages applicable
1 15 to qualified research expenses described in ~~clauses (i),~~
~~1 16 (ii), and (iii) of section 41(e)(4)(A)~~ 41(c)(5)(A) and clause
1 17 (ii) of section 41(c)(5)(B) of the Internal Revenue Code
1 18 ~~are one and sixty-five hundredths percent, two and twenty~~
~~1 19 hundredths percent, and two and seventy-five hundredths~~ four
1 20 and fifty-five hundredths percent and one and ninety-five
1 21 hundredths percent, respectively.

1 22 Sec. 2. Section 15.335, subsection 4, Code Supplement 2009,
1 23 is amended to read as follows:

1 24 4. a. For purposes of this section, "base amount", "basic
1 25 research payment", and "qualified research expense" mean the
1 26 same as defined for the federal credit for increasing research
1 27 activities under section 41 of the Internal Revenue Code,
1 28 except that for the alternative ~~incremental~~ simplified credit
1 29 such amounts are for research conducted within this state.

1 30 b. For purposes of this section, "Internal Revenue Code"
1 31 means the Internal Revenue Code in effect on January 1,
1 32 ~~2009~~ 2010.

1 33 Sec. 3. Section 15A.9, subsection 8, paragraphs b, c, and e,
1 34 Code Supplement 2009, are amended to read as follows:

1 35 b. In lieu of the credit amount computed in paragraph "a",



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2 1 subparagraph (1), subparagraph division (a), a business may
2 2 elect to compute the credit amount for qualified research
2 3 expenses incurred in this state within the zone in a manner
2 4 consistent with the alternative ~~incremental~~ simplified credit
2 5 described in section ~~41(e)(4)~~ 41(c)(5) of the Internal Revenue
2 6 Code. The taxpayer may make this election regardless of
2 7 the method used for the taxpayer's federal income tax. The
2 8 election made under this paragraph is for the tax year and the
2 9 taxpayer may use another or the same method for any subsequent
2 10 year.

2 11 c. For purposes of the alternate credit computation
2 12 method in paragraph "b", the credit percentages applicable to
2 13 qualified research expenses described in ~~clauses (i), (ii),~~
~~2 14 and (iii) of section 41(e)(4)(A)~~ 41(c)(5)(A) and clause (ii)
2 15 of section 41(c)(5)(B) of the Internal Revenue Code are three
~~2 16 and thirty hundredths percent, four and forty hundredths~~
~~2 17 percent, and five and fifty hundredths~~ four and fifty-five
2 18 hundredths percent and one and ninety-five hundredths percent,
2 19 respectively.

2 20 e. (1) For the purposes of this subsection, "base
2 21 amount", "basic research payment", and "qualified research
2 22 expense" mean the same as defined for the federal credit
2 23 for increasing research activities under section 41 of
2 24 the Internal Revenue Code, except that for the alternative
2 25 ~~incremental~~ simplified credit such amounts are for research
2 26 conducted within this state within the zone.

2 27 (2) For purposes of this subsection, "Internal Revenue
2 28 Code" means the Internal Revenue Code in effect on January 1,
2 29 ~~2009~~ 2010.

2 30 Sec. 4. Section 422.3, subsection 5, Code 2009, is amended
2 31 to read as follows:

2 32 5. "Internal Revenue Code" means the Internal Revenue Code
2 33 of 1954, prior to the date of its redesignation as the Internal
2 34 Revenue Code of 1986 by the Tax Reform Act of 1986, or means
2 35 the Internal Revenue Code of 1986 as amended to and including



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3 1 January 1, ~~2008~~ 2010.

3 2 Sec. 5. Section 422.5, subsection 2, paragraph b,
3 3 subparagraph (1), Code Supplement 2009, is amended to read as
3 4 follows:

3 5 (1) Add items of tax preference included in federal
3 6 alternative minimum taxable income under section 57, except
3 7 subsections (a)(1), (a)(2), and (a)(5), of the Internal Revenue
3 8 Code, make the adjustments included in federal alternative
3 9 minimum taxable income under section 56, except subsections
3 10 (a)(4), (b)(1)(C)(iii), and (d), of the Internal Revenue Code,
3 11 and add losses as required by section 58 of the Internal
3 12 Revenue Code. To the extent that any preference or adjustment
3 13 is determined by an individual's federal adjusted gross income,
3 14 the individual's federal adjusted gross income is computed in
3 15 accordance with section 422.7, ~~subsection 39~~ subsections 39,
3 16 39A, and 39B. In the case of an estate or trust, the items of
3 17 tax preference, adjustments, and losses shall be apportioned
3 18 between the estate or trust and the beneficiaries in accordance
3 19 with rules prescribed by the director.

3 20 Sec. 6. Section 422.7, Code Supplement 2009, is amended by
3 21 adding the following new subsections:

3 22 NEW SUBSECTION. 39A. The additional first-year
3 23 depreciation allowance authorized in section 168(k) of the
3 24 Internal Revenue Code, as enacted by Pub. L. No. 110=85,
3 25 section 103, and Pub. L. No. 111=5, section 1201, does not
3 26 apply in computing net income for state tax purposes. If
3 27 a taxpayer has taken a deduction for additional first-year
3 28 depreciation in computing federal adjusted gross income, the
3 29 following adjustments to federal adjusted gross income shall
3 30 be made:

3 31 a. Add the total amount of depreciation taken on all
3 32 property for which the election under section 168(k) of the
3 33 Internal Revenue Code was made for the tax year.

3 34 b. Subtract an amount equal to depreciation allowed on such
3 35 property for the tax year using the modified accelerated cost



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4 1 recovery system depreciation method applicable under section
4 2 168 of the Internal Revenue Code without regard to section
4 3 168(k).
4 4 c. Any other adjustments to gains or losses to reflect the
4 5 adjustments made in paragraphs "a" and "b", pursuant to rules
4 6 adopted by the director.
4 7 NEW SUBSECTION. 39B. The additional first-year
4 8 depreciation allowance authorized in section 168(n) of the
4 9 Internal Revenue Code, as enacted by Pub. L. No. 110-343,
4 10 section 710, does not apply in computing net income for
4 11 state tax purposes. If a taxpayer has taken a deduction
4 12 for additional first-year depreciation in computing federal
4 13 adjusted gross income, the following adjustments to federal
4 14 adjusted gross income shall be made:
4 15 a. Add the total amount of depreciation taken on all
4 16 property for which the election under section 168(n) of the
4 17 Internal Revenue Code was made for the tax year.
4 18 b. Subtract an amount equal to depreciation allowed on such
4 19 property for the tax year using the modified accelerated cost
4 20 recovery system depreciation method applicable under section
4 21 168 of the Internal Revenue Code without regard to section
4 22 168(n).
4 23 c. Any other adjustments to gains or losses to reflect the
4 24 adjustments made in paragraphs "a" and "b", pursuant to rules
4 25 adopted by the director.
4 26 Sec. 7. Section 422.7, subsection 53, Code Supplement 2009,
4 27 is amended by striking the subsection.
4 28 Sec. 8. Section 422.9, subsection 2, paragraphs h and i,
4 29 Code Supplement 2009, are amended to read as follows:
4 30 h. For purposes of calculating the deductions in this
4 31 subsection that are authorized under the Internal Revenue Code,
4 32 and to the extent that any of such deductions is determined by
4 33 an individual's federal adjusted gross income, the individual's
4 34 federal adjusted gross income is computed in accordance with
4 35 section 422.7, ~~subsection 39~~ subsections 39, 39A, and 39B.



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5 1 i. The deduction for state sales and use taxes is allowable
5 2 only if the taxpayer elected to deduct the state sales and use
5 3 taxes in lieu of state income taxes under section 164 of the
5 4 Internal Revenue Code. A deduction for state sales and use
5 5 taxes is not allowed if the taxpayer has taken the deduction
5 6 for state income taxes or claimed the standard deduction under
5 7 section 63 of the Internal Revenue Code. This paragraph
5 8 applies to taxable years beginning after December 31, 2003, and
5 9 before January 1, ~~2006~~ 2008, and to taxable years beginning
5 10 after December 31, 2008, and before January 1, 2010.

5 11 Sec. 9. Section 422.10, subsection 1, paragraphs b and c,
5 12 Code Supplement 2009, are amended to read as follows:

5 13 b. In lieu of the credit amount computed in paragraph "a",
5 14 subparagraph (1), subparagraph division (a), a taxpayer may
5 15 elect to compute the credit amount for qualified research
5 16 expenses incurred in this state in a manner consistent with the
5 17 alternative ~~incremental~~ simplified credit described in section
5 18 ~~41(c)(4)~~ 41(c)(5) of the Internal Revenue Code. The taxpayer
5 19 may make this election regardless of the method used for the
5 20 taxpayer's federal income tax. The election made under this
5 21 paragraph is for the tax year and the taxpayer may use another
5 22 or the same method for any subsequent year.

5 23 c. For purposes of the alternate credit computation
5 24 method in paragraph "b", the credit percentages applicable to
5 25 qualified research expenses described in ~~clauses (i), (ii),~~
5 26 ~~and (iii) of section 41(c)(4)(A) section 41(c)(5)(A) and~~
5 27 clause (ii) of section 41(c)(5)(B) of the Internal Revenue
5 28 Code are one and sixty-five hundredths percent, two and twenty
5 29 hundredths percent, and two and seventy-five hundredths four
5 30 and fifty-five hundredths percent and one and ninety-five
5 31 hundredths percent, respectively.

5 32 Sec. 10. Section 422.10, subsection 3, Code Supplement
5 33 2009, is amended to read as follows:

5 34 3. a. For purposes of this section, "base amount", "basic
5 35 research payment", and "qualified research expense" mean the



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6 1 same as defined for the federal credit for increasing research
6 2 activities under section 41 of the Internal Revenue Code,
6 3 except that for the alternative ~~incremental~~ simplified credit
6 4 such amounts are for research conducted within this state.

6 5 b. For purposes of this section, "Internal Revenue Code"
6 6 means the Internal Revenue Code in effect on January 1,
6 7 ~~2009~~ 2010.

6 8 Sec. 11. Section 422.32, subsection 7, Code Supplement
6 9 2009, is amended to read as follows:

6 10 7. "Internal Revenue Code" means the Internal Revenue Code
6 11 of 1954, prior to the date of its redesignation as the Internal
6 12 Revenue Code of 1986 by the Tax Reform Act of 1986, or means
6 13 the Internal Revenue Code of 1986 as amended to and including
6 14 January 1, ~~2008~~ 2010.

6 15 Sec. 12. Section 422.33, subsection 5, paragraphs b, c, and
6 16 d, Code Supplement 2009, are amended to read as follows:

6 17 b. In lieu of the credit amount computed in paragraph
6 18 "a", subparagraph (1), a corporation may elect to compute
6 19 the credit amount for qualified research expenses incurred
6 20 in this state in a manner consistent with the alternative
6 21 ~~incremental~~ simplified credit described in section
6 22 ~~41(e)(4)~~ 41(c)(5) of the Internal Revenue Code. The taxpayer
6 23 may make this election regardless of the method used for the
6 24 taxpayer's federal income tax. The election made under this
6 25 paragraph is for the tax year and the taxpayer may use another
6 26 or the same method for any subsequent year.

6 27 c. For purposes of the alternate credit computation
6 28 method in paragraph "b", the credit percentages applicable to
6 29 qualified research expenses described in ~~clauses (i), (ii),~~
~~6 30 and (iii) of section 41(e)(4)(A)~~ section 41(c)(5)(A) and
6 31 clause (ii) of section 41(c)(5)(B) of the Internal Revenue
6 32 Code are one and sixty-five hundredths percent, two and twenty
~~6 33 hundredths percent, and two and seventy-five hundredths~~ four
6 34 and fifty-five hundredths percent and one and ninety-five
6 35 hundredths percent, respectively.



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7 1 d. (1) For purposes of this subsection, "base amount",
7 2 "basic research payment", and "qualified research expense"
7 3 mean the same as defined for the federal credit for
7 4 increasing research activities under section 41 of the
7 5 Internal Revenue Code, except that for the alternative
7 6 ~~incremental~~ simplified credit such amounts are for research
7 7 conducted within this state.

7 8 (2) For purposes of this subsection, "Internal Revenue
7 9 Code" means the Internal Revenue Code in effect on January 1,
7 10 ~~2009~~ 2010.

7 11 Sec. 13. Section 422.35, Code Supplement 2009, is amended by
7 12 adding the following new subsections:

7 13 NEW SUBSECTION. 19A. The additional first-year
7 14 depreciation allowance authorized in section 168(k) of the
7 15 Internal Revenue Code, as enacted by Pub. L. No. 110=85,
7 16 section 103, and Pub. L. No. 111=5, section 1201, does not
7 17 apply in computing net income for state tax purposes. If
7 18 a taxpayer has taken a deduction for additional first-year
7 19 depreciation in computing federal taxable income, the following
7 20 adjustments to federal taxable income shall be made:

7 21 a. Add the total amount of depreciation taken on all
7 22 property for which the election under section 168(k) of the
7 23 Internal Revenue Code was made for the tax year.

7 24 b. Subtract an amount equal to depreciation allowed on such
7 25 property for the tax year using the modified accelerated cost
7 26 recovery system depreciation method applicable under section
7 27 168 of the Internal Revenue Code without regard to section
7 28 168(k).

7 29 c. Any other adjustments to gains or losses to reflect the
7 30 adjustments made in paragraphs "a" and "b", pursuant to rules
7 31 adopted by the director.

7 32 NEW SUBSECTION. 19B. The additional first-year
7 33 depreciation allowance authorized in section 168(n) of the
7 34 Internal Revenue Code, as enacted by Pub. L. No. 110=343,
7 35 section 710, does not apply in computing net income for



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8 1 state tax purposes. If a taxpayer has taken a deduction for
8 2 additional first-year depreciation in computing federal taxable
8 3 income, the following adjustments to federal taxable income
8 4 shall be made:

8 5 a. Add the total amount of depreciation taken on all
8 6 property for which the election under section 168(n) of the
8 7 Internal Revenue Code was made for the tax year.

8 8 b. Subtract an amount equal to depreciation allowed on such
8 9 property for the tax year using the modified accelerated cost
8 10 recovery system depreciation method applicable under section
8 11 168 of the Internal Revenue Code without regard to section
8 12 168(n).

8 13 c. Any other adjustments to gains or losses to reflect the
8 14 adjustments made in paragraphs "a" and "b", pursuant to rules
8 15 adopted by the director.

8 16 Sec. 14. Section 422.35, subsection 24, Code Supplement
8 17 2009, is amended by striking the subsection.

8 18 Sec. 15. EFFECTIVE UPON ENACTMENT AND RETROACTIVE
8 19 APPLICABILITY.

8 20 1. This Act, being deemed of immediate importance, takes
8 21 effect upon enactment.

8 22 2. The sections of this Act amending sections 15.335, 15A.9,
8 23 422.3, 422.9, subsection 2, paragraph "i", 422.10, 422.32, and
8 24 422.33 apply retroactively to January 1, 2009, for tax years
8 25 beginning on or after that date.

8 26 3. The sections of this Act amending sections 422.5, 422.7,
8 27 subsection 53, 422.9, subsection 2, paragraph "h", and 422.35,
8 28 subsection 24, and enacting sections 422.7, subsections 39A and
8 29 39B, and 422.35, subsections 19A and 19B, apply retroactively
8 30 to January 1, 2008, for tax years ending on or after that date.

8 31 EXPLANATION

8 32 This bill updates references in Code sections 15.335, 15A.9,
8 33 422.3, 422.10, 422.32, and 422.33 to the Internal Revenue Code,
8 34 making certain federal income tax revisions enacted by Congress
8 35 in 2008 and 2009 applicable for purposes of the corporate and



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9 1 individual income taxes and the franchise tax. These revisions
9 2 only apply to tax years beginning on or after January 1, 2009,
9 3 and thus do not include tax years beginning after December 31,
9 4 2007, and before January 1, 2009.

9 5 The bill amends certain Code sections relating to the state
9 6 research activities tax credit for individuals, corporations,
9 7 corporations in economic development areas, and corporations
9 8 in quality jobs enterprise zones by updating references to the
9 9 Internal Revenue Code that include changes in the research
9 10 activities tax credit. The alternative incremental research
9 11 tax credit was repealed for federal income tax purposes, so
9 12 the bill strikes references to it and provides in its place
9 13 an alternative simplified research tax credit for Iowa tax
9 14 purposes.

9 15 The bill strikes Code section 422.7, subsection 53, and
9 16 Code section 422.35, subsection 24, relating to the increased
9 17 expensing allowance under section 179 of the Internal Revenue
9 18 Code. Because the bill now couples Iowa with the federal
9 19 Internal Revenue Code with regard to these provisions, they are
9 20 no longer necessary.

9 21 The bill amends certain sections of the individual and
9 22 corporate income taxes related to the computation of net income
9 23 (also known as "above-the-line" computation) by decoupling,
9 24 for Iowa income tax purposes, from the federal accelerated
9 25 depreciation deductions enacted by Congress as part of the
9 26 Recovery Rebates and Economic Stimulus for the American People
9 27 Act of 2008 ("the federal Economic Stimulus Act of 2008") and
9 28 the American Recovery and Reinvestment Act of 2009.

9 29 The bill also decouples, for Iowa income tax purposes, from
9 30 the federal accelerated depreciation deductions for certain
9 31 disaster assistance property enacted by Congress as part of the
9 32 Emergency Economic Stabilization Act of 2008. The bill makes a
9 33 number of changes in conformance with this Act.

9 34 In certain circumstances, Code section 422.9(2)(i) provides
9 35 individuals a deduction from net income (a "below-the-line"



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10 1 deduction) for state sales and use taxes in lieu of a deduction
10 2 for income taxes. This deduction was only available for
10 3 taxable years beginning after December 31, 2003, and before
10 4 January 1, 2006. The bill extends this deduction to taxable
10 5 years beginning before January 1, 2008, and to taxable years
10 6 beginning after December 31, 2008, and before January 1, 2010.
10 7 The deduction is not available for the 2008 tax year.
10 8 The bill contains a number of retroactive applicability
10 9 provisions: (1) the sections of the bill relating to the
10 10 decoupling from federal bonus depreciation and recoupling with
10 11 the expensing allowance apply retroactively to January 1, 2008,
10 12 for tax years ending on or after that date; (2) all other
10 13 sections of the bill apply retroactively to January 1, 2009,
10 14 for tax years beginning on or after that date.
10 15 The bill takes effect upon enactment.

LSB 5436XD (8) 83

tw/sc



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House Study Bill 653

HOUSE FILE
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY
CHAIRPERSON SWAIM)

A BILL FOR

1 An Act prohibiting magistrates from acting as counsel in
2 certain cases.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 5813HC (2) 83
jm/nh



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1 1 Section 1. Section 602.1605, Code 2009, is amended by adding
1 2 the following new subsection:
1 3 NEW SUBSECTION. 3. Notwithstanding subsection 2, a
1 4 magistrate shall not appear as counsel for a client in any
1 5 criminal or delinquency proceeding in any court within the
1 6 jurisdiction of the magistrate.

1 7 EXPLANATION

1 8 This bill relates to a magistrate acting as counsel for
1 9 clients in the jurisdiction of appointment.

1 10 The bill prohibits a magistrate from appearing as counsel
1 11 for a client in any criminal or delinquency proceeding in any
1 12 court within the jurisdiction of the magistrate. Current law
1 13 requires cases where a magistrate appears as counsel within
1 14 the jurisdiction of the magistrate to be heard by a district
1 15 associate judge or district judge.

LSB 5813HC (2) 83

jm/nh



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House Study Bill 654

HOUSE FILE
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY
CHAIRPERSON SWAIM)

A BILL FOR

1 An Act amending provisions of the uniform residential landlord
2 and tenant Act relating to certain definitions, attorney
3 fees, remedies, and late fees, and including applicability
4 provisions.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 5427YC (21) 83
md/sc



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PAG LIN

1 1 Section 1. Section 535.2, subsection 7, Code 2009, is
1 2 amended to read as follows:

1 3 7. This section does not apply to a charge imposed for late
1 4 payment of rent. ~~However, in the case of a residential lease,~~
~~1 5 a late payment fee shall not exceed ten dollars a day or forty~~
~~1 6 dollars per month.~~

1 7 Sec. 2. Section 562A.4, Code 2009, is amended by adding the
1 8 following new subsection:

1 9 NEW SUBSECTION. 3. In any action on a rental agreement,
1 10 the court may award reasonable attorney fees to the prevailing
1 11 party consistent with any provisions of the rental agreement
1 12 that are not otherwise prohibited by law.

1 13 Sec. 3. Section 562A.6, Code 2009, is amended by adding the
1 14 following new subsection:

1 15 NEW SUBSECTION. 7A. "Presumption" means that the trier of
1 16 fact must find the existence of the fact presumed unless and
1 17 until evidence is introduced which would support a finding of
1 18 its nonexistence.

1 19 Sec. 4. Section 562A.6, subsection 9, Code 2009, is amended
1 20 to read as follows:

1 21 9. "Rent" means a payment to be made to the landlord under
1 22 the rental agreement, late fees due to the landlord under the
1 23 rental agreement, and amounts due to the landlord under section
1 24 562A.28.

1 25 Sec. 5. Section 562A.9, Code 2009, is amended by adding the
1 26 following new subsection:

1 27 NEW SUBSECTION. 5. A fee for late payment of rent shall not
1 28 exceed twenty dollars per day or eighty dollars per month. In
1 29 the absence of a written rental agreement, or in the case of
1 30 an oral rental agreement, the late fee shall be eighty dollars
1 31 after the fourth day of the month and shall not exceed that
1 32 amount for the month.

1 33 Sec. 6. Section 562A.11, subsection 1, paragraph c, Code
1 34 2009, is amended to read as follows:

1 35 c. Agrees to pay the other party's attorney fees, except



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2 1 that a rental agreement may provide that attorney fees may be
2 2 awarded to the prevailing party in any action on the rental
2 3 agreement; or
2 4 Sec. 7. Section 562A.12, subsection 8, Code 2009, is amended
2 5 by striking the subsection.
2 6 Sec. 8. Section 562A.30, Code 2009, is amended to read as
2 7 follows:
2 8 562A.30 ~~Waiver of landlord's~~ Landlord's right to terminate
2 9 or assert rights.
2 10 1. Acceptance of performance by the tenant that varies from
2 11 the terms of the rental agreement or rules subsequently adopted
2 12 by the landlord ~~constitutes~~ shall not constitute a waiver of
2 13 the landlord's right to terminate the rental agreement for that
2 14 breach, ~~unless otherwise agreed after the breach has occurred.~~
2 15 2. Failure by the landlord to promptly assert rights under
2 16 this chapter shall not constitute a waiver of such rights or
2 17 a waiver of such rights for any existing or subsequent breach
2 18 of the rental agreement or violation of this chapter by the
2 19 tenant.
2 20 Sec. 9. Section 562A.32, Code 2009, is amended to read as
2 21 follows:
2 22 562A.32 Remedy after termination.
2 23 If the rental agreement is terminated by the landlord or
2 24 the tenant, the landlord may have a claim for possession ~~and~~
2 25 ~~for rent~~ and a separate claim for actual damages for breach of
2 26 the rental agreement and reasonable ~~attorney's~~ attorney fees
2 27 ~~as provided in section 562A.27.~~
2 28 Sec. 10. Section 562A.36, subsection 2, Code 2009, is
2 29 amended to read as follows:
2 30 2. If the landlord acts in violation of subsection 1
2 31 of this section, the tenant may recover from the landlord
2 32 the actual damages sustained by the tenant and reasonable
2 33 ~~attorney's~~ attorney fees, and has a defense in action against
2 34 the landlord for possession. In an action by or against
2 35 the tenant, evidence of a good faith complaint within one



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3 1 year prior to the alleged act of retaliation creates a
3 2 presumption that the landlord's conduct was in retaliation.
3 3 The presumption does not arise if the tenant made the complaint
3 4 after notice of a proposed rent increase or diminution of
3 5 services. Evidence by the landlord that legitimate costs and
3 6 charges of owning, maintaining, or operating a dwelling unit
3 7 have increased shall be a defense against the presumption of
3 8 retaliation when a rent increase is commensurate with the
3 9 increase in costs and charges. ~~"Presumption" means that the~~
~~3 10 trier of fact must find the existence of the fact presumed~~
~~3 11 unless and until evidence is introduced which would support a~~
~~3 12 finding of its nonexistence.~~

3 13 Sec. 11. APPLICABILITY. Notwithstanding section 562A.37,
3 14 this Act applies to rental agreements entered into, extended,
3 15 or renewed on or after the effective date of the Act.

3 16 EXPLANATION

3 17 This bill makes several changes relating to the uniform
3 18 residential landlord and tenant Act.

3 19 The bill strikes a provision relating to late payments under
3 20 residential leases from Code section 535.2, and moves it to
3 21 Code section 562A.9. The bill also increases the limitations
3 22 on such late fees from \$10 per day or \$40 per month to \$20
3 23 per day or \$80 per month. The bill also provides that in the
3 24 absence of a written rental agreement, or in the case of an
3 25 oral rental agreement, the late fee is \$80 after the fourth day
3 26 of the month and shall not exceed that amount for the month.

3 27 The bill moves the definition of "presumption" from Code
3 28 section 562A.26 to the definitions section in the uniform
3 29 residential landlord and tenant Act, Code section 562A.6. The
3 30 bill also amends the definition of "rent" applicable to Code
3 31 chapter 562A to include late fees due to the landlord under the
3 32 rental agreement and amounts due to the landlord under Code
3 33 section 562A.28 for failing to maintain the dwelling.

3 34 The bill amends Code section 562A.11 to allow rental
3 35 agreements to provide for the payment of the prevailing party's



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4 1 attorney fees in any action on the rental agreement.
4 2 Current Code section 562A.12, relating to rental deposits,
4 3 specifies that a court may award reasonable attorney fees to
4 4 the prevailing party in any action on a rental agreement.
4 5 The bill strikes this provision and moves it to Code section
4 6 562A.4, relating generally to the administration and
4 7 enforcement of rights under the uniform residential landlord
4 8 and tenant Act.
4 9 The bill amends Code section 562A.30 by providing that
4 10 the acceptance of performance by a tenant that varies from
4 11 the terms of the rental agreement or rules adopted by the
4 12 landlord does not constitute a waiver of the landlord's right
4 13 to terminate the rental agreement for that breach. The bill
4 14 also provides that failure by the landlord to promptly assert
4 15 rights under Code chapter 562A does not constitute a waiver
4 16 of such rights or a waiver of such rights for any existing or
4 17 subsequent breach of the rental agreement or violation by the
4 18 tenant.
4 19 The bill specifies that following termination of a rental
4 20 agreement by the landlord or the tenant, the landlord may have
4 21 a claim for possession and a separate claim for actual damages
4 22 for breach of the rental agreement and reasonable attorney
4 23 fees.
4 24 The bill applies to rental agreements entered into,
4 25 extended, or renewed on or after the effective date of the
4 26 bill.

LSB 5427YC (21) 83
md/sc



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House Study Bill 655

HOUSE FILE

BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY
CHAIRPERSON SWAIM)

A BILL FOR

1 An Act relating to the responsibilities of the county central
2 point of coordination process when a civil commitment order
3 has been entered.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 5709HC (2) 83
jp/nh



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1 1 Section 1. Section 229.1B, Code 2009, is amended to read as
1 2 follows:

1 3 229.1B Central point of coordination process.

1 4 1. Notwithstanding any provision of this chapter to the
1 5 contrary, any person whose hospitalization expenses are
1 6 payable in whole or in part by a county shall be subject to all
1 7 requirements of the central point of coordination process.

1 8 2. If a placement order is entered for a person who is
1 9 subject to the central point of coordination process, the
1 10 central point of coordination administrator shall perform the
1 11 duties specified in section 331.440 relative to the person's
1 12 placement.

1 13 Sec. 2. Section 331.440, Code Supplement 2009, is amended by
1 14 adding the following new subsection:

1 15 NEW SUBSECTION. 7. If a placement order has been issued
1 16 under chapter 229 for a person whose placement expenses are
1 17 payable in whole or in part by a county, the county's central
1 18 point of coordination process administrator shall identify the
1 19 location of the placement, consistent with the order, and shall
1 20 coordinate transportation and other necessary arrangements
1 21 in connection with the placement. The administrator shall
1 22 communicate the placement location identified, along with other
1 23 arrangements, to the clerk of court and sheriff for the county.

1 24 Sec. 3. IMPLEMENTATION OF ACT. Section 25B.2, subsection
1 25 3, shall not apply to this Act.

1 26 EXPLANATION

1 27 This bill relates to the responsibilities of the county
1 28 central point of coordination (CPC) process when a civil
1 29 commitment order has been entered under Code chapter 229,
1 30 relating to hospitalization of persons with mental illness.

1 31 Code section 331.440, relating to the CPC process for
1 32 the delivery of mental health, mental retardation, and
1 33 developmental disabilities services which are paid for in whole
1 34 or in part by county funds, is amended. The amendment provides
1 35 that when a commitment order is entered under Code chapter 229



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2 1 for a person and the placement expenses are payable in whole
2 2 or in part by a county, the county's CPC administrator is
2 3 required to identify the location of the placement, consistent
2 4 with the order, and coordinate transportation and other
2 5 necessary arrangements in connection with the placement. The
2 6 administrator is then required to communicate the placement
2 7 location and arrangements to the clerk of court and sheriff for
2 8 the county.

2 9 The bill also amends Code section 229.1B to provide a
2 10 reference to the new duties.

2 11 The bill may include a state mandate as defined in Code
2 12 section 25B.3. The bill makes inapplicable Code section 25B.2,
2 13 subsection 3, which would relieve a political subdivision from
2 14 complying with a state mandate if funding for the cost of
2 15 the state mandate is not provided or specified. Therefore,
2 16 political subdivisions are required to comply with any state
2 17 mandate included in the bill.

LSB 5709HC (2) 83

jp/nh



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House Study Bill 656

SENATE/HOUSE FILE
BY (PROPOSED UNDERGROUND
STORAGE TANK FUND
BOARD BILL)

A BILL FOR

1 An Act relating to the Iowa comprehensive petroleum underground
2 storage tank fund.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 5440DP (4) 83
tm/nh



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House Study Bill 656 continued

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1 1 Section 1. Section 455G.9, subsection 7, Code 2009, is
1 2 amended to read as follows:
1 3 7. Expenses of cleanup not required. When an owner or
1 4 operator who is eligible for benefits under this chapter is
1 5 allowed by the department of natural resources to monitor in
1 6 place, the expenses incurred for cleanup beyond the level
1 7 required by the department of natural resources ~~are not~~ may
1 8 be covered under any of the accounts established under the fund
1 9 only if approved by the board as cost-effective relative to the
1 10 department accepted monitoring plan. ~~The~~ Any cleanup expenses
1 11 incurred for work completed beyond what is ~~required~~ approved
1 12 pursuant to this subsection is the responsibility of the person
1 13 contracting for the excess cleanup.
1 14 Sec. 2. REPEAL. 1989 Iowa Acts, chapter 131, section 63,
1 15 as amended by 2009 Iowa Acts, chapter 184, section 39, is
1 16 repealed.

1 17 EXPLANATION

1 18 This bill relates to the Iowa comprehensive petroleum
1 19 underground storage tank fund.
1 20 Currently, for eligible owners and operators of petroleum
1 21 underground storage tanks who are allowed to monitor in place,
1 22 expenses incurred for cleanup beyond the level required by
1 23 the department of natural resources are not covered under
1 24 any of the accounts established under the Iowa comprehensive
1 25 petroleum underground storage tank fund. The bill allows
1 26 such owners and operators to receive moneys from the accounts
1 27 if the Iowa comprehensive petroleum underground storage tank
1 28 fund board determines the expenses are cost-effective relative
1 29 to the monitoring plan accepted by the department of natural
1 30 resources.
1 31 Currently, Code sections 455G.6 and 455G.7, relating to
1 32 the powers and duties of the Iowa comprehensive petroleum
1 33 underground storage tank fund board and the establishment by
1 34 the Iowa finance authority of certain capital reserve funds to
1 35 secure bonds issued for the fund, are repealed with certain



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House Study Bill 656 continued

2 1 exceptions, effective July 1, 2010. The bill eliminates the
2 2 future repeal.

LSB 5440DP (4) 83

tm/nh



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Senate File 2111 - Introduced

SENATE FILE
BY BOETTGER

(COMPANION TO lsb
6107hh by chambers)

A BILL FOR

1 An Act relating to assignment of visitation to the grandparent
2 of a child when a parent is serving active duty in the
3 military service of the United States.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 6107XS (3) 83
pf/nh



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Senate File 2111 - Introduced continued

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1 1 Section 1. NEW SECTION. 598.41D Assignment of visitation ==
1 2 parent serving active duty == grandparent.
1 3 1. Notwithstanding any provision to the contrary, a parent
1 4 who has been granted court-ordered visitation with the parent's
1 5 minor child may file an application for modification of a
1 6 decree or a petition for modification of an order regarding
1 7 child visitation, prior to or during the time the parent is
1 8 serving active duty in the military service of the United
1 9 States, to temporarily assign that parent's visitation rights
1 10 to a grandparent of the minor child, as specified by the
1 11 parent. The application or petition shall be accompanied by
1 12 an affidavit from the grandparent indicating the grandparent's
1 13 knowledge of the application or petition and willingness to
1 14 exercise the parent's visitation rights during the parent's
1 15 absence.
1 16 2. a. If the active duty of a parent affects the parent's
1 17 ability or anticipated ability to appear at a regularly
1 18 scheduled hearing, the court shall provide for an expedited
1 19 hearing in matters instituted under this section.
1 20 b. If the active duty or anticipated active duty of a parent
1 21 prevents the parent from appearing in person at a hearing, the
1 22 court shall provide, upon reasonable advance notice, for the
1 23 parent to present testimony and evidence by electronic means
1 24 in matters instituted under this section. For the purposes of
1 25 this paragraph, "electronic means" includes communication by
1 26 telephone, video teleconference, or the internet.
1 27 3. The court may grant the parent's request for temporary
1 28 assignment of visitation if the court finds that such
1 29 visitation is in the best interest of the child.
1 30 4. An order granting assignment of visitation rights under
1 31 this section does not create separate rights to visitation for
1 32 a person other than the parent.
1 33 5. An order granting temporary assignment of visitation
1 34 rights pursuant to this section shall terminate upon
1 35 notification of the court by the parent or automatically upon



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Senate File 2111 - Introduced continued

2 1 the parent's completion of active duty, whichever occurs first.
2 2 6. After a parent completes active duty, if an application
2 3 for modification of a decree or a petition for modification
2 4 of an order is filed, the parent's absence due to active duty
2 5 or the assignment of visitation rights does not constitute a
2 6 substantial change in circumstances, and the court shall not
2 7 consider a parent's absence due to that active duty or the
2 8 assignment of visitation rights in making a determination
2 9 regarding the best interest of the child relative to such an
2 10 application or petition filed after a parent completes active
2 11 duty.

2 12 7. As used in this section, "active duty" means active
2 13 military duty pursuant to orders issued under Title X of the
2 14 United States Code. However, this section shall not apply to
2 15 active guard and reserve duty or similar full-time military
2 16 duty performed by a parent when the child remains in actual
2 17 custody of the parent.

2 18 EXPLANATION

2 19 This bill relates to the assignment of visitation of a
2 20 parent serving active duty to a grandparent of the child. The
2 21 bill provides that a parent who has been granted court-ordered
2 22 visitation with the parent's minor child may file an
2 23 application for modification of a decree or a petition for
2 24 modification of an order regarding child visitation, prior
2 25 to or during the time the parent is serving active duty,
2 26 to temporarily assign that parent's visitation rights to a
2 27 grandparent of the minor child, as specified by the parent.
2 28 The application or petition must be accompanied by an affidavit
2 29 from the grandparent indicating the grandparent's knowledge of
2 30 the application or petition and willingness to exercise the
2 31 parent's visitation rights during the parent's absence.

2 32 The bill also provides for an expedited hearing on the
2 33 application or petition if the active duty or anticipated
2 34 active duty of the parent affects the parent's ability to
2 35 appear at a regularly scheduled hearing and for presentation



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3 1 of testimony and evidence by electronic means if the parent
3 2 is prevented from appearing in person due to the active duty
3 3 or anticipated active duty, upon reasonable advance notice.
3 4 "Electronic means" includes communication by telephone, video
3 5 teleconference, or the internet.

3 6 The court may grant the parent's request for temporary
3 7 assignment of visitation if the court finds that such
3 8 visitation is in the best interest of the child. However, the
3 9 assignment of visitation rights does not create separate rights
3 10 to visitation for a person other than the parent. The order
3 11 granting temporary assignment of visitation terminates upon
3 12 notification of the court by the parent or automatically upon
3 13 the parent's completion of active duty, whichever occurs first.

3 14 The bill provides that after a parent completes active duty,
3 15 if an application for modification of a decree or a petition
3 16 for modification of an order is filed, the parent's absence
3 17 due to active duty or the assignment of visitation does not
3 18 constitute a substantial change in circumstances, and the
3 19 court shall not consider a parent's absence due to that active
3 20 duty or the assignment of visitation in making a determination
3 21 regarding the best interest of the child relative to such an
3 22 application or petition filed after a parent completes active
3 23 duty.

3 24 "Active duty" is defined as active military duty pursuant
3 25 to orders issued under Title X of the United States Code.
3 26 However, the bill does not apply to active guard and reserve
3 27 duty or similar full-time military duty performed by a parent
3 28 when the child remains in actual custody of the parent.

LSB 6107XS (3) 83

pf/nh



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Senate File 2112 - Introduced

SENATE FILE
BY JOCHUM

A BILL FOR

1 An Act relating to workplace accommodations for employees who
2 express breast milk.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 6014SS (2) 83
ak/nh



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Senate File 2112 - Introduced continued

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1 1 Section 1. NEW SECTION. 91F.1 Short title.
1 2 This chapter shall be known and may be cited as the "Family
1 3 Friendly Workplace Act".
1 4 Sec. 2. NEW SECTION. 91F.2 Definitions.
1 5 1. "Employer" means a person engaged in a business who has
1 6 one or more employees and also includes the state of Iowa, a
1 7 department or agency thereof, and any political subdivision of
1 8 the state.
1 9 2. "Reasonable efforts" means any effort that would not
1 10 impose an undue hardship on the operation of the employer's
1 11 business.
1 12 3. "Undue hardship" means any action that requires
1 13 significant difficulty or expense when considered in relation
1 14 to factors such as the size of the business, the financial
1 15 resources of the business, or the nature and the structure of
1 16 its operation.
1 17 Sec. 3. NEW SECTION. 91F.3 Right to express breast milk in
1 18 workplace == private location.
1 19 1. An employer shall provide reasonable unpaid break time or
1 20 permit an employee to use paid break time, meal time, or both,
1 21 each day, to allow the employee to express breast milk for the
1 22 employee's nursing child for up to two years after the child's
1 23 birth.
1 24 2. The employer shall make reasonable efforts to provide a
1 25 place, other than a toilet stall, which is shielded from view
1 26 and free from intrusion from coworkers and the public, that may
1 27 be used by an employee to express breast milk in privacy.
1 28 3. An employer who makes reasonable efforts to accommodate
1 29 an employee who chooses to express breast milk in the workplace
1 30 shall be deemed to be in compliance with the requirements of
1 31 this section.
1 32 4. The department of workforce development shall provide on
1 33 its internet site information and links to other internet sites
1 34 where employers can access information regarding methods to
1 35 accommodate employees who express breast milk in the workplace.



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2 1 The department shall consult with appropriate organizations
2 2 or associations to determine the appropriate information and
2 3 internet site links so as to provide employers with the most
2 4 accurate and useful information available.

2 5 5. Before an employee may initiate litigation for a
2 6 violation of this section, there shall be mediation between
2 7 the employer and employee pursuant to chapter 679C unless the
2 8 issue is outside the scope of that chapter pursuant to section
2 9 679C.103.

2 10 Sec. 4. Section 91.5, Code 2009, is amended to read as
2 11 follows:

2 12 91.5 Other duties == jurisdiction in general.

2 13 The commissioner shall have jurisdiction and it shall be the
2 14 commissioner's duty to supervise the enforcement of:

2 15 1. All laws relating to safety appliances and inspection
2 16 thereof and health conditions in manufacturing and mercantile
2 17 establishments, workshops, machine shops, other industrial
2 18 concerns within the commissioner's jurisdiction and sanitation
2 19 and shelter for railway employees.

2 20 2. All laws of the state relating to child labor.

2 21 3. All laws relating to employment agencies.

2 22 4. All laws relating to expressing breast milk in the
2 23 workplace.

2 24 ~~4.~~ 5. Such other provisions of law as are now or shall
2 25 hereafter be within the commissioner's jurisdiction.

2 26 EXPLANATION

2 27 This bill concerns the accommodation in the workplace of
2 28 employees who express breast milk.

2 29 The bill requires that an employer provide an employee
2 30 who expresses breast milk reasonable time each day, paid or
2 31 unpaid, to express breast milk for up to two years after the
2 32 birth of the employee's child. The employer is also required
2 33 to make reasonable efforts to provide a private place other
2 34 than a toilet stall for the employee to express breast milk.
2 35 "Reasonable efforts" is defined in the bill.



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3 1 The department of workforce development is required to
3 2 provide on its internet site information and other internet
3 3 site links that give employers access to information about
3 4 methods of accommodating employees who express breast milk at
3 5 work.

3 6 The bill states that before an employee can litigate an
3 7 employer's alleged violation of the bill, the employee and
3 8 employer are required to participate in mediation pursuant to
3 9 Code chapter 679C.

LSB 6014SS (2) 83

ak/nh



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Senate File 2113 - Introduced

SENATE FILE
BY JOCHUM

A BILL FOR

1 An Act modifying provisions relating to franchises for the
2 provision of cable service or video service, and including
3 effective date and retroactive applicability provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 5662XS (3) 83
rn/rj



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1 1 Section 1. Section 476.55, subsection 2, Code 2009, is
1 2 amended by striking the subsection.
1 3 Sec. 2. Section 477A.2, subsection 4, Code 2009, is amended
1 4 to read as follows:
1 5 4. A competitive cable service provider or competitive
1 6 video service provider shall provide at least thirty days'
1 7 notice to each municipality with authority to grant a franchise
1 8 in the service area, and to the incumbent cable provider, in
1 9 which the competitive cable service provider or competitive
1 10 video service provider is granted authority to provide service
1 11 under a certificate of franchise authority that the competitive
1 12 cable service provider or competitive video service provider
1 13 will offer cable services or video services within the
1 14 jurisdiction of the municipality, and shall not provide service
1 15 without having provided such thirty days' notice. A copy of
1 16 the notice shall be filed with the board on the date that the
1 17 notice is provided.
1 18 Sec. 3. Section 477A.3, Code 2009, is amended to read as
1 19 follows:
1 20 477A.3 Application requirements == certificate of franchise
1 21 authority.
1 22 1. The board shall issue a certificate of franchise
1 23 authority under this chapter within ~~fifteen~~ thirty business
1 24 days after receipt of a completed application and affidavit
1 25 submitted by the applicant and signed by an officer or general
1 26 partner of the applicant. The application and affidavit shall
1 27 provide all of the following information:
1 28 a. That the applicant has filed or will timely file with
1 29 the federal communications commission all forms required by
1 30 the commission in advance of offering cable service or video
1 31 service in this state.
1 32 b. That the applicant agrees to comply with all applicable
1 33 federal and state statutes, regulations, and rules.
1 34 c. That the applicant agrees to comply with all applicable
1 35 state laws and nondiscriminatory municipal ordinances and



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2 1 regulations regarding the use and occupation of a public
2 2 right-of-way in the delivery of the cable service or video
2 3 service, to the extent consistent with this chapter, including
2 4 the police powers of the municipalities in which the service
2 5 is delivered.
2 6 d. A description of the service area to be served and the
2 7 municipalities to be served by the applicant which may include
2 8 certain designations of unincorporated areas. This description
2 9 shall be updated by the applicant prior to the expansion of
2 10 cable service or video service to a previously undesignated
2 11 service area and, upon such expansion, notice shall be given to
2 12 the board of the service area to be served by the applicant.
2 13 e. The address of the applicant's principal place of
2 14 business and the names of the applicant's principal executive
2 15 officers.
2 16 f. Documentation that the applicant possesses sufficient
2 17 managerial, technical, and financial capability to provide the
2 18 cable service or video service proposed in the service area.
2 19 g. Copies of advertisements or news releases announcing the
2 20 applicant's intent to provide cable service or video service
2 21 in the service area intended for release if the certificate of
2 22 franchise authority is granted.
2 23 h. A date certain by which the cable system or video service
2 24 network shall commence operation.
2 25 2. The failure of the board to notify the applicant
2 26 of the completeness of the applicant's affidavit or
2 27 issue a certificate of franchise authority before the
2 28 ~~fifteenth~~ thirtieth business day after receipt of a completed
2 29 affidavit shall constitute issuance of the certificate of
2 30 franchise authority applied for by the applicant without
2 31 further action by the applicant.
2 32 3. The certificate of franchise authority issued by the
2 33 board shall contain all of the following:
2 34 a. A grant of authority to provide cable service or video
2 35 service in the service area designated in the application.



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3 1 b. A grant of authority to use and occupy the public
3 2 right-of-way in the delivery of cable service or video service,
3 3 subject to the laws of this state, including the police powers
3 4 of the municipalities in which the service is delivered.

3 5 c. A statement that the grant of authority provided by the
3 6 certificate is subject to the lawful operation of the cable
3 7 service or video service by the applicant or the applicant's
3 8 successor.

3 9 d. A statement that the franchise is for a term of ten
3 10 years, is renewable under the terms of this section, and is
3 11 nonexclusive.

3 12 e. Such other conditions, restrictions, or requirements as
3 13 deemed necessary or appropriate by the board after review of
3 14 the application and affidavit submitted pursuant to subsection
3 15 1.

3 16 4. A certificate of franchise authority issued by the
3 17 board is fully transferable to any successor of the applicant
3 18 to which the certificate was initially issued. A notice of
3 19 transfer shall be filed by the holder of the certificate
3 20 of franchise authority with the board and the affected
3 21 municipality and shall be effective fourteen business days
3 22 after submission. The notice of transfer shall include the
3 23 address of the successor's principal place of business and
3 24 the names of the successor's principal executive officers.
3 25 The successor shall assume all regulatory rights and
3 26 responsibilities of the holder of the certificate. Neither
3 27 the board nor an affected municipality shall have authority to
3 28 review or require approval of such transfer.

3 29 5. The certificate of franchise authority issued by the
3 30 board may be terminated by a person providing cable service or
3 31 video service by submitting written notice to the board and
3 32 any affected municipality. Neither the board nor an affected
3 33 municipality shall have authority to review or require approval
3 34 of such termination.

3 35 6. a. A holder of a certificate of franchise authority



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4 1 shall provide status reports to the board every three months
4 2 regarding progress toward completion of construction and
4 3 commencement of operation of the cable system or video service
4 4 network. The status reports shall be required during the
4 5 period beginning with issuance of the certificate of franchise
4 6 authority and ending on the date that construction is completed
4 7 and operation commences.

4 8 b. If a holder of a certificate of franchise authority fails
4 9 to complete construction and commence operation of a cable
4 10 system or video service network by the date specified in the
4 11 application and affidavit submitted pursuant to subsection
4 12 1, or two years from the date of issuance for a certificate
4 13 of franchise authority issued prior to the effective date of
4 14 this Act, or if any conditions, restrictions, or requirements
4 15 included in the certificate by the board are not adhered to,
4 16 the board may revoke the certificate of franchise authority,
4 17 and the franchise agreement in effect between an incumbent
4 18 cable provider wishing to reinstate the franchise agreement
4 19 and the municipality prior to issuance of the certificate of
4 20 franchise authority shall be reinstated.

4 21 ~~6-7.~~ a. The board shall only have the authorization to
4 22 issue a certificate of franchise authority as provided in this
4 23 section, and shall not impose any additional requirements or
4 24 regulations upon an applicant.

4 25 b. The board may assess a holder of a certificate of
4 26 franchise authority for the costs incurred by the board during
4 27 review of the application and affidavit submitted pursuant to
4 28 subsection 1, and any additional costs incurred resulting from
4 29 a contested case proceeding requested pursuant to chapter 17A.

4 30 Sec. 4. Section 477A.8, subsection 2, Code 2009, is amended
4 31 to read as follows:

4 32 2. The holder of a certificate of franchise authority
4 33 shall implement an informal process for handling inquiries
4 34 from municipalities and customers concerning billing events,
4 35 service issues, and other complaints. If an issue is not



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5 1 resolved through this informal process, a municipality ~~may~~
5 2 ~~request a confidential nonbinding mediation with the holder of~~
5 3 ~~a certificate of franchise authority, with the costs of such~~
5 4 ~~mediation to be shared equally between the municipality and the~~
5 5 ~~holder of a certificate of franchise authority or a customer~~
5 6 ~~may, as an exclusive and final remedy, request a confidential~~
5 7 ~~binding arbitration by an arbitrator selected by the parties,~~
5 8 ~~with the costs of arbitration assessed as determined by the~~
5 9 ~~arbitrator.~~

5 10 Sec. 5. Section 477A.8, Code 2009, is amended by adding the
5 11 following new subsection:

5 12 NEW SUBSECTION. 3. The board shall compile and maintain on
5 13 its internet site in an easy-to-read format a chart providing a
5 14 comparison of costs and services provided for every provider of
5 15 cable service and video service in this state. The information
5 16 shall include the name, address, telephone number, and internet
5 17 site address for each provider and each provider's parent
5 18 company, if applicable; and available service packages, the
5 19 cost of each service package, and any other information deemed
5 20 appropriate or significant by the board.

5 21 Sec. 6. Section 477A.10, subsection 3, Code 2009, is amended
5 22 by striking the subsection and inserting in lieu thereof the
5 23 following:

5 24 3. A cable service provider or video service provider
5 25 operating under a certificate of franchise authority that is
5 26 using a cable system to provide cable services or that is using
5 27 telecommunication facilities to provide video services shall,
5 28 commencing five years after initially obtaining a certificate
5 29 of franchise authority, and every three years thereafter,
5 30 increase by twenty percent the number of households in any
5 31 municipality in its franchise service area to which it offers
5 32 cable service or video service by the beginning of the next
5 33 three-year period, if it has in the preceding three-year period
5 34 offered cable service or video service to at least fifteen
5 35 percent of the households in the municipality, until such



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6 1 cable service provider or video service provider is capable of
6 2 providing cable service or video service to all households in
6 3 the municipality.

6 4 Sec. 7. Section 477A.10, Code 2009, is amended by adding the
6 5 following new subsection:

6 6 NEW SUBSECTION. 4. A cable service provider or video
6 7 service provider shall not engage in unlawful discrimination in
6 8 relation to the establishment of rates.

6 9 a. A cable service provider or video service provider shall
6 10 be prohibited from subsidizing its lower rate offerings with
6 11 rates paid by customers in higher rate exchange areas. Any
6 12 person who provides cable service pursuant to a franchise
6 13 granted under this chapter shall be prohibited from selling
6 14 such service or a bundle of services that includes cable
6 15 service or video service at a price that is more than two
6 16 hundred percent of the lowest price that provider charges for
6 17 a functionally equivalent service or bundle of services to
6 18 another customer in this state. A cable service provider or
6 19 video service provider that offers a price to a customer in the
6 20 franchised area in violation of this subsection shall be deemed
6 21 to have engaged in predatory pricing. If the lowest price
6 22 meets a bona fide price offered to a customer in the franchised
6 23 area by an unrelated or unaffiliated competitor, such price
6 24 shall not be used to determine a violation of this subsection.

6 25 b. A cable service provider or video service provider
6 26 found by a court of competent jurisdiction to have failed to
6 27 materially comply with this subsection shall be subject to the
6 28 following:

6 29 (1) An injunction ordering compliance with this subsection.

6 30 (2) For each franchised area in which a violation occurs, a
6 31 civil penalty in an amount not exceeding ten thousand dollars.

6 32 c. If the court finds that the noncompliance with this
6 33 subsection has resulted in a loss of customers to a competitive
6 34 provider, the injured provider may bring a civil action
6 35 on behalf of the customer or customers seeking recovery of



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7 1 damages.
7 2 d. If the court finds that noncompliance with this
7 3 subsection has resulted in a loss of customers to a competitive
7 4 cable service provider or competitive video service provider,
7 5 the injured competitive cable service provider or competitive
7 6 video service provider may bring a civil action to recover the
7 7 consequential damages of economic loss suffered by the injured
7 8 provider as a result of the loss of customers who changed to a
7 9 noncompliant competitive cable service provider or noncompliant
7 10 competitive video service provider while that noncompliant
7 11 provider was in violation of this subsection.
7 12 Sec. 8. NEW SECTION. 477A.11A Consumer protection study ==
7 13 annual report.
7 14 The office of consumer advocate shall conduct an assessment
7 15 of the consumer impact of this chapter. The assessment shall
7 16 include but not be limited to the number and nature of consumer
7 17 complaints received by the office of consumer advocate, the
7 18 office of the attorney general, and other agencies or political
7 19 subdivisions; an analysis of the impact on competition in the
7 20 provision of cable service and video service across the state;
7 21 and conclusions regarding impact on rates or pricing for the
7 22 provision of cable service and video service. The office of
7 23 consumer advocate shall solicit public input in conducting
7 24 the assessment. The assessment shall include recommendations
7 25 for changes in this chapter which would benefit consumers.
7 26 The first assessment shall be provided to the members of
7 27 the general assembly by January 1, 2011, with subsequent
7 28 assessments provided by January 1 annually through January 1,
7 29 2014.
7 30 Sec. 9. NEW SECTION. 551.1A Unfair discrimination in local
7 31 exchange rates.
7 32 1. A telecommunications provider holding a certificate
7 33 of public convenience and necessity for providing local
7 34 telecommunications services under section 476.29 and offering
7 35 local exchange services in this state shall be prohibited from



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8 1 selling such services or a bundle of services including such
8 2 services at a price that is more than two hundred percent
8 3 of the lowest price that provider charges for functionally
8 4 equivalent services or a bundle of services including
8 5 equivalent services to another customer in this state. A
8 6 telecommunications provider that offers a price to a customer
8 7 in violation of this subsection shall be deemed to have
8 8 engaged in predatory pricing. If the lowest price meets a bona
8 9 fide price offered to a customer in the local exchange by an
8 10 unrelated or unaffiliated competitor, such price shall not be
8 11 used to determine a violation of this subsection.

8 12 2. A telecommunications provider found by a court of
8 13 competent jurisdiction to have failed to materially comply with
8 14 this section shall be subject to the following:

8 15 a. An injunction ordering compliance with this section.

8 16 b. For each area in which a violation occurs, a civil
8 17 penalty in an amount not exceeding ten thousand dollars.

8 18 3. If the court finds that the noncompliance with this
8 19 section has resulted in a loss or damage to a customer or
8 20 customers, a person or class of persons may bring a civil
8 21 action on behalf of the customer or customers seeking recovery
8 22 of damages.

8 23 4. If the court finds that noncompliance with this
8 24 section has resulted in a loss of customers to a competitive
8 25 telecommunications provider, the injured telecommunications
8 26 provider may bring a civil action to recover the consequential
8 27 damages of economic loss suffered by the injured provider as a
8 28 result of the loss of customers who changed to a noncompliant
8 29 telecommunications provider while that noncompliant provider
8 30 was in violation of this section.

8 31 Sec. 10. EFFECTIVE UPON ENACTMENT AND RETROACTIVE
8 32 APPLICABILITY. This Act, being deemed of immediate importance,
8 33 takes effect upon enactment and the applicable provisions of
8 34 the section of this Act enacting section 477A.3, subsection
8 35 6, apply retroactively to certificates of franchise authority



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Senate File 2113 - Introduced continued

9 1 issued prior to the effective date of this Act.

9 2 EXPLANATION

9 3 This bill modifies provisions relating to franchises for the
9 4 provision of cable service or video service.

9 5 The bill makes several changes to requirements concerning
9 6 providing notice of an intent to offer cable services or
9 7 video services, contents of applications to the utilities
9 8 board within the department of commerce for the issuance of a
9 9 certificate of franchise authority for the provision of such
9 10 services, and certificate issuance procedures.

9 11 The bill provides that a copy of the notice which a
9 12 competitive cable service provider or competitive video service
9 13 provider is required to provide to each municipality with
9 14 authority to grant a franchise in the service area, and to the
9 15 service area's incumbent cable provider, regarding an intent
9 16 to provide services in the service area must be filed with the
9 17 board on the date that the notice is provided. A requirement
9 18 that the board issue a certificate within 15 business days is
9 19 modified in the bill to 30 business days. The bill adds to
9 20 information requirements to be included in an application and
9 21 affidavit for a franchise, submission of documentation that
9 22 the applicant possesses sufficient managerial, technical, and
9 23 financial capability to provide the cable service or video
9 24 service proposed, copies of advertisements or news releases
9 25 announcing the applicant's intent to provide cable service or
9 26 video service in the service area intended for release if the
9 27 certificate is granted, and a date certain by which the cable
9 28 system or video service network will commence operation.

9 29 The bill provides that when issuing a certificate the board
9 30 may impose conditions, restrictions, or requirements as it
9 31 deems necessary or appropriate after reviewing the application
9 32 and affidavit. A holder of a certificate of franchise
9 33 authority will be required to provide status reports to the
9 34 board every three months regarding progress toward completion
9 35 of construction and commencement of operation, during the



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Senate File 2113 - Introduced continued

10 1 interval between issuance of the certificate and the date that
10 2 construction is completed and operation commences. The bill
10 3 provides that if a holder of a certificate fails to complete
10 4 construction and commence operation of a cable system or video
10 5 service network by the date specified in the application and
10 6 affidavit, or within two years from the date of issuance for
10 7 certificates issued prior to the effective date of this bill,
10 8 or if any conditions, restrictions, or requirements included
10 9 in the certificate are not adhered to, the board may revoke
10 10 the certificate. In this event, the bill provides that the
10 11 previous franchise agreement in effect between an incumbent
10 12 cable provider wishing to reinstate that agreement and the
10 13 municipality shall be reinstated. The bill also authorizes
10 14 the board to assess holders of certificates of franchise
10 15 authority for the costs incurred by the board during reviews
10 16 of applications and affidavits or pursuant to contested case
10 17 proceedings.

10 18 Additionally, the bill provides that if an informal
10 19 complaint process fails to resolve an issue, current provisions
10 20 involving a confidential nonbinding mediation and sharing of
10 21 costs between a municipality and a certificate holder shall be
10 22 changed to, as an exclusive and final remedy, a confidential
10 23 binding arbitration by an arbitrator selected by the parties,
10 24 with the costs assessed as determined by the arbitrator.

10 25 The bill directs the board to compile and maintain on its
10 26 internet site in an easy-to-read format a chart providing a
10 27 comparison of costs and services for every provider of cable
10 28 service and video service in the state.

10 29 The bill replaces a provision currently authorizing
10 30 expansion to potential subscribers under specified
10 31 circumstances by a video service provider using
10 32 telecommunication facilities to provide video services
10 33 with more than 500,000 access lines and servicing more than
10 34 50 percent subscribers in a service area. In its place, the
10 35 bill provides that both a cable service and video service



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Senate File 2113 - Introduced continued

11 1 provider shall, beginning five years after having obtained
11 2 a certificate, and every three years thereafter, increase
11 3 by 20 percent the number of households in any municipality
11 4 in its service area by the beginning of the next three-year
11 5 period, provided that in the preceding three-year period it has
11 6 provided service to at least 15 percent of the households in
11 7 the municipality, until it is capable of providing service to
11 8 all households in the municipality.

11 9 The bill also deletes a provision which permitted the board
11 10 to receive a complaint from a local exchange carrier that
11 11 another local exchange carrier has engaged in an activity that
11 12 is inconsistent with antitrust laws and the policies which
11 13 underlie them, and prescribing remedies in the event such an
11 14 inconsistency was determined by the board to be occurring.

11 15 The bill provides a new unlawful discrimination and predatory
11 16 pricing provision regarding the establishment of rates by a
11 17 cable service provider or video service provider, prohibiting
11 18 subsidizing lower rate offerings with rates paid in higher rate
11 19 exchange areas, and selling services at a price which exceeds
11 20 200 percent of the lowest price charged for a functionally
11 21 equivalent service to another customer in the state. Penalty
11 22 provisions in the form of injunctive relief, a civil penalty
11 23 of up to \$10,000, and consequential damages are prescribed.

11 24 The bill applies the provisions regarding prices exceeding
11 25 200 percent constituting predatory pricing, and prescribing
11 26 penalties therefor, to local telecommunications service
11 27 providers under Code section 476.29.

11 28 In addition, the bill directs the office of consumer
11 29 advocate to conduct an assessment of the consumer impact of
11 30 Code chapter 477A. The study is to include but not be limited
11 31 to assessing the number of consumer complaints prompted by the
11 32 chapter, and the impact of the Code chapter on competition in
11 33 the provision of cable service and video service. The office
11 34 is directed to provide recommendations for changes in the Code
11 35 chapter's provisions which would benefit consumers by January



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Senate File 2113 - Introduced continued

12 1 1, 2011, and each year thereafter through January 1, 2014.
12 2 The bill takes effect upon enactment. Provisions in the bill
12 3 regarding required status reports by holders of a certificate
12 4 of franchise authority, and franchise revocation for failure
12 5 to complete construction and commence operation within two
12 6 years for certificates issued prior to the effective date of
12 7 the bill, are retroactively applicable to the holders of such
12 8 certificates.

LSB 5662XS (3) 83

rn/rj



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Senate File 2114 - Introduced

SENATE FILE

BY HECKROTH, RAGAN,
SCHMITZ, BEALL, HORN,
SENG, HATCH, KIBBIE,
BLACK, JOCHUM, and
DANDEKAR

A BILL FOR

1 An Act relating to the creation and use of moneys in a home
2 and community-based services trust fund and making an
3 appropriation.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 5332ST (3) 83

pf/nh



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Senate File 2114 - Introduced continued

PAG LIN

1 1 Section 1. NEW SECTION. 231.35 Home and community-based
1 2 services trust fund.
1 3 1. A home and community-based services trust fund is
1 4 created within the state treasury under the authority of
1 5 the department. The moneys in the home and community-based
1 6 services trust fund are appropriated to the department to be
1 7 used for distribution through the area agencies on aging to
1 8 provide home and community-based services for older individuals
1 9 designed to promote the independence of and to delay the use of
1 10 institutional care by older individuals with low and moderate
1 11 incomes.
1 12 2. Moneys received by the department, moneys appropriated
1 13 to the home and community-based services trust fund, and any
1 14 other moneys available to and obtained or accepted by the
1 15 department for placement in the home and community-based trust
1 16 fund shall be deposited in the fund. Notwithstanding section
1 17 12C.7, subsection 2, interest or earnings on moneys in the home
1 18 and community-based services trust fund shall be credited to
1 19 the fund. Notwithstanding section 8.33, moneys in the fund
1 20 that remain unencumbered or unobligated at the end of the
1 21 fiscal year shall not revert but shall remain available for the
1 22 same purpose in the succeeding fiscal year.
1 23 3. The department shall annually distribute moneys
1 24 available in the home and community-based trust fund to the
1 25 area agencies on aging. The department shall adopt rules
1 26 pursuant to chapter 17A to administer this section, including
1 27 the criteria and a process for distribution of funds to area
1 28 agencies on aging.
1 29 Sec. 2. APPROPRIATION. There is appropriated to the
1 30 department on aging for the fiscal year beginning July 1, 2010,
1 31 and ending June 30, 2011, the following amount, or so much
1 32 thereof as is necessary, for the purpose designated:
1 33 For deposit in the home and community-based services
1 34 trust fund created in section 231.35 to provide home and
1 35 community-based services to older individuals:



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Senate File 2114 - Introduced continued

2 1 \$ 8,500,000

2 2 EXPLANATION

2 3 This bill creates the home and community-based services
 2 4 trust fund within the state treasury under the authority of
 2 5 the department on aging. Moneys in the fund are appropriated
 2 6 to the department for distribution through area agencies on
 2 7 aging to provide home and community-based services for older
 2 8 individuals designed to promote the independence of and to
 2 9 delay the use of institutional care by older individuals
 2 10 with low and moderate incomes. The fund consists of moneys
 2 11 received by the department, moneys appropriated to the home
 2 12 and community-based services trust fund, and any other moneys
 2 13 available to and obtained or accepted by the department for
 2 14 placement in the home and community-based trust fund. The
 2 15 department is directed to adopt rules to administer the fund,
 2 16 including criteria and a process for distribution of funds
 2 17 to area agencies on aging. The bill also appropriates \$8.5
 2 18 million from the general fund of the state to the department
 2 19 for FY 2010=2011 for deposit in the trust fund. Home and
 2 20 community-based services are defined in Code section 231.4 as
 2 21 "a continua of services available in an individual's home or
 2 22 community which include but are not limited to case management,
 2 23 homemaker, home health aide, personal care, adult day,
 2 24 respite, home delivered meals, nutrition counseling, and other
 2 25 medical and social services which contribute to the health and
 2 26 well-being of individuals and their ability to reside in a home
 2 27 or community-based care setting."

LSB 5332ST (3) 83

pf/nh



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Senate File 2115 - Introduced

SENATE FILE

BY BLACK, BEALL, HORN,
SENG, QUIRMBACH,
HATCH, DEARDEN, APPEL,
COURTNEY, KIBBIE,
JOCHUM, BOLKCOM,
DANDEKAR, and STEWART

A BILL FOR

1 An Act providing for and making an appropriation to the
2 department on aging for statewide expansion of the elder
3 abuse initiative program.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 5316ST (4) 83
rh/jp



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Senate File 2115 - Introduced continued

PAG LIN

1 1 Section 1. APPROPRIATION == DEPARTMENT ON AGING == ELDER
 1 2 ABUSE INITIATIVE PROGRAM. There is appropriated from the
 1 3 general fund of the state to the department on aging for the
 1 4 fiscal year beginning July 1, 2010, and ending June 30, 2011,
 1 5 the following amount, or so much thereof as is necessary, to be
 1 6 used for the purpose designated:

1 7 For the purpose of statewide expansion of the elder abuse
 1 8 initiative program established pursuant to section 231.56A
 1 9 for the prevention, intervention, detection, and reporting of
 1 10 elder abuse, neglect, and exploitation to ensure the protection
 1 11 of older individuals in the state who are 60 years of age or
 1 12 older:

1 13 \$ 1,400,000

1 14 EXPLANATION

1 15 This bill appropriates \$1.4 million from the general fund
 1 16 of the state to the department on aging for the fiscal year
 1 17 beginning July 1, 2010, and ending June 30, 2011, for statewide
 1 18 expansion of the elder abuse initiative program established
 1 19 pursuant to Code section 231.56A for the prevention,
 1 20 intervention, detection, and reporting of elder abuse, neglect,
 1 21 and exploitation of older individuals in the state who are 60
 1 22 years of age or older.

LSB 5316ST (4) 83

rh/jp



Iowa General Assembly
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Senate File 2116 - Introduced

SENATE FILE
BY JOCHUM

A BILL FOR

1 An Act requiring that the Iowa core curriculum for kindergarten
2 through grade eight include foreign language and American
3 sign language.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 5669XS (2) 83
kh/nh



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Senate File 2116 - Introduced continued

PAG LIN

1 1 Section 1. Section 256.7, subsection 26, paragraph a, Code
1 2 Supplement 2009, is amended to read as follows:

1 3 a. Adopt rules that establish a core curriculum and
1 4 requiring, beginning with the students in the 2010=2011 school
1 5 year graduating class, high school graduation requirements
1 6 for all students in school districts and accredited nonpublic
1 7 schools that include at a minimum satisfactory completion
1 8 of four years of English and language arts, three years
1 9 of mathematics, three years of science, and three years of
1 10 social studies. The core curriculum adopted shall address the
1 11 core content standards in subsection 28 and the skills and
1 12 knowledge students need to be successful in the twenty=first
1 13 century. The core curriculum shall include social studies and
1 14 twenty=first century learning skills which include but are
1 15 not limited to civic literacy, health literacy, technology
1 16 literacy, financial literacy, and employability skills; and
1 17 shall address the curricular needs of students in kindergarten
1 18 through grade twelve in those areas. In addition, the core
1 19 curriculum for kindergarten through grade eight shall include
1 20 foreign language and American sign language. The department
1 21 shall further define the twenty=first century learning skills
1 22 components by rule.

1 23 Sec. 2. STATE MANDATE FUNDING SPECIFIED. In accordance
1 24 with section 25B.2, subsection 3, the state cost of requiring
1 25 compliance with any state mandate included in this Act shall
1 26 be paid by a school district from state school foundation aid
1 27 received by the school district under section 257.16. This
1 28 specification of the payment of the state cost shall be deemed
1 29 to meet all of the state funding=related requirements of
1 30 section 25B.2, subsection 3, and no additional state funding
1 31 shall be necessary for the full implementation of this Act
1 32 by and enforcement of this Act against all affected school
1 33 districts.

1 34 EXPLANATION

1 35 This bill requires the state board of education to adopt



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Senate File 2116 - Introduced continued

2 1 rules that include in the Iowa core curriculum for kindergarten
2 2 through grade eight, foreign language and American sign
2 3 language.

2 4 Current Code requires school districts and accredited
2 5 nonpublic schools to fully implement the core curriculum for
2 6 kindergarten through grade eight by the 2014=2015 school year.

2 7 The bill may include a state mandate as defined in Code
2 8 section 25B.3. The bill requires that the state cost of
2 9 any state mandate included in the bill be paid by a school
2 10 district from state school foundation aid received by the
2 11 school district under Code section 257.16. The specification
2 12 is deemed to constitute state compliance with any state mandate
2 13 funding-related requirements of Code section 25B.2. The
2 14 inclusion of this specification is intended to reinstate the
2 15 requirement of political subdivisions to comply with any state
2 16 mandates included in the bill.

LSB 5669XS (2) 83

kh/nh



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Senate File 2117 - Introduced

SENATE FILE
BY COMMITTEE ON HUMAN
RESOURCES

(SUCCESSOR TO SSB
3083)

A BILL FOR

- 1 An Act to allow therapeutically certified optometrists to
- 2 supply pharmaceutical-delivering contact lenses.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 5179SV (4) 83
jr/nh



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Senate File 2117 - Introduced continued

PAG LIN

1 1 Section 1. Section 154.1, subsection 4, Code 2009, is
1 2 amended to read as follows:
1 3 4. a. Therapeutically certified optometrists may employ
1 4 all diagnostic and therapeutic pharmaceutical agents for the
1 5 purpose of diagnosis and treatment of conditions of the human
1 6 eye and adnexa pursuant to this subsection, excluding the
1 7 use of injections other than to counteract an anaphylactic
1 8 reaction, and notwithstanding section 147.107, may without
1 9 charge supply any of the above pharmaceuticals to commence a
1 10 course of therapy.

1 11 b. Therapeutically certified optometrists may
1 12 employ and, notwithstanding section 147.107, supply
1 13 pharmaceutical=delivering contact lenses for the purpose
1 14 of treatment of conditions of the human eye and adnexa.
1 15 For purposes of this paragraph, "pharmaceuticl=delivering
1 16 contact lenses" means contact lenses that contain one or more
1 17 therapeutic pharmaceutical agents authorized for employment
1 18 by this section for the purpose of treatment of conditions of
1 19 the human eye and adnexa and that deliver such agents into the
1 20 wearer's eye.

1 21 c. Therapeutically certified optometrists may prescribe
1 22 oral steroids for a period not to exceed fourteen days
1 23 without consultation with a physician. Therapeutically
1 24 certified optometrists shall not prescribe oral Imuran or oral
1 25 Methotrexate.

1 26 d. Therapeutically certified optometrists may be authorized,
1 27 where reasonable and appropriate, by rule of the board, to
1 28 employ new diagnostic and therapeutic pharmaceutical agents
1 29 approved by the United States food and drug administration on
1 30 or after July 1, 2002, for the diagnosis and treatment of the
1 31 human eye and adnexa.

1 32 e. The board shall not be required to adopt rules relating
1 33 to topical pharmaceutical agents, oral antimicrobial agents,
1 34 oral antihistamines, oral antiglaucoma agents, and oral
1 35 analgesic agents. Superficial foreign bodies may be removed



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Senate File 2117 - Introduced continued

2 1 from the human eye and adnexa.
2 2 f. The therapeutic efforts of a therapeutically certified
2 3 optometrist are intended for the purpose of examination,
2 4 diagnosis, and treatment of visual defects, abnormal
2 5 conditions, and diseases of the human eye and adnexa, for
2 6 proper optometric practice or referral for consultation or
2 7 treatment to persons licensed under chapter 148.
2 8 g. A therapeutically certified optometrist is an optometrist
2 9 who is licensed to practice optometry in this state and who
2 10 is certified by the board to use the agents and procedures
2 11 authorized pursuant to this subsection.

2 12 EXPLANATION

2 13 Code section 154.1 authorizes therapeutically certified
2 14 optometrists to employ all diagnostic and therapeutic
2 15 pharmaceutical agents for the purpose of diagnosis and
2 16 treatment of conditions of the human eye and adnexa. This bill
2 17 allows therapeutically certified optometrists to also supply
2 18 pharmaceutical-delivering contact lenses for the purpose of
2 19 treatment of conditions of the human eye and adnexa. The bill
2 20 defines these lenses as contact lenses that contain one or more
2 21 of the authorized therapeutic pharmaceutical agents and that
2 22 deliver the agents into the wearer's eye.

LSB 5179SV (4) 83

jr/nh



Iowa General Assembly
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Senate File 2118 - Introduced

SENATE FILE
BY QUIRMBACH

A BILL FOR

1 An Act repealing the film, television, and video project
2 promotion program and including effective date and
3 retroactive and other applicability provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 5775XS (4) 83
tw/sc



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Senate File 2118 - Introduced continued

PAG LIN

1 1 Section 1. Section 15.119, subsection 1, Code Supplement
1 2 2009, is amended to read as follows:
1 3 1. Notwithstanding any provision to the contrary in
1 4 sections 15.327 through 15.336, ~~section 15.393~~, section 15A.9,
1 5 subsection 8, sections 15E.191 through 15E.197, 422.11E,
1 6 and section 422.33, subsection 9, the department shall not
1 7 authorize an amount of tax credits for purposes specified in
1 8 subsection 2 in excess of one hundred eighty-five million
1 9 dollars for any fiscal year. However, the department may
1 10 authorize an amount of tax credits in one fiscal year in excess
1 11 of one hundred eighty-five million, and such excess amount
1 12 shall be counted against the total amount of tax credits that
1 13 may be authorized in the next fiscal year.
1 14 Sec. 2. Section 15.119, subsection 2, paragraph b, Code
1 15 Supplement 2009, is amended by striking the paragraph.
1 16 Sec. 3. Section 422.7, subsection 52, Code Supplement 2009,
1 17 is amended by striking the subsection.
1 18 Sec. 4. Section 422.33, subsections 23 and 24, Code
1 19 Supplement 2009, are amended by striking the subsections.
1 20 Sec. 5. Section 422.35, subsection 23, Code Supplement
1 21 2009, is amended by striking the subsection.
1 22 Sec. 6. Section 422.60, subsections 12 and 13, Code
1 23 Supplement 2009, are amended by striking the subsections.
1 24 Sec. 7. Section 533.329, subsection 2, paragraphs f and g,
1 25 Code Supplement 2009, are amended by striking the paragraphs.
1 26 Sec. 8. REPEAL. Sections 15.391, 15.392, 422.11T, 422.11U,
1 27 432.12J, 432.12K, Code 2009, are repealed.
1 28 Sec. 9. REPEAL. Section 15.393, Code Supplement 2009, is
1 29 repealed.
1 30 Sec. 10. EFFECTIVE UPON ENACTMENT AND RETROACTIVE
1 31 APPLICABILITY. This Act, being deemed of immediate importance,
1 32 takes effect upon enactment and applies retroactively to
1 33 January 1, 2010, for tax years beginning on or after that date.
1 34 Sec. 11. APPLICABILITY. This Act does not apply to
1 35 contracts or agreements entered into on or before the effective



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Senate File 2118 - Introduced continued

2 1 date of this Act.

2 2 EXPLANATION

2 3 This bill eliminates the film, television, and video project
2 4 promotion program and makes conforming amendments.

2 5 The bill takes effect upon enactment and applies
2 6 retroactively to January 1, 2010, for tax years beginning on
2 7 or after that date. The bill does not apply to contracts or
2 8 agreements entered into on or before the effective date of the
2 9 bill.

LSB 5775XS (4) 83

tw/sc



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Senate File 2119 - Introduced

SENATE FILE
BY DOTZLER

A BILL FOR

1 An Act relating to the use of certain assets contained in the
2 workers' compensation second injury fund.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 5577XS (3) 83
av/nh



Iowa General Assembly
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Senate File 2119 - Introduced continued

PAG LIN

1 1 Section 1. Section 85.66, Code Supplement 2009, is amended
1 2 by adding the following new subsection:
1 3 NEW SUBSECTION. 4. Notwithstanding subsection 2, when
1 4 the assets of the fund exceed four million dollars after
1 5 reimbursements to the attorney general provided for in
1 6 section 85.67, the workers' compensation commissioner shall
1 7 be reimbursed up to one hundred fifty thousand dollars
1 8 annually from the fund for costs related to carrying out the
1 9 commissioner's duties pursuant to section 86.13A, so long as
1 10 the reimbursement to the commissioner does not reduce the
1 11 assets of the fund to less than four million dollars. In
1 12 addition, any assets which remain in the fund each year in
1 13 excess of four million dollars after reimbursement of the
1 14 workers' compensation commissioner pursuant to this subsection,
1 15 shall be transferred by the treasurer of state to the general
1 16 fund of the state.

1 17 EXPLANATION

1 18 This bill provides that when the assets of the workers'
1 19 compensation second injury fund exceed \$4 million, the workers'
1 20 compensation commissioner shall be reimbursed up to \$150,000
1 21 each year from the fund for costs related to carrying out
1 22 the commissioner's duties to monitor the rate of compliance
1 23 of employers and insurers in commencing weekly workers'
1 24 compensation benefit payments, so long as this payment to the
1 25 commissioner does not reduce the assets of the fund to less
1 26 than \$4 million. In addition, any assets which remain in the
1 27 fund in excess of \$4 million each year after this reimbursement
1 28 to the commissioner must be transferred by the treasurer of
1 29 state to the general fund of the state.

LSB 5577XS (3) 83

av/nh



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Senate File 2120 - Introduced

SENATE FILE
BY DEARDEN

A BILL FOR

1 An Act allowing certain game birds to be shot when released on
2 a licensed hunting preserve and providing a penalty.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 6011SS (3) 83
av/nh



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Senate File 2120 - Introduced continued

PAG LIN

1 1 Section 1. Section 481A.21, Code Supplement 2009, is
1 2 amended to read as follows:
1 3 481A.21 Birds as targets.
1 4 A person shall not keep or use any live pigeon or other
1 5 bird as a target, to be shot at for amusement or as a test of
1 6 skill in marksmanship, or shoot at a bird kept or used for
1 7 such purpose, or be a party to such shooting, or lease any
1 8 building, room, field, or premises, or knowingly permit the use
1 9 thereof, for the purpose of such shooting. This section does
1 10 not prevent any person from shooting at live pigeons, sparrows,
1 11 and starlings when used in the training of hunting dogs.
1 12 This section does not prevent any person from shooting at a
1 13 game bird that is released a minimum of ~~fifty~~ twenty=five yards
1 14 from that person on a licensed hunting preserve. For the
1 15 purposes of this section, "game bird" means the same as defined
1 16 in section 484B.1.

1 17 EXPLANATION
1 18 This bill provides that a person may shoot at a game bird
1 19 that is released a minimum of 25 yards from that person on a
1 20 licensed hunting preserve. For the purposes of the bill, a
1 21 "game bird" means a pen=reared bird of the family gallinae and
1 22 a mallard duck. A violation of this provision is punishable by
1 23 a scheduled fine of \$25.
LSB 6011SS (3) 83
av/nh



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Senate File 2121 - Introduced

SENATE FILE
BY JOHNSON

A BILL FOR

1 An Act authorizing the commissioner of insurance to develop
2 individual and small employer basic benefit health care
3 plans for certain young adults and their dependents.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 5251SS (4) 83
av/nh



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Senate File 2121 - Introduced continued

PAG LIN

1 1 Section 1. NEW SECTION. 505.32 Individual and small
1 2 employer basic benefit health care coverage.
1 3 1. The commissioner of insurance, in cooperation with
1 4 carriers interested in participating, shall by rule develop
1 5 individual and small employer health insurance plans providing
1 6 basic benefit coverage targeted for sale to individuals under
1 7 thirty years of age, and their eligible dependents, who have
1 8 not had health care benefits within the preceding twelve
1 9 months.
1 10 2. The health insurance plans developed shall provide basic
1 11 levels of primary, preventive, and hospital care for covered
1 12 individuals, including inpatient hospitalization coverage,
1 13 prenatal care, obstetrical care, a basic level of primary and
1 14 preventive care, and such other coverages as the commissioner
1 15 may determine are cost effective.
1 16 3. A basic benefit coverage policy or subscription contract
1 17 shall include a disclosure statement which includes but is
1 18 not limited to an explanation of those mandated benefits and
1 19 providers not covered by the policy or contract, the managed
1 20 care and cost control features of the policy or contract, and
1 21 the period of time the policy or contract remains in effect.
1 22 4. All basic benefit coverage policy forms including
1 23 applications, enrollment forms, policies, subscription
1 24 contracts, certificates, evidences of coverage, riders,
1 25 amendments, endorsements, and disclosure forms shall be filed
1 26 with and approved by the commissioner before a basic benefit
1 27 coverage policy or subscription contract is issued or issued
1 28 for delivery in this state.
1 29 5. Basic benefit coverage policies or subscription
1 30 contracts shall return a cumulative loss ratio as determined by
1 31 the commissioner.
1 32 6. Each carrier providing a basic benefit coverage policy
1 33 or subscription contract in this state shall maintain separate
1 34 and distinct records of enrollment, claim costs, premium
1 35 income, utilization, and other information as required by



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Senate File 2121 - Introduced continued

2 1 the commissioner. Each carrier providing such policies or
2 2 contracts shall furnish an annual report to the commissioner.
2 3 The report shall be in a form prescribed by the commissioner
2 4 and shall contain information required by the commissioner to
2 5 analyze the success of insurance coverage issued pursuant to
2 6 this section.
2 7 7. The commissioner may, upon reasonable actuarial evidence
2 8 as to cost effectiveness, make determinations regarding any of
2 9 the following:
2 10 a. What benefits or direct pay requirements must be
2 11 minimally included in a basic benefit coverage policy or
2 12 subscription contract.
2 13 b. What benefits or direct pay requirements otherwise
2 14 mandated by state law may be exempted from coverage by a basic
2 15 benefit coverage policy or subscription contract.
2 16 c. What cost-containment procedures must be minimally
2 17 included in a basic benefit coverage policy or subscription
2 18 contract.
2 19 d. What cost-containment measures otherwise restricted by
2 20 state law may be utilized by a basic benefit coverage policy or
2 21 subscription contract.
2 22 8. The commissioner may retain a consultant to assist in
2 23 the analysis of any benefit or requirement and may convene
2 24 an advisory panel to assist the commissioner in the review
2 25 of evidence and practices by the health care and insurance
2 26 industries.
2 27 a. The commissioner may assess a fee against carriers
2 28 issuing or issuing for delivery in this state basic benefit
2 29 coverage policies or subscription contracts to defray
2 30 consulting fees and expenses incurred by the commissioner under
2 31 this subsection.
2 32 b. The commissioner may also require medical professional
2 33 societies or providers' associations requesting the inclusion
2 34 of a benefit or requirement in a basic benefit coverage policy
2 35 or subscription contract to contribute on a proportionate



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3 1 and reasonable basis to the payment of the commissioner's
3 2 consultants and expenses under this subsection as a condition
3 3 of reviewing a benefit or requirement impacting upon such
3 4 medical professionals or providers.

3 5 9. A benefit or direct pay requirement otherwise mandated
3 6 by state law shall not be included in a basic benefit coverage
3 7 policy or subscription contract unless the commissioner finds
3 8 after actuarial review that the inclusion of the benefit or
3 9 direct pay requirement is cost effective. The commissioner's
3 10 finding shall be based upon review of actuarial evidence,
3 11 including a cost-benefit analysis, and the determination that
3 12 inclusion of the mandated benefit or direct pay requirement
3 13 is in the best interests of providing affordable health care
3 14 coverage.

3 15 10. A restriction on a cost-containment measure
3 16 otherwise imposed by state law shall not apply to a basic
3 17 benefit coverage policy or subscription contract unless
3 18 the commissioner finds after actuarial review that the
3 19 cost-containment measure is cost effective, and its exclusion
3 20 is not in the best interests of providing affordable health
3 21 care coverage.

3 22 11. As used in this section:

3 23 a. "Basic benefit coverage" means coverage of basic health
3 24 care services rendered by health professionals licensed
3 25 pursuant to state law together with hospital expenses.

3 26 b. "Basic health care services" means services which an
3 27 enrollee might reasonably require in order to be maintained in
3 28 good health, including at a minimum, emergency care, inpatient
3 29 hospital and physician care, and outpatient services rendered
3 30 within or outside of a hospital.

3 31 c. "Carrier" means the same as defined in section 513B.2.

3 32 d. "Eligible dependent" means an enrolled dependent of a
3 33 subscriber entitled to coverage under a basic benefit coverage
3 34 policy or subscription contract.

3 35 e. "Policy" means the entire contract between the insurer



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4 1 and the insured, including the policy riders, endorsements,
4 2 and the application, if attached, and includes individual
4 3 subscriber contracts issued under chapter 514B.
4 4 f. "Small employer" means the same as defined in 513B.2.

4 5 EXPLANATION

4 6 This bill requires the commissioner of insurance, in
4 7 cooperation with interested carriers, to develop by rule
4 8 individual and small employer basic coverage policies or
4 9 subscription contracts providing basic health benefit coverage
4 10 to be targeted for sale to individuals under 30 years of age
4 11 and their eligible dependents who have not had health care
4 12 benefits within the preceding 12 months. "Basic benefit
4 13 coverage" means coverage of basic health care services rendered
4 14 by licensed health professionals together with hospital
4 15 expenses. "Basic health care services" means services which an
4 16 enrollee might reasonably require in order to be maintained in
4 17 good health, including at a minimum, emergency care, inpatient
4 18 hospital and physician care, and outpatient services rendered
4 19 within or outside of a hospital.

4 20 A basic benefit coverage policy or subscription contract
4 21 must include a disclosure statement including what mandated
4 22 benefits and providers are not covered, the managed care and
4 23 cost control features employed, and the term for which the
4 24 policy or contract is in effect. All forms, policies, and
4 25 contracts must be approved by the commissioner prior to the
4 26 issuance or issuance for delivery of such policies or contracts
4 27 in the state. The commissioner is required to determine what
4 28 the cumulative loss ratio of such policies or contracts must
4 29 be.

4 30 Records must be kept for each basic benefit policy or
4 31 contract showing enrollment, claim costs, premium income,
4 32 utilization, and other information as required by the
4 33 commissioner. Each participating carrier must provide an
4 34 annual report to the commissioner.

4 35 The commissioner may use reasonable actuarial evidence to



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5 1 determine what benefits must be included in such coverage, what
5 2 mandated benefits or direct pay requirements may be excluded,
5 3 what cost=containment procedures must be employed, and what
5 4 cost=containment measures otherwise restricted by state law may
5 5 be utilized in providing such coverage.

5 6 The commissioner may retain consultants to assist in
5 7 analysis of benefits and requirements and may assess a fee
5 8 against participating carriers to defray those costs. The
5 9 commissioner may also require medical societies or providers'
5 10 associations requesting inclusion of a benefit or requirement
5 11 to contribute to the cost of reviewing the request.

5 12 Benefits or direct pay requirements or restrictions on
5 13 cost=containment measures imposed under state law are not
5 14 required to be included in basic benefit policies or contracts
5 15 unless determined to be cost effective and in the best
5 16 interests of providing affordable health care coverage.

LSB 5251SS (4) 83

av/nh



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Senate File 2122 - Introduced

SENATE FILE
BY BOLKCOM

A BILL FOR

1 An Act requiring certain health benefit contracts, policies, or
2 plans to provide coverage of tobacco use cessation programs
3 and providing an applicability date.

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

TLSB 5920XS (2) 83

av/sc



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Senate File 2122 - Introduced continued

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1 1 Section 1. NEW SECTION. 514C.26 Tobacco use cessation
1 2 program coverage.
1 3 1. Notwithstanding the uniformity of treatment requirements
1 4 of section 514C.6, a contract, policy, or plan providing for
1 5 third-party payment or prepayment of health or medical expenses
1 6 shall provide coverage benefits for a tobacco use cessation
1 7 program for any enrollee who is eighteen years of age or
1 8 older, including but not limited to the following classes of
1 9 third-party payment provider contracts, policies, or plans
1 10 delivered, issued for delivery, continued, or renewed in this
1 11 state on or after September 1, 2010:
1 12 a. Individual or group accident and sickness insurance
1 13 providing coverage on an expense-incurred basis.
1 14 b. An individual or group hospital or medical service
1 15 contract issued pursuant to chapter 509, 514, or 514A.
1 16 c. An individual or group health maintenance organization
1 17 contract regulated under chapter 514B.
1 18 d. An individual or group Medicare supplemental policy,
1 19 unless coverage pursuant to such policy is preempted by federal
1 20 law.
1 21 e. A plan established pursuant to chapter 509A for public
1 22 employees.
1 23 2. This section shall not apply to accident-only, specified
1 24 disease, short-term hospital or medical, hospital confinement
1 25 indemnity, credit, dental, vision, long-term care, basic
1 26 hospital and medical=surgical expense coverage as defined
1 27 by the commissioner, disability income insurance coverage,
1 28 coverage issued as a supplement to liability insurance,
1 29 workers' compensation or similar insurance, or automobile
1 30 medical payment insurance.
1 31 3. As used in this section, "tobacco use cessation program"
1 32 means a program recommended by a physician that follows the
1 33 United States public health service guidelines for tobacco use
1 34 cessation or a product or service with an "A" or "B" rating
1 35 from the task force on community preventive services at the



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2 1 United States centers for disease control and prevention of the
2 2 United States department of health and human services. "Tobacco
2 3 use cessation program" includes education and medical treatment
2 4 components designed to assist a person in ceasing the use of
2 5 tobacco products.

2 6 4. The commissioner of insurance shall adopt rules pursuant
2 7 to chapter 17A as necessary to administer this section.

2 8 EXPLANATION

2 9 This bill requires that specified individual or group
2 10 health benefit contracts, policies, or plans provide coverage
2 11 benefits for a tobacco use cessation program for any enrollee
2 12 who is 18 years of age or older. The bill is applicable to
2 13 third-party payment provider contracts, policies, or plans that
2 14 are delivered, issued for delivery, continued, or renewed in
2 15 this state on or after September 1, 2010.

2 16 For purposes of the bill, "tobacco use cessation program"
2 17 means a program recommended by a physician that follows the
2 18 United States public health service guidelines for tobacco use
2 19 cessation or a product or service with an "A" or "B" rating
2 20 from the task force on community preventive services at the
2 21 United States centers for disease control and prevention.

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Senate File 2123 - Introduced

SENATE FILE
BY KETTERING

A BILL FOR

1 An Act relating to the operation of all-terrain vehicles on
2 highways, providing a registration fee, and making a penalty
3 applicable.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TL5B 5504XS (3) 83
dea/nh



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Senate File 2123 - Introduced continued

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1 1 Section 1. Section 321.117, Code 2009, is amended to read
1 2 as follows:
1 3 321.117 Motorcycle, all-terrain vehicle, motorized
1 4 bicycle, ambulance, and hearse fees.
1 5 ~~For all motorcycles the annual registration fee shall~~
1 6 ~~be twenty dollars. For all motorized bicycles the annual~~
1 7 ~~registration fee shall be seven dollars. When the motorcycle~~
1 8 ~~is more than five model years old, the annual registration fee~~
1 9 ~~shall be ten dollars.~~
1 10 1. The annual registration fee for a motorcycle is twenty
1 11 dollars. When the motorcycle is more than five model years
1 12 old, the fee is ten dollars. For purposes of registration
1 13 under this section, "motorcycle" includes an all-terrain vehicle
1 14 as provided in section 321.234A, subsection 4A.
1 15 2. The annual registration fee for a motorized bicycle is
1 16 seven dollars.
1 17 3. The annual registration fee for ambulances and hearses
1 18 shall be is fifty dollars. Passenger car plates shall be
1 19 issued for ambulances and hearses.
1 20 Sec. 2. Section 321.234A, subsection 2, Code 2009, is
1 21 amended to read as follows:
1 22 2. A person operating an all-terrain vehicle on a highway
1 23 shall have a valid driver's license ~~and the~~. Unless registered
1 24 pursuant to subsection 4A, an all-terrain vehicle shall be
1 25 operated at speeds of thirty-five miles per hour or less.
1 26 Sec. 3. Section 321.234A, Code 2009, is amended by adding
1 27 the following new subsection:
1 28 NEW SUBSECTION. 4A. a. An all-terrain vehicle with four or
1 29 more wheels and a combustion engine having a piston or rotor
1 30 displacement of two hundred centimeters or more may be issued
1 31 a certificate of title under this chapter and registered as
1 32 a motorcycle pursuant to section 321.117 to be operated on
1 33 highways. An all-terrain vehicle registered as a motorcycle is
1 34 subject to the lighting and equipment requirements applicable
1 35 to motorcycles under this chapter.



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2 1 b. A person shall not operate an all-terrain vehicle
2 2 registered as a motorcycle on an interstate.
2 3 Sec. 4. Section 321I.9, unnumbered paragraph 1, Code 2009,
2 4 is amended to read as follows:
2 5 Registration under this chapter shall not be required for
2 6 the following described all-terrain vehicles:
2 7 Sec. 5. Section 321I.9, Code 2009, is amended by adding the
2 8 following new subsection:
2 9 NEW SUBSECTION. 4. All-terrain vehicles, as defined in
2 10 section 321.1, which are titled and registered in accordance
2 11 with section 321.234A, subsection 4A.
2 12 Sec. 6. Section 321I.31, subsection 1, Code 2009, is amended
2 13 to read as follows:
2 14 1. The owner of an all-terrain vehicle acquired on or
2 15 after January 1, 2000, other than an all-terrain vehicle used
2 16 exclusively as a farm implement ~~or~~, an all-terrain vehicle
2 17 titled and registered in accordance with section 321.234A,
2 18 subsection 4A, or a motorcycle previously issued a title
2 19 pursuant to chapter 321, shall apply to the county recorder
2 20 of the county in which the owner resides for a certificate of
2 21 title for the all-terrain vehicle. The owner of an all-terrain
2 22 vehicle used exclusively as a farm implement may obtain
2 23 a certificate of title. A person who owns an all-terrain
2 24 vehicle that is not required to have a certificate of title
2 25 may apply for and receive a certificate of title for the
2 26 all-terrain vehicle and, subsequently, the all-terrain vehicle
2 27 shall be subject to the requirements of this chapter as if
2 28 the all-terrain vehicle were required to be titled. All
2 29 all-terrain vehicles that are titled shall be registered.

2 30 EXPLANATION

2 31 This bill allows all-terrain vehicles of a certain size to be
2 32 operated on noninterstate highways.
2 33 Under the bill, an all-terrain vehicle that has four or
2 34 more wheels and a combustion engine having a piston or rotor
2 35 displacement of 200 centimeters or more may be issued a



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3 1 certificate of title by the county treasurer and registered
3 2 as a motorcycle for operation on highways, subject to the
3 3 lighting and equipment requirements applicable to motorcycles.
3 4 The annual registration fee is \$20, and when the vehicle is
3 5 more than five model years old, the fee is reduced to \$10.
3 6 Pursuant to current law, a vehicle subject to registration is
3 7 also subject to a fee for new registration in the amount of 5
3 8 percent of the purchase price, payable upon application for a
3 9 new registration and certificate of title.

3 10 Currently, a person operating an all-terrain vehicle on
3 11 a highway is required to have a valid driver's license and
3 12 limit the vehicle's speed to 35 miles per hour or less. The
3 13 bill specifies that an all-terrain vehicle registered as
3 14 a motorcycle is not subject to the 35-mile-per-hour speed
3 15 limitation, but operation is restricted to noninterstate
3 16 highways.

3 17 The bill makes conforming amendments to provide that
3 18 an all-terrain vehicle that is titled and registered as a
3 19 motorcycle for operation on highways under Code chapter 321
3 20 is exempt from the registration requirements for all-terrain
3 21 vehicles and off-road utility vehicles administered by the
3 22 department of natural resources under Code chapter 321I.

3 23 A violation of provisions governing the operation of
3 24 all-terrain vehicles on a highway is a simple misdemeanor,
3 25 punishable by a scheduled fine of \$50.

LSB 5504XS (3) 83

dea/nh



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Senate File 2124 - Introduced

SENATE FILE
BY KETTERING

A BILL FOR

1 An Act providing a school tuition credit for certain pupils
2 attending an accredited nonpublic school and including
3 applicability provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 5324XS (4) 83
ak/sc



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Senate File 2124 - Introduced continued

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1 1 Section 1. Section 256.7, Code Supplement 2009, is amended
1 2 by adding the following new subsection:
1 3 NEW SUBSECTION. 30. Adopt rules relating to applications
1 4 for a school tuition credit pursuant to section 257.11B,
1 5 including application processing timelines, required
1 6 information for submission by a parent or guardian, and
1 7 penalties for noncompliance.
1 8 Sec. 2. Section 257.6, subsection 1, paragraph a, Code
1 9 Supplement 2009, is amended by adding the following new
1 10 subparagraph:
1 11 NEW SUBPARAGRAPH. (8) Resident pupils receiving a school
1 12 tuition credit pursuant to section 257.11B.
1 13 Sec. 3. NEW SECTION. 257.11B SCHOOL TUITION CREDITS.
1 14 1. Pupils attending an accredited nonpublic school shall be
1 15 eligible to receive a school tuition credit for attendance in
1 16 the following grades according to the following schedule:
1 17 a. For the school budget year beginning July 1, 2011, pupils
1 18 in kindergarten.
1 19 b. For the school budget year beginning July 1, 2012, pupils
1 20 in kindergarten and grade one.
1 21 c. For the school budget year beginning July 1, 2013, pupils
1 22 in kindergarten and grades one and two.
1 23 d. For the school budget year beginning July 1, 2014, pupils
1 24 in kindergarten and grades one through three.
1 25 e. For the school budget year beginning July 1, 2015, pupils
1 26 in kindergarten and grades one through four.
1 27 f. For the school budget year beginning July 1, 2016, pupils
1 28 in kindergarten and grades one through five.
1 29 g. For the school budget year beginning July 1, 2017, pupils
1 30 in kindergarten and grades one through six.
1 31 h. For the school budget year beginning July 1, 2018, pupils
1 32 in kindergarten and grades one through seven.
1 33 i. For the school budget year beginning July 1, 2019, pupils
1 34 in kindergarten and grades one through eight.
1 35 j. For the school budget year beginning July 1, 2020, pupils



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2 1 in kindergarten and grades one through nine.
2 2 k. For the school budget year beginning July 1, 2021, pupils
2 3 in kindergarten and grades one through ten.
2 4 l. For the school budget year beginning July 1, 2022, pupils
2 5 in kindergarten and grades one through eleven.
2 6 m. For the school budget year beginning July 1, 2023, and
2 7 succeeding budget years, pupils in kindergarten and grades one
2 8 through twelve.
2 9 2. a. By January of the year preceding the school year
2 10 for which the school tuition credit is requested, the parent
2 11 or guardian of the pupil requesting to receive a school
2 12 tuition credit shall submit an application to the department
2 13 of education, on forms to be developed by the department,
2 14 indicating that the parent or guardian intends to enroll the
2 15 pupil in an accredited nonpublic school.
2 16 b. By March 1, the department of education shall notify the
2 17 department of management of the number of pupils designated to
2 18 receive school tuition credits.
2 19 3. a. (1) The department of management shall assign each
2 20 designated pupil a school tuition credit in an amount equal to
2 21 thirty=five percent of the regular program foundation base per
2 22 pupil, as defined in section 257.1, subsection 2, paragraph "b".
2 23 (2) The department of education, in consultation with the
2 24 department of management, shall reduce the September payment
2 25 to a local public school district otherwise payable pursuant
2 26 to section 257.16 for the following school budget year by
2 27 sixty=five percent of the amount determined in subparagraph
2 28 (1) per designated pupil. The funds not dispersed to school
2 29 districts due to the school tuition credit reduction shall
2 30 be transferred to the general fund by the department of
2 31 management.
2 32 (3) A public school district shall transfer twenty=five
2 33 percent of the amount determined in subparagraph (1) per
2 34 designated pupil directly to the applicable accredited
2 35 nonpublic school and retain the remaining ten percent as the



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3 1 pupil's district of residence.
3 2 b. (1) Commencing in the school budget year beginning
3 3 July 1, 2023, and succeeding budget years, if the average
3 4 enrollment at an accredited nonpublic school equals seventeen
3 5 percent of the combined enrollment of the local public school
3 6 district and the accredited nonpublic school, the department of
3 7 management shall assign each designated pupil a school tuition
3 8 credit in an amount equal to forty=five percent of the regular
3 9 program foundation base per pupil, as defined in section 257.1,
3 10 subsection 2, paragraph "b".
3 11 (2) The department of education, in consultation with the
3 12 department of management, shall reduce the September payment
3 13 to a local public school district otherwise payable pursuant
3 14 to section 257.16 for the following school budget year by
3 15 fifty=five percent of the amount determined in subparagraph
3 16 (1) per designated pupil. The funds not dispersed to school
3 17 districts due to the school tuition credit reduction shall
3 18 be transferred to the general fund by the department of
3 19 management.
3 20 (3) A public school district shall transfer thirty percent
3 21 of the amount determined in subparagraph (1) per designated
3 22 pupil directly to the applicable accredited nonpublic school
3 23 and retain the remaining fifteen percent as the pupil's
3 24 district of residence.
3 25 c. The school tuition credit may also include any moneys
3 26 received for the pupil as a result of the non=English=speaking
3 27 weighting pursuant to section 280.4, subsection 3, for the
3 28 previous school year multiplied by the state cost per pupil for
3 29 the previous school year, and if the pupil is also an eligible
3 30 pupil under section 261E.6, the tuition reimbursement amount
3 31 as provided in section 261E.7.
3 32 d. Amounts payable as a school tuition credit may be paid
3 33 in a lump sum or in installments to the accredited nonpublic
3 34 school as determined by the department of education.
3 35 4. A pupil enrolled in an accredited nonpublic school who



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4 1 is receiving a school tuition credit shall be considered, for
4 2 state school foundation aid purposes, to be attending school
4 3 in the pupil's district of residence. A parent or guardian
4 4 may apply on an annual basis for a school tuition credit for
4 5 each year that the pupil is enrolled in an accredited nonpublic
4 6 school.

4 7 5. In the event that a pupil requires special education
4 8 pursuant to chapter 256B, a school tuition credit may be
4 9 utilized only in the event that the pupil is enrolled in an
4 10 accredited nonpublic school that maintains a special education
4 11 instructional program that is equipped to meet the pupil's
4 12 educational needs.

4 13 Sec. 4. APPLICABILITY. This Act applies to school budget
4 14 years beginning on or after July 1, 2011.

4 15 EXPLANATION

4 16 This bill provides a school tuition credit for pupils
4 17 attending accredited nonpublic schools.

4 18 Pupils starting kindergarten in the school budget year
4 19 commencing July 1, 2011, may receive a school tuition credit
4 20 for attending an accredited nonpublic school. Each school
4 21 budget year thereafter, another grade is made eligible for
4 22 the school tuition credit, so that in the school budget year
4 23 commencing July 1, 2023, kindergarten through grades 12 are
4 24 included.

4 25 The bill requires that a parent or guardian submit an
4 26 application to the department of education (DE) by January
4 27 of the preceding school year indicating that the parent
4 28 or guardian intends to enroll the pupil in an accredited
4 29 nonpublic school. By March 1, DE shall notify the department
4 30 of management (DOM) of the number of pupils to receive school
4 31 tuition credits.

4 32 DOM shall assign each designated pupil a credit equal to 35
4 33 percent of the regular program foundation base per pupil. DE
4 34 in consultation with DOM shall reduce the September payment to
4 35 a local school district for the following school budget year by



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5 1 65 percent of that amount per designated pupil. The funds not
5 2 dispersed to school districts due to the school tuition credit
5 3 shall be transferred to the general fund by DOM. A local
5 4 school district of residence shall then transfer 25 percent
5 5 of the credit per designated pupil directly to the applicable
5 6 accredited nonpublic school district and retain the remaining
5 7 10 percent as the pupil's district of residence.

5 8 Beginning in the school budget year commencing July 1,
5 9 2023, and for succeeding budget years, if an accredited
5 10 nonpublic school's average enrollment equals 17 percent of
5 11 the combined enrollment of the local public school district
5 12 and the accredited nonpublic school, then DOM shall assign
5 13 each designated pupil a credit equal to 45 percent of the
5 14 regular program foundation base per pupil. DE in consultation
5 15 with DOM shall reduce the September payment to a local school
5 16 district for the following school budget year by 55 percent of
5 17 that amount per designated pupil. The local school district
5 18 of residence shall transfer 30 percent of the credit per
5 19 designated pupil directly to the accredited nonpublic school
5 20 and retain 15 percent as the pupil's district of residence.

5 21 The credit may include additional moneys received for
5 22 the pupil for non-English-speaking programs or for tuition
5 23 reimbursement under the postsecondary enrollment options
5 24 program.

5 25 DE shall determine whether the credit amounts are to be paid
5 26 in a lump sum or in installments to the accredited nonpublic
5 27 schools.

5 28 A student attending an accredited nonpublic school shall
5 29 be counted as attending school in the pupil's district of
5 30 residence for state school foundation purposes. A parent or
5 31 guardian may reapply for the credit each year that the credit
5 32 is available and that the pupil is enrolled in an accredited
5 33 nonpublic school.

5 34 The bill provides that if a pupil requires special education
5 35 pursuant to Code chapter 256B, a school tuition credit may



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Senate File 2124 - Introduced continued

6 1 be used only in the event that the pupil is enrolled in an
6 2 accredited nonpublic school which maintains a special education
6 3 instructional program that is appropriate to meet the pupil's
6 4 educational needs.
6 5 The state board of education is directed to adopt rules
6 6 relating to the applications for the school tuition credit.
6 7 Code section 257.6 is amended to reflect that pupils receiving
6 8 a credit are counted as part of a local public school
6 9 district's actual enrollment.
6 10 The bill applies to school budget years beginning on or after
6 11 July 1, 2011.
LSB 5324XS (4) 83
ak/sc



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Senate File 2125 - Introduced

SENATE FILE

BY SODDERS, HECKROTH,
OLIVE, and COURTNEY

A BILL FOR

1 An Act requiring provision of deliverable fuels to customers
2 under specified circumstances, and including effective date
3 provisions.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 5862XS (3) 83
rn/nh



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Senate File 2125 - Introduced continued

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1 1 Section 1. NEW SECTION. 216A.105 Deliverable fuels ==
1 2 mandatory delivery == qualifications.
1 3 1. A deliverable fuel vendor engaged in the business of
1 4 providing deliverable fuel to customers in this state shall
1 5 not withhold the sale or delivery of deliverable fuel to a
1 6 customer between November 1 and April 1 annually if either of
1 7 the following apply:
1 8 a. The customer documents that they are able to make a cash
1 9 payment for deliverable fuel of five hundred dollars.
1 10 b. The customer is eligible for the federal low-income home
1 11 energy assistance program.
1 12 2. A deliverable fuel vendor providing deliverable fuel to a
1 13 customer described in subsection 1, paragraph "a", may apply the
1 14 customer's cash payment as follows:
1 15 a. Seventy-five percent toward the current deliverable fuel
1 16 sale or delivery.
1 17 b. Twenty-five percent toward any unpaid balance.
1 18 3. The division shall adopt rules governing contracts and
1 19 agreements with deliverable fuel vendors pursuant to this
1 20 section in order to protect the rights of persons who heat
1 21 their homes with deliverable fuels.
1 22 4. For the purposes of this section, unless the context
1 23 otherwise requires:
1 24 a. "Deliverable fuel" means propane or any other heating
1 25 fuel sold or delivered in this state for home heating purposes.
1 26 b. "Deliverable fuel vendor" means a retail propane
1 27 dispenser, retail propane marketer, or a retail dispenser or
1 28 marketer of a deliverable fuel other than propane.
1 29 c. "Propane", "retail propane dispenser", and "retail propane
1 30 marketer" mean the same as defined in section 101C.2.
1 31 Sec. 2. EFFECTIVE UPON ENACTMENT. This Act, being deemed of
1 32 immediate importance, takes effect upon enactment.
1 33 EXPLANATION
1 34 This bill prohibits a deliverable fuel vendor from
1 35 withholding the sale or delivery of deliverable fuel to



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Senate File 2125 - Introduced continued

2 1 a customer between November 1 and April 1 annually if the
2 2 customer meets one of two alternative criteria.
2 3 One criteria qualifies customers for delivery if they are
2 4 eligible for the federal low-income home energy assistance
2 5 program.
2 6 The second criteria qualifies customers who can document
2 7 that they are able to make a cash payment for deliverable fuel
2 8 of \$500. The bill provides that in the event an unpaid balance
2 9 by the customer exists, 75 percent of this cash payment may be
2 10 allocated by the deliverable fuel vendor toward the current
2 11 deliverable fuel sale or delivery, and that 25 percent may be
2 12 allocated toward the unpaid balance.
2 13 The bill directs the division of community action agencies
2 14 of the department of human rights to adopt rules governing
2 15 contracts and agreements with deliverable fuel vendors in
2 16 order to protect the rights of persons who heat their homes
2 17 with deliverable fuels. Definitions of "deliverable fuel",
2 18 "deliverable fuel vendor", and "propane" are supplied.
2 19 The bill takes effect upon enactment.

LSB 5862XS (3) 83

rn/nh



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Senate File 2126 - Introduced

SENATE FILE
BY JOHNSON

A BILL FOR

1 An Act relating to the use of federal health care reform
2 funding for abortions, and including effective date
3 provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 5851XS (3) 83
pf/nh



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Senate File 2126 - Introduced continued

PAG LIN

1 1 Section 1. FEDERAL HEALTH CARE REFORM MEASURES ==
1 2 PROHIBITION OF FUNDING FOR ABORTIONS.
1 3 1. The use of funds appropriated under or appropriated
1 4 to any trust fund pursuant to the federal Affordable Health
1 5 Care for Americans Act, the federal Patient Protection and
1 6 Affordable Care Act, or any successor legislation, shall be
1 7 restricted in this state as follows:
1 8 a. Such funds shall not be expended for any abortion in this
1 9 state.
1 10 b. Such funds shall not be expended for health insurance
1 11 coverage, health benefits, or health services that include
1 12 coverage for abortion, provided through a contract or other
1 13 arrangement with a carrier as defined in section 513B.2.
1 14 2. The restrictions of this section shall not apply to the
1 15 use of such funds for an abortion if the woman suffers from
1 16 a physical disorder, physical injury, or physical illness,
1 17 including a life-endangering physical condition caused by or
1 18 arising from the pregnancy itself, that would, as certified
1 19 by a physician, place the woman in danger of death unless an
1 20 abortion is performed.
1 21 Sec. 2. EFFECTIVE UPON ENACTMENT. This Act, being deemed of
1 22 immediate importance, takes effect upon enactment.
1 23 EXPLANATION
1 24 This bill restricts the use of funds appropriated under
1 25 or appropriated to any trust fund pursuant to federal health
1 26 care reform legislation for use in this state, by prohibiting
1 27 expenditure of such funds for an abortion in the state and for
1 28 health insurance coverage, health benefits, or health services
1 29 that include coverage for abortion, provided by a carrier. The
1 30 restrictions do not apply, however, if the woman suffers from
1 31 a physical disorder, physical injury, or physical illness,
1 32 including a life-endangering physical condition caused by or
1 33 arising from the pregnancy itself, that would, as certified
1 34 by a physician, place the woman in danger of death unless an
1 35 abortion is performed.



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Senate File 2126 - Introduced continued

2 1 The bill takes effect upon enactment.
LSB 5851XS (3) 83
pf/nh



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Senate File 2127 - Introduced

SENATE FILE
BY JOHNSON

A BILL FOR

1 An Act exempting the sale of all horses from the sales and use
2 taxes.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 5894SS (1) 83
ak/sc



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Senate File 2127 - Introduced continued

PAG LIN

1 1 Section 1. Section 423.3, subsection 14, Code Supplement
1 2 2009, is amended to read as follows:
1 3 14. The sales price from the sales of horses, ~~commonly known~~
~~1 4 as draft horses, when purchased for use and so used as draft~~
~~1 5 horses.~~

1 6 EXPLANATION
1 7 Presently, a sales and use tax exemption is available for the
1 8 sale of draft horses only. This bill exempts the sales of all
1 9 horses.

LSB 5894SS (1) 83
ak/sc



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Senate Joint Resolution 2003 - Introduced

SENATE JOINT RESOLUTION
BY DOTZLER and COURTNEY

SENATE JOINT RESOLUTION

1 A Joint Resolution to nullify administrative rules of the
2 board of nursing concerning advanced registered nurse
3 practitioners and providing an effective date.
4 BE IT RESOLVED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 5078XS (2) 83
jr/nh



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Senate Joint Resolution 2003 - Introduced continued

PAG LIN

1 1 Section 1. 655 Iowa administrative code, rule 7.2, subrule
1 2 2, is nullified.

1 3 Sec. 2. EFFECTIVE DATE. This joint resolution, being deemed
1 4 of immediate importance, takes effect upon enactment.

1 5 EXPLANATION

1 6 This joint resolution nullifies an administrative rule
1 7 adopted by the board of nursing that allows an advanced
1 8 registered nurse practitioner to provide direct supervision in
1 9 the use of fluoroscopic equipment. The joint resolution takes
1 10 effect upon enactment.

LSB 5078XS (2) 83

jr/nh



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Senate Study Bill 3167

SENATE FILE
BY (PROPOSED COMMITTEE ON
COMMERCE BILL BY
CHAIRPERSON WARNSTADT)

A BILL FOR

1 An Act modifying disciplinary provisions applicable to real
2 estate brokers and salespersons.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 5960XC (3) 83
rn/nh



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Senate Study Bill 3167 continued

PAG LIN

1 1 Section 1. Section 543B.15, subsection 5, Code 2009, is
1 2 amended to read as follows:
1 3 5. A person who makes a false statement of material fact
1 4 on an application for a real estate broker's or salesperson's
1 5 license, or who causes to be submitted, or has been a party to
1 6 preparing or submitting any false application for such license,
1 7 may be denied a license by the commission on the grounds of the
1 8 false statement or submission. ~~A licensee found to have made~~
~~1 9 such a statement or who caused to be submitted, or was a party~~
~~1 10 to preparing or submitting any false application for a real~~
~~1 11 estate broker's or salesperson's license, may have the license~~
~~1 12 suspended or revoked by the commission on the grounds of the~~
~~1 13 false statement or submission.~~
1 14 Sec. 2. Section 543B.15, subsection 6, Code 2009, is amended
1 15 by striking the subsection.
1 16 Sec. 3. Section 543B.15, subsection 7, Code 2009, is amended
1 17 to read as follows:
1 18 7. The commission, when considering the denial ~~or~~
~~1 19 revocation~~ of a license pursuant to this section, shall
1 20 consider the nature of the offense; any aggravating or
1 21 extenuating circumstances which are documented; the time
1 22 lapsed since the revocation, conduct, or conviction; the
1 23 rehabilitation, treatment, or restitution performed by the
1 24 applicant ~~or licensee~~; and any other factors the commission
1 25 deems relevant. Character references may be required but
1 26 shall not be obtained from licensed real estate brokers or
1 27 salespersons.
1 28 Sec. 4. Section 543B.29, subsection 1, Code 2009, is amended
1 29 by adding the following new paragraph:
1 30 NEW PARAGRAPH. Ob. Having made a false statement of
1 31 material fact on an application for a real estate broker's
1 32 or salesperson's license, or having caused to be submitted,
1 33 or having been a party to preparing or submitting any false
1 34 application for such license.
1 35 Sec. 5. Section 543B.29, subsection 1, paragraph e, Code



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Senate Study Bill 3167 continued

2 1 2009, is amended to read as follows:

2 2 e. Conviction of an offense included in section 543B.15,
2 3 subsection 3. For purposes of this section, "conviction" means
2 4 a conviction for an indictable offense and includes the court's
2 5 acceptance of a guilty plea, a deferred judgment from the time
2 6 of entry of the deferred judgment until the time the defendant
2 7 is discharged by the court without entry of judgment, or other
2 8 finding of guilt by a court of competent jurisdiction. A copy
2 9 of the record of conviction, guilty plea, deferred judgment, or
2 10 other finding of guilt is conclusive evidence.

2 11 (1) A licensed real estate broker or salesperson shall
2 12 notify the commission of the licensee's conviction of an
2 13 offense included in section 543B.15, subsection 3, paragraph
2 14 "a", within ten days of the conviction. Notification of a
2 15 conviction for an offense which is classified as a felony shall
2 16 result in the immediate suspension of a license pending the
2 17 outcome of a hearing conducted pursuant to section 543B.35 to
2 18 determine the nature of the disciplinary action, if any, the
2 19 commission will impose on the licensee. The hearing shall be
2 20 conducted within thirty days of the licensee's notification to
2 21 the commission, and the commission's decision shall be provided
2 22 to the licensee no later than thirty days following the
2 23 hearing. The failure of the licensee to notify the commission
2 24 of the conviction within ten days of the date of the conviction
2 25 is sufficient grounds for revocation of the license.

2 26 (2) The commission, when considering the revocation or
2 27 suspension of a license pursuant to paragraph "e", shall
2 28 consider the nature of the offense; any aggravating or
2 29 extenuating circumstances which are documented; the time lapsed
2 30 since the conduct or conviction; the rehabilitation, treatment,
2 31 or restitution performed by the licensee; and any other factors
2 32 the commission deems relevant. Character references may be
2 33 required but shall not be obtained from licensed real estate
2 34 brokers or salespersons.



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Senate Study Bill 3167 continued

3 1 EXPLANATION
3 2 This bill modifies disciplinary provisions applicable
3 3 to real estate brokers and salespersons licensed under
3 4 Code chapter 543B, making adjustments intended to clarify
3 5 the distinction between provisions relating to suspension
3 6 or revocation in the Code chapter, and those relating to
3 7 qualification for initial licensure.
3 8 The bill removes a provision from Code section 543B.15,
3 9 which relates to qualifications for issuance of a license,
3 10 subjecting a licensee to possible suspension or revocation
3 11 if the licensee is found to have made a false statement of
3 12 material fact on an application, or caused to be submitted or
3 13 was a party to preparing or submitting any false application.
3 14 The provision is reinserted within Code section 543B.29,
3 15 subsection 1, dealing with revocation or suspension of a
3 16 license.
3 17 The bill also removes a provision requiring a licensee
3 18 to notify the real estate commission of the conviction of
3 19 specified offenses from Code section 543B.15, and reinserts
3 20 it as a new subparagraph in Code section 543B.29, subsection
3 21 1, paragraph "e", which deals with license revocation or
3 22 suspension upon conviction of specified offenses. Provisions
3 23 imposing time frames for the conducting of a hearing after
3 24 the notification, and providing notice of the outcome of the
3 25 hearing to the licensee, are added.
3 26 The bill also reproduces within Code section 543B.29,
3 27 subsection 1, paragraph "e", another qualification-related
3 28 provision currently contained in Code section 543B.15, relating
3 29 to factors to be considered by the commission in considering
3 30 suspension or revocation of a license. The current provision
3 31 in Code section 543B.15 is modified such that it deals strictly
3 32 with factors to be considered by the commission in considering
3 33 whether to deny a license.
3 34 The bill additionally clarifies that when a license may
3 35 be revoked or suspended based upon conviction of an offense,



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Senate Study Bill 3167 continued

- 4 1 the current qualification of a guilty plea as a "conviction"
 - 4 2 actually refers to acceptance of such a plea by the court.
- LSB 5960XC (3) 83
rn/nh



Iowa General Assembly
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Senate Study Bill 3168

SENATE/HOUSE FILE
BY (PROPOSED UNDERGROUND
STORAGE TANK FUND
BOARD BILL)

A BILL FOR

1 An Act relating to the Iowa comprehensive petroleum underground
2 storage tank fund.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 5440DP (4) 83
tm/nh



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Senate Study Bill 3168 continued

PAG LIN

1 1 Section 1. Section 455G.9, subsection 7, Code 2009, is
 1 2 amended to read as follows:
 1 3 7. Expenses of cleanup not required. When an owner or
 1 4 operator who is eligible for benefits under this chapter is
 1 5 allowed by the department of natural resources to monitor in
 1 6 place, the expenses incurred for cleanup beyond the level
 1 7 required by the department of natural resources ~~are not~~ may
 1 8 be covered under any of the accounts established under the fund
 1 9 only if approved by the board as cost-effective relative to the
 1 10 department accepted monitoring plan. ~~The~~ Any cleanup expenses
 1 11 incurred for work completed beyond what is ~~required~~ approved
 1 12 pursuant to this subsection is the responsibility of the person
 1 13 contracting for the excess cleanup.
 1 14 Sec. 2. REPEAL. 1989 Iowa Acts, chapter 131, section 63,
 1 15 as amended by 2009 Iowa Acts, chapter 184, section 39, is
 1 16 repealed.

EXPLANATION

1 17 This bill relates to the Iowa comprehensive petroleum
 1 18 underground storage tank fund.
 1 19 Currently, for eligible owners and operators of petroleum
 1 20 underground storage tanks who are allowed to monitor in place,
 1 21 expenses incurred for cleanup beyond the level required by
 1 22 the department of natural resources are not covered under
 1 23 any of the accounts established under the Iowa comprehensive
 1 24 petroleum underground storage tank fund. The bill allows
 1 25 such owners and operators to receive moneys from the accounts
 1 26 if the Iowa comprehensive petroleum underground storage tank
 1 27 fund board determines the expenses are cost-effective relative
 1 28 to the monitoring plan accepted by the department of natural
 1 29 resources.
 1 30 Currently, Code sections 455G.6 and 455G.7, relating to
 1 31 the powers and duties of the Iowa comprehensive petroleum
 1 32 underground storage tank fund board and the establishment by
 1 33 the Iowa finance authority of certain capital reserve funds to
 1 34 secure bonds issued for the fund, are repealed with certain
 1 35



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Senate Study Bill 3168 continued

2 1 exceptions, effective July 1, 2010. The bill eliminates the
2 2 future repeal.

LSB 5440DP (4) 83

tm/nh



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Senate Study Bill 3169

SENATE FILE
BY (PROPOSED COMMITTEE ON
REBUILD IOWA BILL BY
CHAIRPERSON HOGG)

A BILL FOR

1 An Act relating to royalty fees and credits for removal of sand
2 and gravel from state-owned lands and waters.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 5696SC (1) 83
av/sc



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Senate Study Bill 3169 continued

PAG LIN

1 1 Section 1. Section 461A.53, Code 2009, is amended to read
1 2 as follows:
1 3 461A.53 Permits.
1 4 1. The commission may enter into agreements for the removal
1 5 of ice, sand, gravel, stone, wood, or other natural material
1 6 from lands or waters under the jurisdiction of the commission
1 7 if, after investigation, it is determined that such removal
1 8 will not be detrimental to the state's interest.
1 9 2. The commission may specify the terms and consideration
1 10 under which such removal is permitted and issue written permits
1 11 for such removal. However, the minimum annual royalty fee
1 12 for exclusive permit holders payable upon issuance of permits
1 13 for the removal of sand and gravel from state-owned lands
1 14 and waters under the jurisdiction of the commission shall be
1 15 one thousand dollars per year and such permit holders shall
1 16 receive a royalty credit for materials removed not exceeding
1 17 one thousand dollars per year.

1 18 EXPLANATION

1 19 This bill provides that the minimum annual royalty fee for
1 20 exclusive permit holders for removal of sand and gravel from
1 21 state-owned lands and waters shall be \$1,000 per year and such
1 22 permit holders shall receive royalty credits for materials
1 23 removed not exceeding \$1,000 per year.

1 24 Currently, the minimum annual royalty fee, by rule, is
1 25 \$10,000 and the maximum royalty credit per year is \$5,000.

LSB 5696SC (1) 83
av/sc



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Senate Study Bill 3170

SENATE FILE
BY (PROPOSED COMMITTEE ON
REBUILD IOWA BILL BY
CHAIRPERSON HOGG)

A BILL FOR

1 An Act limiting certain financial assistance for development in
2 five hundred year floodplains.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 6181SC (3) 83
tm/sc



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Senate Study Bill 3170 continued

PAG LIN

1 1 Section 1. Section 15E.193, subsection 1, Code Supplement
1 2 2009, is amended by adding the following new paragraph:
1 3 NEW PARAGRAPH. g. Is not located in a five hundred year
1 4 floodplain.

1 5 Sec. 2. Section 15E.193B, subsection 2, Code Supplement
1 6 2009, is amended to read as follows:

1 7 2. An eligible housing business under this section
1 8 includes a housing developer, housing contractor, or nonprofit
1 9 organization that builds or rehabilitates a minimum of four
1 10 single-family homes located in that part of a city or county
1 11 in which there is a designated enterprise zone, provided the
1 12 homes are not located in a five hundred year floodplain or
1 13 one multiple dwelling unit building containing three or more
1 14 individual dwelling units located in that part of a city or
1 15 county in which there is a designated enterprise zone, provided
1 16 the building is not located in a five hundred year floodplain.

1 17 Sec. 3. NEW SECTION. 29C.20B Financial assistance
1 18 limitations == floodplains.

1 19 Notwithstanding any provision to the contrary, financial
1 20 assistance from the state shall not be awarded for any type
1 21 of development taking place in a five hundred year floodplain
1 22 unless the intended recipient demonstrates the development is
1 23 designed to mitigate damage in the event of flooding.

1 24 EXPLANATION

1 25 This bill relates to financial assistance for development
1 26 in 500 year floodplains.

1 27 The bill provides that a business is not an eligible business
1 28 under the enterprise zone program if the business is located
1 29 in a 500 year floodplain. The bill provides that a business
1 30 is not an eligible housing business under the enterprise zone
1 31 program if the business builds or rehabilitates homes or
1 32 multiple dwelling unit buildings in a 500 year floodplain.

1 33 The bill prohibits financial assistance from the state from
1 34 being awarded for any type of development taking place in a
1 35 500 year floodplain unless the intended recipient demonstrates



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Senate Study Bill 3170 continued

2 1 the development is designed to mitigate damage in the event of
2 2 flooding.

LSB 6181SC (3) 83

tm/sc



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Senate Study Bill 3171

SENATE FILE

BY (PROPOSED COMMITTEE ON
APPROPRIATIONS BILL BY
CHAIRPERSON DVORSKY)

A BILL FOR

1 An Act relating to public funding and regulatory matters by
2 making and revising appropriations made for purposes of
3 health and human services and providing effective dates.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 5971XC (9) 83
jp/tm



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Senate Study Bill 3171 continued

PAG LIN

1 1 Section 1. 2008 Iowa Acts, chapter 1188, section 16, as
1 2 amended by 2009 Iowa Acts, chapter 182, section 84, is amended
1 3 to read as follows:

1 4 SEC. 16. MEDICAL ASSISTANCE, HAWK=I, AND HAWK=I EXPANSION
1 5 PROGRAMS == COVERING CHILDREN == APPROPRIATION. There
1 6 is appropriated from the general fund of the state to the
1 7 department of human services for the designated fiscal years,
1 8 the following amounts, or so much thereof as is necessary, for
1 9 the purpose designated:

1 10	To cover children as provided in this Act under the medical	
1 11	assistance, hawk=i, and hawk=i expansion programs and outreach	
1 12	under the current structure of the programs:	
1 13	FY 2008=2009	\$ 4,800,000
1 14	FY 2009=2010	\$ 4,207,001
1 15		<u>10,049,532</u>
1 16	FY 2010=2011	\$ 24,800,000

1 17 The amendment to the amount of the appropriation made in this
1 18 section for FY 2009=2010 incorporates the amount of the uniform
1 19 reduction made pursuant to executive order number 19 issued
1 20 October 8, 2009. Of the funds appropriated for FY 2009=2010,
1 21 \$510,249 is allocated for the supplemental dental services
1 22 under the hawk=i program.

1 23 Sec. 2. 2009 Iowa Acts, chapter 182, is amended by adding
1 24 the following new section:

1 25 new section. SEC. 5A. EMERGENCY CONTINGENCY FUND FOR
1 26 TEMPORARY ASSISTANCE FOR NEEDY FAMILIES.

1 27 1. There is appropriated from the federal recovery and
1 28 reinvestment fund created in section 8.41A to the department
1 29 of human services for the fiscal year beginning July 1, 2009,
1 30 and ending June 30, 2010, an amount sufficient to fully fund
1 31 the family investment program under chapter 239B for the fiscal
1 32 year.

1 33 2. The appropriation made in this section is from federal
1 34 funding available from the emergency contingency fund
1 35 for temporary assistance for needy families state program



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Senate Study Bill 3171 continued

2 1 established pursuant to the federal American Recovery and
2 2 Reinvestment Act of 2009, Pub. L. No. 111-5, { 2101. The
2 3 funding shall be expended only after the funding appropriated
2 4 for the family investment program in sections 5, 6, and 7
2 5 of this Act have been exhausted. The appropriation shall be
2 6 expended in accordance with the federal law making the funding
2 7 available and chapter 239B, notwithstanding section 8.41, 2009
2 8 Iowa Acts, chapter 183, section 58, or any other provision to
2 9 the contrary.

2 10 3. The department shall report quarterly to the legislative
2 11 services agency and the department of management concerning the
2 12 expenditure of the funding appropriated in this section during
2 13 the previous quarter.

2 14 Sec. 3. 2009 Iowa Acts, chapter 182, section 9, unnumbered
2 15 paragraph 2, as amended by 2009 Iowa Acts, chapter 179, section
2 16 84, is amended to read as follows:

2 17 For medical assistance reimbursement and associated costs
2 18 as specifically provided in the reimbursement methodologies
2 19 in effect on June 30, 2009, except as otherwise expressly
2 20 authorized by law, including reimbursement for abortion
2 21 services which shall be available under the medical assistance
2 22 program only for those abortions which are medically necessary:
2 23 \$681,949,840
2 24 590,459,096

2 25 The amendment to the amount of the appropriation made in this
2 26 section incorporates the amounts of the uniform reduction made
2 27 pursuant to executive order number 19 issued October 8, 2009,
2 28 and the transfers made to and from this appropriation pursuant
2 29 to the authority in section 8.39 and addressed in the notice of
2 30 appropriation transfer from the department of management dated
2 31 December 11, 2009.

2 32 Sec. 4. 2009 Iowa Acts, chapter 182, section 9, subsection
2 33 11, is amended to read as follows:

2 34 11. Of the funds appropriated to the medical assistance
2 35 program in this section 2009 Iowa Acts, chapter 183, section



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Senate Study Bill 3171 continued

3 1 61, subsection 8, paragraph "a", the following amounts shall be
 3 2 transferred to appropriations made in this division of this Act
 3 3 to the state mental health institutes:

3 4	a. Cherokee mental health institute	\$ 9,098,425
3 5	b. Clarinda mental health institute	\$ 1,977,305
3 6	c. Independence mental health institute	\$ 9,045,894
3 7	d. Mount Pleasant mental health institute	\$ 5,752,587

3 8 Sec. 5. 2009 Iowa Acts, chapter 182, section 9, is amended
 3 9 by adding the following new subsection:
 3 10 new subsection. 23. Of the funds appropriated in this
 3 11 section, \$6,000,000 is allocated for rebasing of nursing
 3 12 facility reimbursement and \$237,173 for interpreter services
 3 13 associated with 2009 Iowa Acts, chapter 118, section 29.
 3 14 Sec. 6. 2009 Iowa Acts, chapter 182, section 16, subsection
 3 15 1, unnumbered paragraph 2, is amended to read as follows:
 3 16 For child and family services:
 3 17 \$ ~~90,591,451~~
 3 18 84,023,306
 3 19 The amendment to the amount of the appropriation made in
 3 20 this section incorporates the amounts of the uniform reduction
 3 21 made pursuant to executive order number 19 issued October 8,
 3 22 2009, and the transfer made to this appropriation pursuant to
 3 23 the authority in section 8.39 and addressed in the notice of
 3 24 appropriation transfer from the department of management dated
 3 25 December 11, 2009.
 3 26 Sec. 7. 2009 Iowa Acts, chapter 182, section 16, subsection
 3 27 7, is amended to read as follows:
 3 28 7. Notwithstanding section 234.35 or any other provision of
 3 29 law to the contrary, state funding for shelter care shall be
 3 30 limited to ~~\$7,686,460~~ \$8,186,460. The department may continue
 3 31 or amend shelter care provider contracts to include the child
 3 32 welfare emergency services for children who might otherwise be
 3 33 served in shelter care that were implemented pursuant to 2008
 3 34 Iowa Acts, chapter 1187, section 16, subsection 7.
 3 35 Sec. 8. 2009 Iowa Acts, chapter 182, section 24, subsection



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Senate Study Bill 3171 continued

4 1 1, unnumbered paragraph 2, is amended to read as follows:

4 2 For distribution to counties for state case services
4 3 for persons with mental illness, mental retardation, and
4 4 developmental disabilities in accordance with section 331.440:
4 5 \$ ~~11,446,288~~
4 6 10,008,418

4 7 The amendment to the amount of the appropriation made in this
4 8 section incorporates the amount of the uniform reduction made
4 9 pursuant to executive order number 19 issued October 8, 2009.

4 10 Sec. 9. 2009 Iowa Acts, chapter 182, section 27, unnumbered
4 11 paragraph 2, is amended to read as follows:

4 12 For field operations, including salaries, support,
4 13 maintenance, and miscellaneous purposes, and for not more than
4 14 the following full-time equivalent positions:

4 15 \$ ~~63,032,831~~
4 16 57,410,144
4 17 FTEs 2,000.13

4 18 The amendment to the amount of the appropriation made in
4 19 this section incorporates the amounts of the uniform reduction
4 20 made pursuant to executive order number 19 issued October 8,
4 21 2009, and the transfer made from this appropriation pursuant to
4 22 the authority in section 8.39 and addressed in the notice of
4 23 appropriation transfer from the department of management dated
4 24 December 23, 2009.

4 25 Sec. 10. 2009 Iowa Acts, chapter 182, section 48, is amended
4 26 by adding the following new subsection:

4 27 NEW SUBSECTION. 4. There is appropriated from the IowaCare
4 28 account created in section 249J.24 to the department of human
4 29 services for the fiscal year beginning July 1, 2009, and ending
4 30 June 30, 2010, the following amount, or so much thereof as is
4 31 necessary, to be used for the purposes designated:

4 32 For distribution to a publicly owned acute care teaching
4 33 hospital located in a county with a population over 350,000:
4 34 \$ 2,500,000

4 35 Sec. 11. 2009 Iowa Acts, chapter 183, section 61, subsection



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Senate Study Bill 3171 continued

5 1 8, is amended to read as follows:

5 2 8. From funding designated for government stabilization,
5 3 for the department of human services:

5 4 a. For the medical assistance program:

5 5 \$ ~~6,237,173~~
5 6 25,874,211

~~5 7 Of the funds appropriated in this lettered paragraph,
5 8 \$6,000,000 is allocated for rebasing of nursing facility
5 9 reimbursement and \$237,173 for interpreter services associated
5 10 with 2009 Iowa Acts, Senate File 389, if enacted.~~

5 11 b. For coverage of children under the medical assistance
5 12 and hawk=i programs and for additional coverage provisions for
5 13 children under 2009 Iowa Acts, Senate File 389, if enacted:

5 14 \$ ~~6,263,231~~
5 15 0

~~5 16 Of the funds appropriated in this lettered paragraph,
5 17 \$510,249 is allocated for supplemental dental services under
5 18 the hawk=i program.~~

5 19 c. For transfer to the department of public health to be
5 20 used for 0.25 full-time equivalent position and other costs
5 21 associated with the volunteer health care provider program:

5 22 \$ 20,000

5 23 d. For the property tax relief fund in lieu of an equal
5 24 amount of the appropriation made from the general fund of the
5 25 state in section 426B.1, subsection 2:

5 26 \$ ~~10,480,000~~
5 27 0

5 28 Notwithstanding section 426B.1, subsection 2, for the fiscal
5 29 year beginning July 1, 2009, the amount of the appropriation
5 30 made from the general fund of the state in section 426B.1,
5 31 subsection 2, shall be reduced by ~~\$2,964,543~~ \$3,328,089 and the
5 32 appropriation made from the property tax relief fund and for
5 33 the fiscal year to supplement the medical assistance program
5 34 in section 426B.1, subsection 3, shall be reduced by the same
5 35 amount.



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6 1 e. For the risk pool created in the property tax relief fund
 6 2 in accordance with section 426B.5:

6 3 \$ 10,000,000

6 4 f. For a demonstration project providing health care
 6 5 coverage premium assistance for direct care workers to
 6 6 implement recommendations developed pursuant to 2008 Iowa Acts,
 6 7 chapter 1188, section 72:

6 8 \$ 400,000

6 9 g. For the department's field operations, if 2009 Iowa Acts,
 6 10 ~~Senate File 389, chapter 118,~~ is enacted:

6 11 \$ 680,596

6 12 0

6 13 The funds appropriated in this lettered paragraph shall be
 6 14 used for 17.00 additional full-time equivalent positions for
 6 15 implementation costs associated with 2009 Iowa Acts, ~~Senate~~
 6 16 ~~File 389, if enacted chapter 118.~~

6 17 h. For child and family services:

6 18 \$ 2,500,000

6 19 0

6 20 ~~Of the amount appropriated in this lettered paragraph,~~
 6 21 ~~\$500,000 shall be used for additional funding of shelter care.~~

6 22 i. For distribution to counties for state case services
 6 23 for persons with mental illness, mental retardation, and
 6 24 developmental disabilities in accordance with section 331.440,
 6 25 to supplement the amount appropriated in 2009 Iowa Acts,
 6 26 chapter 182, section 24:

6 27 \$ 286,789

6 28 Sec. 12. RISK POOL == STATE CASE SERVICES. Moneys in the
 6 29 risk pool created in section 426B.5 that remain unencumbered
 6 30 or unobligated on the effective date of this division of this
 6 31 Act shall be transferred to the appropriation made in 2009 Iowa
 6 32 Acts, chapter 182, section 24, to be used by the department
 6 33 of human services for distribution to counties for state case
 6 34 services for persons with mental illness, mental retardation,
 6 35 and developmental disabilities for the fiscal year beginning



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7 1 July 1, 2009, and ending June 30, 2010.

7 2 Sec. 13. EFFECTIVE UPON ENACTMENT. This Act, being deemed
7 3 of immediate importance, takes effect upon enactment.

7 4 EXPLANATION

7 5 This bill relates to public funding and regulatory matters
7 6 and makes and revises appropriations made for health and
7 7 human services for the fiscal year beginning July 1, 2009, by
7 8 switching the funding sources for various appropriations, as
7 9 adjusted for the governor's uniform reduction in appropriations
7 10 made in executive order number 19.

7 11 The FY 2009=2010 appropriation in a multiyear appropriation
7 12 from the general fund made in 2008 Iowa Acts, chapter 1188,
7 13 for health coverage for children under the medical assistance
7 14 (Medicaid), hawk=i, and hawk=i expansion programs is increased.
7 15 The bill states that the changed amount incorporates the
7 16 uniform reduction made by the governor in executive order
7 17 number 19 and includes an allocation for supplemental dental
7 18 services under the hawk=i program.

7 19 A new Iowa Acts section of 2009 Iowa Acts, chapter 182,
7 20 providing appropriation for health and human services,
7 21 appropriates certain emergency contingent federal funding to
7 22 the department of human services for the family investment
7 23 program for FY 2009=2010. The source of the federal funding is
7 24 from the emergency contingency fund for temporary assistance
7 25 for needy families state program established pursuant to the
7 26 federal American Recovery and Reinvestment Act (ARRA) of 2009,
7 27 Pub. L. No. 111=5, { 2101. The appropriation is only to be
7 28 expended in the event that other state and federal funding
7 29 appropriated in the Act being amended for purposes of the
7 30 family investment program has been exhausted and is limited to
7 31 the amount necessary to fully fund the program for the fiscal
7 32 year.

7 33 The appropriation from the general fund for the Medicaid
7 34 program is reduced. The bill states that the changed amount
7 35 incorporates the uniform reduction made by the governor in



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8 1 executive order number 19 and transfers made to and from this
8 2 appropriation. The language providing for transfer of Medicaid
8 3 funding to the state mental health institutes is amended to
8 4 clarify that the appropriation made from the ARRA funding for
8 5 the Medicaid program, as increased by the bill, is the funding
8 6 source for the transferred funding.

8 7 The appropriation from the general fund for child and
8 8 family services is reduced. The bill states that the changed
8 9 amount incorporates the uniform reduction made by the governor
8 10 in executive order number 19 and the transfer from this
8 11 appropriation. The allocation made for shelter care services
8 12 is increased to reflect the shift in the allocation of ARRA
8 13 funding.

8 14 The appropriation from the general fund for state case
8 15 services for persons with mental illness, mental retardation,
8 16 and developmental disabilities is reduced. The bill states
8 17 that the changed amount incorporates the uniform reduction made
8 18 by the governor in executive order number 19.

8 19 The appropriation from the general fund for the field
8 20 operations of the department of human services is reduced. The
8 21 bill states that the changed amount incorporates the uniform
8 22 reduction made by the governor in executive order number 19 and
8 23 the transfer from this appropriation.

8 24 The section of 2009 Iowa Acts, chapter 182, making
8 25 appropriations from the IowaCare account, is amended to provide
8 26 an additional appropriation of \$2.5 million for distribution to
8 27 a publicly owned hospital in a county with a population over
8 28 350,000 for treatment of indigent patients and other services.

8 29 Various appropriations in 2009 Iowa Acts, chapter 183,
8 30 section 61, of ARRA funding for the department of human
8 31 services are amended. The appropriation for the Medicaid
8 32 program is increased and the appropriations for coverage of
8 33 children under the Medicaid and hawk=i programs, for the
8 34 property tax relief fund, and for child and family services are
8 35 eliminated. The ARRA appropriations that were eliminated are



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9 1 replaced, as adjusted for the governor's uniform appropriations
9 2 reduction, earlier in the bill with appropriations from the
9 3 general fund of the state.

9 4 An additional appropriation is made from ARRA funds to the
9 5 department of human services and any moneys remaining in the
9 6 risk pool on the division's effective date are transferred to
9 7 be used for state case services.

9 8 The bill takes effect upon enactment.

LSB 5971XC (9) 83

jp/tm



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Senate Study Bill 3172

SENATE FILE
BY (PROPOSED COMMITTEE ON
REBUILD IOWA BILL BY
CHAIRPERSON HOGG)

A BILL FOR

1 An Act providing for the waiver of tax penalties and interest
2 under certain disaster loss circumstances and including
3 effective date and retroactive applicability provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 5339SC (4) 83
tw/sc



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1 1 Section 1. WAIVER OF PENALTIES AND INTEREST ==
1 2 DISASTER=RELATED LOSSES == REFUNDS.
1 3 1. Notwithstanding Code sections 421.8, 421.27, and 422.25,
1 4 if a taxpayer has filed a return for tax year 2008 relying in
1 5 good faith on the expectation that the state of Iowa would
1 6 conform to the federal treatment of disaster=related casualty
1 7 losses under section 165(h) of the Internal Revenue Code, as
1 8 modified by the Heartland Disaster Relief Act of 2008, Pub. L.
1 9 No. 110=343, in computing net income for state tax purposes,
1 10 the director of revenue shall, for any taxpayer amending the
1 11 return in the time permitted by statute, waive any penalty or
1 12 interest due as a result of either a failure to timely pay the
1 13 tax due or the filing of a defective or incorrect return.
1 14 2. If, prior to the effective date of this Act, a taxpayer
1 15 paid penalties or interest as a result of a good=faith reliance
1 16 on the state conforming to section 165(h) of the Internal
1 17 Revenue Code, the department of revenue shall refund such
1 18 penalties and interest to the taxpayer.
1 19 Sec. 2. EFFECTIVE UPON ENACTMENT AND RETROACTIVE
1 20 APPLICABILITY. This Act, being deemed of immediate importance,
1 21 takes effect upon enactment and applies retroactively to
1 22 January 1, 2008, for tax years beginning on or after that date
1 23 and before January 1, 2009.
1 24 EXPLANATION
1 25 This bill relates to the assessment of penalties and
1 26 interest against taxpayers who filed returns expecting the
1 27 state of Iowa to conform with certain federal income tax
1 28 provisions.
1 29 In 2008, the midwest suffered significant property casualty
1 30 losses due to natural disasters. In response, the federal
1 31 government passed the Heartland Disaster Relief Act which
1 32 amended the casualty loss provisions of the Internal Revenue
1 33 Code. In 2009, the state of Iowa did not conform to the federal
1 34 provisions related to the computation of net income. This
1 35 bill allows the director of revenue to waive the assessment



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2 1 of penalties and interest against taxpayers who relied in
2 2 good faith on the state conforming to the federal provisions
2 3 and who timely amend their return. The waiver relates only
2 4 to the casualty loss provisions in section 165(h) of the
2 5 Internal Revenue Code. Any penalty and interest paid are to
2 6 be refunded.
2 7 The bill takes effect upon enactment and applies only to tax
2 8 year 2008.
LSB 5339SC (4) 83
tw/sc



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Senate Study Bill 3173

SENATE/HOUSE FILE
BY (PROPOSED DEPARTMENT
OF TRANSPORTATION
BILL)

A BILL FOR

1 An Act relating to driver's license sanctions, including
2 the issuance of temporary restricted licenses and certain
3 requirements relating to ignition interlock devices, and
4 providing penalties.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 5407DP (11) 83
rh/nh



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1 1 Section 1. Section 321.215, subsection 2, Code 2009, is
1 2 amended to read as follows:
1 3 2. ~~a.~~ Upon conviction and the suspension or revocation
1 4 of a person's noncommercial driver's license under section
1 5 321.209, subsection 5 or 6~~+~~, or section 321.210~~+~~, 321.210A~~+~~, or
1 6 321.513; or upon revocation pursuant to a court order issued
1 7 under section 901.5, subsection 10; or upon the denial of
1 8 issuance of a noncommercial driver's license under section
1 9 321.560, based solely on offenses enumerated in section
1 10 321.555, subsection 1, paragraph "c", or section 321.555,
1 11 subsection 2; or ~~a juvenile, whose license has been suspended~~
~~1 12 or revoked upon suspension or revocation of a juvenile's~~
1 13 driver's license pursuant to a dispositional order under
1 14 section 232.52, subsection 2, paragraph "a", for a violation
1 15 of chapter 124 or 453B, or section 126.3; or upon suspension
1 16 of a driver's license pursuant to a court order under section
1 17 714.7D, a the person may petition the district court having
~~1 18 jurisdiction over the residence of the person apply to the~~
1 19 department for a temporary restricted license to operate a
1 20 motor vehicle for the limited purpose or purposes specified in
1 21 subsection 1. The petition shall include a current certified
~~1 22 copy of the petitioner's official driving record issued by the~~
~~1 23 department.~~ The application may be granted only if all of the
1 24 following criteria are satisfied:
1 25 (1) a. The temporary restricted license is requested only
1 26 for a case of extreme hardship or compelling circumstances
1 27 where alternative means of transportation do not exist.
1 28 (2) ~~The license applicant has not made an application for a~~
~~1 29 temporary restricted license in any district court in the state~~
~~1 30 which was denied.~~
1 31 (3) b. The temporary restricted license is restricted to
1 32 the limited purpose or purposes specified in subsection 1 at
1 33 times specified in the license.
1 34 (4) c. Proof of financial responsibility is established as
1 35 defined in chapter 321A. However, such proof is not required



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2 1 if the driver's license was suspended under section 321.210A
2 2 or 321.513 or revoked pursuant to a court order issued under
2 3 section 901.5, subsection 10.
2 4 ~~b. If the district court determines that a temporary~~
~~2 5 restricted license is necessary, the court shall order~~
~~2 6 the department to issue a temporary restricted license to~~
~~2 7 the applicant. The court shall forward a record of each~~
~~2 8 application for a temporary restricted license to the~~
~~2 9 department, together with the results of the disposition of the~~
~~2 10 request by the court.~~

2 11 Sec. 2. Section 321.560, subsection 1, paragraph b, Code
2 12 2009, is amended to read as follows:

2 13 b. A temporary restricted license may be issued pursuant to
2 14 section ~~321J.4, subsection 9~~ 321J.20, subsection 2, to a person
2 15 declared to be a habitual offender due to a combination of the
2 16 offenses listed under section 321.555, subsection 1, paragraphs
2 17 "b" and "c".

2 18 Sec. 3. Section 321J.2, subsection 2, paragraph a,
2 19 subparagraph (3), subparagraph divisions (a) and (b), Code
2 20 2009, are amended to read as follows:

2 21 (a) A defendant whose alcohol concentration is .08 or
2 22 more but not more than .10 shall not be eligible for any
2 23 temporary restricted license for at least thirty days if a
2 24 test was obtained and an accident resulting in personal injury
2 25 or property damage occurred. The department shall require
~~2 26 the defendant shall be ordered~~ to install an ignition interlock
2 27 device of a type approved by the commissioner of public safety
2 28 on all vehicles owned or operated by the defendant if the
2 29 defendant seeks a temporary restricted license. There shall be
2 30 no such period of ineligibility if no such accident occurred,
2 31 and the defendant shall not be ~~ordered~~ required to install an
2 32 ignition interlock device.

2 33 (b) A defendant whose alcohol concentration is more than .10
2 34 shall not be eligible for any temporary restricted license for
2 35 at least thirty days if a test was obtained, and an accident



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3 1 resulting in personal injury or property damage occurred or the
3 2 defendant's alcohol concentration exceeded .15. There shall be
3 3 no such period of ineligibility if no such accident occurred
3 4 and the defendant's alcohol concentration did not exceed .15.
3 5 In either case, where a defendant's alcohol concentration is
3 6 more than .10, the department shall require the defendant ~~shall~~
~~3 7 be ordered~~ to install an ignition interlock device of a type
3 8 approved by the commissioner of public safety on all vehicles
3 9 owned or operated by the defendant if the defendant seeks a
3 10 temporary restricted license.

3 11 Sec. 4. Section 321J.4, subsections 1 and 2, Code Supplement
3 12 2009, are amended to read as follows:

3 13 1. If a defendant is convicted of a violation of section
3 14 321J.2 and the defendant's driver's license or nonresident
3 15 operating privilege has not been revoked under section 321J.9
3 16 or 321J.12 for the occurrence from which the arrest arose, the
3 17 department shall revoke the defendant's driver's license or
3 18 nonresident operating privilege for one hundred eighty days
3 19 if the defendant submitted to chemical testing and has had
3 20 no previous conviction or revocation under this chapter and
3 21 shall revoke the defendant's driver's license or nonresident
3 22 operating privilege for one year if the defendant refused to
3 23 submit to chemical testing and has had no previous conviction
3 24 or revocation under this chapter. The defendant shall not be

3 25 eligible for any temporary restricted license for at least
3 26 ninety days if a test was refused under section 321J.9. The
3 27 department may presume the defendant refused chemical testing
3 28 absent evidence the defendant submitted to chemical testing.

3 29 a. A defendant whose alcohol concentration is .08 or
3 30 more but not more than .10 shall not be eligible for any
3 31 temporary restricted license for at least thirty days if a
3 32 test was obtained and an accident resulting in personal injury
3 33 or property damage occurred. The department shall require
3 34 the defendant ~~shall be ordered~~ to install an ignition interlock
3 35 device of a type approved by the commissioner of public safety



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4 1 on all vehicles owned or operated by the defendant if the
4 2 defendant seeks a temporary restricted license. There shall be
4 3 no such period of ineligibility if no such accident occurred,
4 4 and the defendant shall not be ~~ordered~~ required to install an
4 5 ignition interlock device.

4 6 b. A defendant whose alcohol concentration is more than .10
4 7 shall not be eligible for any temporary restricted license for
4 8 at least thirty days if a test was obtained and an accident
4 9 resulting in personal injury or property damage occurred or the
4 10 defendant's alcohol concentration exceeded .15. There shall be
4 11 no such period of ineligibility if no such accident occurred
4 12 and the defendant's alcohol concentration did not exceed .15.

4 13 In either case, where a defendant's alcohol concentration is
4 14 more than .10, the department shall require the defendant ~~shall~~
4 15 ~~be ordered~~ to install an ignition interlock device of a type
4 16 approved by the commissioner of public safety on all vehicles
4 17 owned or operated by the defendant if the defendant seeks a
4 18 temporary restricted license.

4 19 c. If the defendant is under the age of twenty-one, the
4 20 defendant shall not be eligible for a temporary restricted
4 21 license for at least sixty days after the effective date of
4 22 revocation.

4 23 2. If a defendant is convicted of a violation of section
4 24 321J.2, and the defendant's driver's license or nonresident
4 25 operating privilege has not already been revoked under section
4 26 321J.9 or 321J.12 for the occurrence from which the arrest
4 27 arose, the department shall revoke the defendant's driver's
4 28 license or nonresident operating privilege for ~~two years~~ one
4 29 year if the defendant submitted to chemical testing and has
4 30 had a previous conviction or revocation under this chapter and
4 31 shall revoke the defendant's driver's license or nonresident
4 32 operating privilege for two years if the defendant refused to
4 33 submit to chemical testing and has had a previous revocation
4 34 under this chapter. The defendant shall not be eligible for
4 35 any temporary restricted license for forty-five days after the



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5 1 effective date of revocation if the defendant submitted to
5 2 chemical testing and shall not be eligible for any temporary
5 3 restricted license for ninety days after the effective date
5 4 of revocation if the defendant refused chemical testing.
5 5 The department may presume the defendant refused chemical
5 6 testing absent evidence the defendant submitted to chemical
5 7 testing. A temporary restricted license issued under this
5 8 section shall be issued in accordance with section 321J.20,
5 9 subsection 2. The department shall require the defendant ~~shall~~
~~5 10 be ordered to install an ignition interlock device of a type~~
5 11 approved by the commissioner of public safety on all vehicles
5 12 owned or operated by the defendant if the defendant seeks a
5 13 temporary restricted license at the end of the minimum period
5 14 of ineligibility. A temporary restricted license shall not
5 15 be granted by the department until the defendant installs the
5 16 ignition interlock device.

5 17 Sec. 5. Section 321J.4, subsection 3, paragraphs a and b,
5 18 Code Supplement 2009, are amended to read as follows:

5 19 a. A defendant whose alcohol concentration is .08 or
5 20 more but not more than .10 shall not be eligible for any
5 21 temporary restricted license for at least thirty days if a
5 22 test was obtained and an accident resulting in personal injury
5 23 or property damage occurred. The department shall require
5 24 the defendant ~~shall be ordered~~ to install an ignition interlock
5 25 device of a type approved by the commissioner of public safety
5 26 on all vehicles owned or operated by the defendant if the
5 27 defendant seeks a temporary restricted license. There shall be
5 28 no such period of ineligibility if no such accident occurred,
5 29 and the defendant shall not be ~~ordered~~ required to install an
5 30 ignition interlock device.

5 31 b. A defendant whose alcohol concentration is more than .10
5 32 shall not be eligible for any temporary restricted license for
5 33 at least thirty days if a test was obtained and an accident
5 34 resulting in personal injury or property damage occurred or the
5 35 defendant's alcohol concentration exceeded .15. There shall be



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6 1 no such period of ineligibility if no such accident occurred
6 2 and the defendant's alcohol concentration did not exceed .15.
6 3 In either case, where a defendant's alcohol concentration is
6 4 more than .10, the department shall require the defendant ~~shall~~
~~6 5 be ordered~~ to install an ignition interlock device of a type
6 6 approved by the commissioner of public safety on all vehicles
6 7 owned or operated by the defendant if the defendant seeks a
6 8 temporary restricted license.
6 9 Sec. 6. Section 321J.4, subsection 4, Code Supplement 2009,
6 10 is amended to read as follows:
6 11 4. Upon a plea or verdict of guilty of a third or subsequent
6 12 violation of section 321J.2, ~~the court shall order~~ the
6 13 department ~~to~~ shall revoke the defendant's driver's license
6 14 or nonresident operating privilege for a period of six years.
6 15 The defendant shall not be eligible for a temporary restricted
6 16 license for at least one year after the effective date of the
6 17 revocation. ~~The court shall require the defendant to surrender~~
~~6 18 to it all Iowa licenses or permits held by the defendant,~~
~~6 19 which the court shall forward to the department with a copy~~
~~6 20 of the order for revocation.~~ The department shall require
6 21 the defendant shall be ordered to install an ignition interlock
6 22 device of a type approved by the commissioner of public safety
6 23 on all vehicles owned or operated by the defendant if the
6 24 defendant seeks a temporary restricted license at the end of
6 25 the minimum period of ineligibility. A temporary restricted
6 26 license shall not be granted by the department until the
6 27 defendant installs the ignition interlock device.
6 28 Sec. 7. Section 321J.4, subsection 9, Code Supplement 2009,
6 29 is amended by striking the subsection.
6 30 Sec. 8. Section 321J.9, subsection 2, Code 2009, is amended
6 31 to read as follows:
6 32 2. a. A person whose driver's license or nonresident
6 33 operating privileges are revoked under subsection 1, ~~paragraph~~
~~6 34 "a",~~ shall not be eligible for a temporary restricted license
6 35 for at least ninety days after the effective date of the



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7 1 revocation. ~~A person whose driver's license or nonresident~~
~~7 2 operating privileges are revoked under subsection 1, paragraph~~
~~7 3 "b", shall not be eligible for a temporary restricted~~
~~7 4 license for at least one year after the effective date of the~~
~~7 5 revocation.~~

7 6 b. The department shall require the defendant ~~shall be~~
~~7 7 ordered~~ to install an ignition interlock device of a type
7 8 approved by the commissioner of public safety on all vehicles
7 9 owned or operated by the defendant if the defendant seeks a
7 10 temporary restricted license at the end of the minimum period
7 11 of ineligibility. A temporary restricted license shall not
7 12 be granted by the department until the defendant installs the
7 13 ignition interlock device.

7 14 Sec. 9. Section 321J.12, subsection 2, Code 2009, is amended
7 15 to read as follows:

7 16 2. a. A person whose driver's license or nonresident
7 17 operating privileges have been revoked under subsection 1,
7 18 paragraph "a", whose alcohol concentration is .08 or more but
7 19 not more than .10 shall not be eligible for any temporary
7 20 restricted license for at least thirty days after the effective
7 21 date of the revocation if a test was obtained and an accident
7 22 resulting in personal injury or property damage occurred. The
7 23 department shall require the defendant ~~shall be ordered~~ to
7 24 install an ignition interlock device of a type approved by
7 25 the commissioner of public safety on all vehicles owned or
7 26 operated by the defendant if the defendant seeks a temporary
7 27 license. There shall be no such period of ineligibility if
7 28 no such accident occurred, and the defendant shall not be
7 29 ~~ordered~~ required to install an ignition interlock device.

7 30 b. A defendant whose alcohol concentration is more than .10
7 31 shall not be eligible for any temporary restricted license for
7 32 at least thirty days if a test was obtained and an accident
7 33 resulting in personal injury or property damage occurred or the
7 34 defendant's alcohol concentration exceeded .15. There shall be
7 35 no such period of ineligibility if no such accident occurred



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8 1 and the defendant's alcohol concentration did not exceed .15.
8 2 In either case, where a defendant's alcohol concentration is
8 3 more than .10, the department shall require the defendant ~~shall~~
~~8 4 be ordered~~ to install an ignition interlock device of a type
8 5 approved by the commissioner of public safety on all vehicles
8 6 owned or operated by the defendant if the defendant seeks a
8 7 temporary restricted license.
8 8 c. If the person is under the age of twenty-one, the person
8 9 shall not be eligible for a temporary restricted license for at
8 10 least sixty days after the effective date of the revocation.
8 11 d. A person whose license or privileges have been revoked
8 12 under subsection 1, paragraph "b", for one year shall not
8 13 be eligible for any temporary restricted license for one
8 14 year after the effective date of the revocation, and the
8 15 department shall require the person ~~shall be ordered~~ to
8 16 install an ignition interlock device of a type approved by the
8 17 commissioner of public safety on all vehicles owned or operated
8 18 by the defendant if the defendant seeks a temporary restricted
8 19 license at the end of the minimum period of ineligibility.
8 20 A temporary restricted license issued under this paragraph
8 21 shall be issued pursuant to section 321J.20, subsection 2. A
8 22 temporary restricted license shall not be granted by the
8 23 department until the defendant installs the ignition interlock
8 24 device.
8 25 Sec. 10. Section 321J.17, subsection 3, Code 2009, is
8 26 amended to read as follows:
8 27 3. The department shall also require certification of
8 28 installation of an ignition interlock device of a type approved
8 29 by the commissioner of public safety on all motor vehicles
8 30 owned or operated by any person seeking reinstatement following
8 31 a second or subsequent ~~conviction for a violation of section~~
~~8 32 321J.2~~ revocation under section 321J.4, 321J.9, or 321J.12,
8 33 unless such a person has previously received a temporary
8 34 restricted license during the term of the revocation as
8 35 authorized by this chapter. The requirement for the



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9 1 installation of an approved ignition interlock device shall be
9 2 for one year from the date of reinstatement unless a different
9 3 time period is required by statute.

9 4 Sec. 11. Section 321J.20, Code 2009, is amended to read as
9 5 follows:

9 6 321J.20 Temporary restricted license == ignition interlock
9 7 devices.

9 8 1. a. The department may, on application, issue a temporary
9 9 restricted license to a person whose noncommercial driver's
9 10 license is revoked under this chapter allowing the person to
9 11 drive to and from the person's home and specified places at
9 12 specified times which can be verified by the department and
9 13 which are required by the person's full-time or part-time
9 14 employment, continuing health care or the continuing health
9 15 care of another who is dependent upon the person, continuing
9 16 education while enrolled in an educational institution on a
9 17 part-time or full-time basis and while pursuing a course of
9 18 study leading to a diploma, degree, or other certification of
9 19 successful educational completion, substance abuse treatment,
9 20 court-ordered community service responsibilities, and
9 21 appointments with the person's parole or probation officer if
9 22 the person's driver's license has not been revoked previously
9 23 under section 321J.4, 321J.9, or 321J.12 and if any of the
9 24 following apply:

9 25 ~~a.~~ (1) The person's noncommercial driver's license
9 26 is revoked under section 321J.4 and the minimum period of
9 27 ineligibility for issuance of a temporary restricted license
9 28 has expired. This subsection shall not apply to a revocation
9 29 ordered under section 321J.4 resulting from a plea or verdict
9 30 of guilty of a violation of section 321J.2 that involved a
9 31 death.

9 32 ~~b.~~ (2) The person's noncommercial driver's license is
9 33 revoked under section 321J.9 and the person has entered a plea
9 34 of guilty on a charge of a violation of section 321J.2 which
9 35 arose from the same set of circumstances which resulted in



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10 1 the person's driver's license revocation under section 321J.9
10 2 and the guilty plea is not withdrawn at the time of or after
10 3 application for the temporary restricted license, and the
10 4 minimum period of ineligibility for issuance of a temporary
10 5 restricted license has expired.

10 6 ~~e. (3)~~ The person's noncommercial driver's license is
10 7 revoked under section 321J.12, and the minimum period of
10 8 ineligibility for issuance of a temporary restricted license
10 9 has expired.

10 10 b. ~~However, a~~ A temporary restricted license may be issued
10 11 under this subsection if the person's noncommercial driver's
10 12 license is revoked for two years under ~~section 321J.9, and the~~
~~10 13 revocation is a second revocation under this chapter section~~
10 14 321J.4, subsection 2, or section 321J.9, subsection 1,
10 15 paragraph "b", and the first three hundred sixty-five days of
10 16 the revocation have expired.

10 17 ~~2. c.~~ This ~~section~~ subsection does not apply to a person
10 18 whose license was revoked under section 321J.2A or section
10 19 321J.4, subsection 4 or 6, or to a person whose license is
10 20 suspended or revoked for another reason.

10 21 d. Following the applicable minimum period of ineligibility,
10 22 a temporary restricted license under this subsection shall not
10 23 be issued until the applicant installs an ignition interlock
10 24 device of a type approved by the commissioner of public safety
10 25 on all motor vehicles owned or operated by the applicant in
10 26 accordance with section 321J.2, 321J.4, 321J.9, or 321J.12.
10 27 Installation of an ignition interlock device under this
10 28 subsection shall be required for the period of time for which
10 29 the temporary restricted license is issued.

10 30 2. a. A person whose noncommercial driver's license has
10 31 either been revoked under this chapter, or revoked or suspended
10 32 under chapter 321 solely for violations of this chapter, or who
10 33 has been determined to be a habitual offender under chapter 321
10 34 based solely on violations of this chapter or on violations
10 35 listed in section 321.560, subsection 1, paragraph "b", and



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11 1 who is not eligible for a temporary restricted license under
11 2 subsection 1 may apply to the department upon the expiration of
11 3 the minimum period of ineligibility for a temporary restricted
11 4 license provided for under section 321J.4, 321J.9, 321J.12,
11 5 or 321.560 for a temporary restricted license notwithstanding
11 6 section 321.560.

11 7 b. The department shall determine if the temporary
11 8 restricted license is necessary for the person to maintain the
11 9 person's present employment. However, a temporary restricted
11 10 license shall not be issued for a violation of section 321J.2A
11 11 or to a person under the age of twenty-one whose license is
11 12 revoked under section 321J.4, 321J.9, or 321J.12. If the
11 13 department determines that the temporary restricted license
11 14 is necessary for the person to maintain the person's present
11 15 employment, and that the minimum period of ineligibility for
11 16 receipt of a temporary restricted license has expired, the
11 17 department may issue to the person a temporary restricted
11 18 license conditioned upon the installation of an approved
11 19 ignition interlock device on all motor vehicles owned or
11 20 operated by the person. A person whose driver's license or
11 21 nonresident operating privilege has been revoked under section
11 22 321J.21 may apply to the department for a temporary restricted
11 23 license without the requirement of an ignition interlock device
11 24 if at least twelve years have elapsed since the end of the
11 25 underlying revocation period for a violation of section 321J.2.

11 26 c. Notwithstanding paragraph "b", a temporary restricted
11 27 license issued to a person whose noncommercial driver's license
11 28 has been revoked under section 321J.4, subsection 2, section
11 29 321J.9, subsection 1, paragraph "b", or section 321J.12,
11 30 subsection 1, paragraph "b", may not be issued for any purpose
11 31 not permitted by 23 U.S.C. { 164. This restriction applies
11 32 only during the first three hundred sixty-five days of the
11 33 person's revocation period.

11 34 3. If a person required to install an ignition interlock
11 35 device operates a motor vehicle which does not have an approved



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12 1 ignition interlock device or if the person tampers with or
12 2 circumvents an ignition interlock device, in addition to other
12 3 penalties provided, the person's temporary restricted license
12 4 shall be revoked.

12 5 ~~3.~~ 4. A person holding a temporary restricted license
12 6 issued by the department under this section shall not operate
12 7 a motor vehicle for pleasure.

12 8 ~~4.~~ 5. A person holding a temporary restricted license
12 9 issued by the department under this section shall not operate
12 10 a commercial motor vehicle on a highway if a commercial
12 11 driver's license is required for the person's operation of the
12 12 commercial motor vehicle.

12 13 ~~5.~~ 6. A person holding a temporary license issued by
12 14 the department under this chapter shall be prohibited from
12 15 operating a school bus.

12 16 ~~6. Following certain minimum periods of ineligibility, a~~
~~12 17 temporary restricted license under this section shall not be~~
~~12 18 issued until such time as the applicant installs an ignition~~
~~12 19 interlock device of a type approved by the commissioner of~~
~~12 20 public safety on all motor vehicles owned or operated by the~~
~~12 21 applicant, in accordance with section 321J.2, 321J.4, 321J.9,~~
~~12 22 or 321J.12. Installation of an ignition interlock device under~~
~~12 23 this section shall be required for the period of time for which~~
~~12 24 the temporary restricted license is issued.~~

12 25 7. Notwithstanding any provision of this chapter to the
12 26 contrary, the department may issue a temporary restricted
12 27 license to a person otherwise eligible for a temporary
12 28 restricted license under this section, whose period of
12 29 revocation under this chapter has expired, but who has not met
12 30 all requirements for reinstatement of the person's driver's
12 31 license or nonresident operating privileges.

12 32 8. A person who tampers with or circumvents an ignition
12 33 interlock device installed as required in this chapter and
12 34 while the requirement for the ignition interlock device is in
12 35 effect commits a serious misdemeanor.



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13 1 Sec. 12. Section 707.6A, subsection 1, Code 2009, is amended
13 2 to read as follows:

13 3 1. A person commits a class "B" felony when the person
13 4 unintentionally causes the death of another by operating a
13 5 motor vehicle while intoxicated, as prohibited by section
13 6 321J.2.

13 7 1A. Upon a plea or verdict of guilty of a violation of
13 8 ~~this subsection 1, the court shall do the following:~~

~~13 9 a. Order the state department of transportation to revoke
13 10 the defendant's driver's license or nonresident operating
13 11 privileges for a period of six years. The defendant shall
13 12 surrender to the court any Iowa license or permit and the court
13 13 shall forward the license or permit to the department with
13 14 a copy of the ~~revocation~~ order of conviction. Upon receipt
13 15 of the order of conviction, the department shall revoke the
13 16 defendant's driver's license or nonresident operating privilege
13 17 for a period of six years. The defendant shall not be eligible
13 18 for a temporary restricted license for at least two years after
13 19 the revocation.~~

13 20 1B. ~~b. Order~~ Upon a plea or verdict of guilty of a
13 21 violation of subsection 1, the court shall order the defendant,
13 22 at the defendant's expense, to do the following:

13 23 a. ~~(1)~~ Enroll, attend, and satisfactorily complete a course
13 24 for drinking drivers, as provided in section 321J.22.

13 25 b. ~~(2)~~ Submit to evaluation and treatment or rehabilitation
13 26 services.

13 27 1C. ~~e.~~ A driver's license or nonresident operating
13 28 privilege shall not be reinstated until proof of completion of
13 29 the requirements of ~~paragraph "b"~~ subsection 1B is presented to
13 30 the department.

13 31 1D. ~~d.~~ Where the program is available and appropriate for
13 32 the defendant, the court shall also order the defendant to
13 33 participate in a reality education substance abuse prevention
13 34 program as provided in section 321J.24.



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14 1 EXPLANATION
14 2 This bill relates to driver's license sanctions, including
14 3 the issuance of temporary restricted licenses and certain
14 4 requirements relating to ignition interlock devices, and
14 5 provides a penalty.
14 6 The bill amends Code section 321.215 to allow the department
14 7 of transportation to issue a temporary restricted license to
14 8 a person whose noncommercial driver's license is suspended or
14 9 revoked under Code chapter 321 (motor vehicles and laws of the
14 10 road) without requiring the court to order the department to
14 11 do so.
14 12 The bill amends Code section 321J.2 (Iowa's operating
14 13 while intoxicated (OWI) law) to allow the department of
14 14 transportation to issue a temporary restricted license under
14 15 Code chapter 321J without requiring the court to order the
14 16 department to do so. The bill makes conforming changes to Code
14 17 sections 321J.4 (revocations relating to OWI offenses), 321J.9
14 18 (refusals to submit to chemical testing), and 321J.12 (test
14 19 result revocations).
14 20 The bill amends Code section 321J.4 (revocations for OWI
14 21 offenses) to allow repeat (second or subsequent) OWI offenders
14 22 to obtain a temporary restricted license after a 45-day hard
14 23 suspension in compliance with the purposes allowed under
14 24 federal law, pursuant to 23 U.S.C. { 164 (minimum penalties
14 25 for repeat offenders for driving while intoxicated or driving
14 26 under the influence). Corresponding changes are made in Code
14 27 sections 321J.9, 321J.12, and 321J.20 (temporary restricted
14 28 licenses issued for revocations under Code chapter 321J).
14 29 The bill also amends Code section 321J.4, to allow the
14 30 department of transportation to trigger the six-year revocation
14 31 period for a third or subsequent OWI conviction upon the
14 32 department's receipt of the order of conviction, rather than
14 33 requiring the court to order the department to impose the
14 34 revocation.
14 35 The bill amends Code section 321J.9 to allow a person whose



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15 1 license is revoked after refusing to submit to chemical testing
15 2 for OWI and who has a previous OWI revocation to apply for a
15 3 temporary restricted license after a hard 90-day revocation.
15 4 Under current law, a person is not eligible for a temporary
15 5 restricted license for at least one year after the effective
15 6 date of the revocation.
15 7 The bill amends Code section 321J.12 to allow second and
15 8 subsequent OWI offenders to obtain a temporary restricted
15 9 license after a 45-day hard suspension in compliance with the
15 10 purposes allowed under 23 U.S.C. { 164. Conforming changes are
15 11 made in Code sections 321J.4, 321J.9, and 321J.20.
15 12 The bill amends Code section 321J.17 to clarify that an
15 13 ignition interlock device is required following a second or
15 14 subsequent OWI offense revocation rather than a second or
15 15 subsequent OWI conviction.
15 16 The bill amends Code section 321J.20 to allow second or
15 17 subsequent OWI offenders to obtain a temporary restricted
15 18 license after a 45-day hard suspension in compliance with the
15 19 purposes allowed under 23 U.S.C. { 164. The bill provides
15 20 that a person who tampers with or circumvents an ignition
15 21 interlock device installed as required under Code chapter 321J
15 22 and while the requirement for the ignition interlock device is
15 23 in effect commits a serious misdemeanor. A serious misdemeanor
15 24 is punishable by confinement for no more than one year and
15 25 a fine of at least \$315 but not more than \$1,875. Current
15 26 law provides that a person who tampers with or circumvents
15 27 an ignition interlock device installed under a court order
15 28 while an order is in effect commits a serious misdemeanor.
15 29 Conforming changes are made in Code sections 321.560, 321J.4,
15 30 321J.9, and 321J.12. The bill amends Code section 707.6A to
15 31 allow the department to revoke the defendant's driver's license
15 32 or nonresident operating privilege for a period of six years
15 33 for the defendant's conviction of homicide or serious injury by
15 34 vehicle upon the department's receipt of the conviction rather
15 35 than requiring the court to order the department to impose the



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16 1 revocation.
LSB 5407DP (11) 83
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Senate Study Bill 3174

SENATE FILE
BY (PROPOSED COMMITTEE ON
LOCAL GOVERNMENT BILL
BY CHAIRPERSON
QUIRMBACH)

A BILL FOR

1 An Act expanding Iowa communications network access to include
2 cities, counties, and city and county governmental units.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 5829XC (4) 83
rn/nh



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1 1 Section 1. Section 8D.2, subsection 5, Code 2009, is amended
1 2 to read as follows:

1 3 5. a. "Public agency" means a state agency, an institution
1 4 under the control of the board of regents, the judicial
1 5 branch as provided in section 8D.13, subsection 17, a school
1 6 corporation, a city, a county, a city library, a library
1 7 service area as provided in chapter 256, a county library as
1 8 provided in chapter 336, or a judicial district department of
1 9 correctional services established in section 905.2, to the
1 10 extent provided in section 8D.13, subsection 15, an agency of
1 11 the federal government, or a United States post office which
1 12 receives a federal grant for pilot and demonstration projects.

1 13 b. For the purposes of this chapter, "public agency"
1 14 also includes any homeland security or defense facility or
1 15 disaster response agency established by the administrator of
1 16 the homeland security and emergency management division of the
1 17 department of public defense or the governor or any facility
1 18 connected with a security or defense system or disaster
1 19 response as required by the administrator of the homeland
1 20 security and emergency management division of the department of
1 21 public defense or the governor.

1 22 c. For the purposes of this chapter, a "city" or
1 23 "county" referred to in paragraph "a" includes departments,
1 24 boards, commissions, and other governmental units of the city
1 25 or county.

1 26 Sec. 2. Section 8D.3, subsection 3, paragraph i, Code 2009,
1 27 is amended to read as follows:

1 28 i. Evaluate existing and projected rates for use of the
1 29 system and ensure that rates are sufficient to pay for the
1 30 operation of the system excluding the cost of construction and
1 31 lease costs for Parts I, II, and III. The commission shall
1 32 establish all hourly rates to be charged to all authorized
1 33 users for the use of the network and shall consider all costs
1 34 of the network in establishing the rates. A fee established by
1 35 the commission to be charged to a hospital licensed pursuant



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2 1 to chapter 135B, a physician clinic, a city, a county, or the
2 2 federal government shall be at an appropriate rate so that, at
2 3 a minimum, there is no state subsidy related to the costs of
2 4 the connection or use of the network related to such user.

2 5 Sec. 3. Section 8D.13, subsection 2, paragraph c, Code 2009,
2 6 is amended to read as follows:

2 7 c. "Part III" means the communications connection between
2 8 the secondary switching centers and the agencies defined in
2 9 section 8D.2, subsections 4 and 5, excluding state agencies,
2 10 institutions under the control of the board of regents,
2 11 nonprofit institutions of higher education eligible for tuition
2 12 grants, and the judicial branch, judicial district departments
2 13 of correctional services, hospitals and physician clinics,
2 14 cities, counties, agencies of the federal government, and post
2 15 offices.

2 16 Sec. 4. Section 8D.13, subsection 16, Code 2009, is amended
2 17 to read as follows:

2 18 16. a. Access shall be offered to hospitals licensed
2 19 pursuant to chapter 135B and physician clinics for diagnostic,
2 20 clinical, consultative, data, and educational services for the
2 21 purpose of developing a comprehensive, statewide telemedicine
2 22 network; to an agency of the federal government; to a city, a
2 23 county, and governmental units thereof as specified in section
2 24 8D.2, subsection 5, paragraph "c"; and to a post office defined

2 25 as a public agency pursuant to section 8D.2, subsection 5.

2 26 b. A hospital, physician clinic, an agency of the federal
2 27 government, a city, a county, or a post office defined as a
2 28 public agency pursuant to section 8D.2, subsection 5, shall be
2 29 responsible for all costs associated with becoming a part of
2 30 the network.

2 31 c. A city or a county accessing the network shall comply
2 32 with the provisions of section 8D.13, subsection 12, regarding
2 33 direct billing by the video classroom facility for operating
2 34 costs relating to the communication, and shall remit a fee
2 35 comparable to fees charged to other authorized users who are



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3 1 similarly billed.

3 2

EXPLANATION

3 3 This bill expands the definition of a "public agency", which
3 4 is authorized to access the Iowa communications network, to
3 5 include cities, counties, and their governmental units such
3 6 as commissions, departments, and boards. The bill provides
3 7 that cities and counties shall be responsible for all costs
3 8 associated with becoming a part of the network. The bill
3 9 additionally provides that a city or county shall comply with
3 10 provisions contained in Code section 8D.13, subsection 12,
3 11 regarding direct billing by a video classroom facility for
3 12 operating costs relating to a communication.

LSB 5829XC (4) 83

rn/nh



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Senate Study Bill 3175

SENATE FILE
BY (PROPOSED COMMITTEE ON
LABOR AND BUSINESS
RELATIONS BILL BY
CHAIRPERSON COURTNEY)

A BILL FOR

1 An Act requiring certain weekly workers' compensation benefits
2 to be calculated by including an employee's overtime
3 and premium pay, and to include an annual cost-of-living
4 adjustment.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 5737SC (2) 83

av/nh



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1 1 Section 1. Section 85.36, Code 2009, is amended to read as
1 2 follows:
1 3 85.36 Basis of computation.
1 4 1. The basis of compensation shall be the weekly earnings
1 5 of the injured employee at the time of the injury. Weekly
1 6 earnings means gross salary, wages, or earnings of an employee
1 7 to which such employee would have been entitled had the
1 8 employee worked the customary hours for the full pay period in
1 9 which the employee was injured, as regularly required by the
1 10 employee's employer for the work or employment for which the
1 11 employee was employed, computed or determined as follows and
1 12 then rounded to the nearest dollar:
1 13 ~~1.~~ a. In the case of an employee who is paid on a weekly
1 14 pay period basis, the weekly gross earnings.
1 15 ~~2.~~ b. In the case of an employee who is paid on a biweekly
1 16 pay period basis, one-half of the biweekly gross earnings.
1 17 ~~3.~~ c. In the case of an employee who is paid on a
1 18 semimonthly pay period basis, the semimonthly gross earnings
1 19 multiplied by twenty-four and subsequently divided by
1 20 fifty-two.
1 21 ~~4.~~ d. In the case of an employee who is paid on a monthly
1 22 pay period basis, the monthly gross earnings multiplied by
1 23 twelve and subsequently divided by fifty-two.
1 24 ~~5.~~ e. In the case of an employee who is paid on a yearly
1 25 pay period basis, the weekly earnings shall be the yearly
1 26 earnings divided by fifty-two.
1 27 ~~6.~~ f. In the case of an employee who is paid on a daily
1 28 or hourly basis, or by the output of the employee, the
1 29 weekly earnings shall be computed by dividing by thirteen
1 30 the earnings, including but not limited to overtime, shift
1 31 differential ~~pay but not including overtime or, and premium~~
1 32 pay, of the employee earned in the employ of the employer in
1 33 the last completed period of thirteen consecutive calendar
1 34 weeks immediately preceding the injury. If the employee was
1 35 absent from employment for reasons personal to the employee



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2 1 during part of the thirteen calendar weeks preceding the
2 2 injury, the employee's weekly earnings shall be the amount
2 3 the employee would have earned had the employee worked when
2 4 work was available to other employees of the employer in a
2 5 similar occupation. A week which does not fairly reflect
2 6 the employee's customary earnings shall be replaced by the
2 7 closest previous week with earnings that fairly represent the
2 8 employee's customary earnings.

2 9 ~~7.~~ g. In the case of an employee who has been in the employ
2 10 of the employer less than thirteen calendar weeks immediately
2 11 preceding the injury, the employee's weekly earnings shall be
2 12 computed under ~~subsection 6~~ paragraph "f", taking the earnings,
2 13 including but not limited to overtime, shift differential
2 14 ~~pay but not including overtime or, and~~ premium pay, for such
2 15 purpose to be the amount the employee would have earned had the
2 16 employee been so employed by the employer the full thirteen
2 17 calendar weeks immediately preceding the injury and had
2 18 worked, when work was available to other employees in a similar
2 19 occupation. If the earnings of other employees cannot be
2 20 determined, the employee's weekly earnings shall be the average
2 21 computed for the number of weeks the employee has been in the
2 22 employ of the employer.

2 23 h. In the case of an employee injured in the course of
2 24 performing as a professional athlete, the basis of compensation
2 25 for weekly earnings shall be one=fiftieth of total earnings
2 26 which the employee has earned from all employment for the
2 27 previous twelve months prior to the injury.

2 28 ~~8.~~ 2. If at the time of the injury the hourly earnings
2 29 have not been fixed or cannot be ascertained, the earnings for
2 30 the purpose of calculating compensation shall be taken to be
2 31 the usual earnings for similar services where such services are
2 32 rendered by paid employees.

2 33 ~~9.~~ 3. If an employee earns either no wages or less than the
2 34 usual weekly earnings of the regular full-time adult laborer
2 35 in the line of industry in which the employee is injured in



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3 1 that locality, the weekly earnings shall be one=fiftieth of
3 2 the total earnings which the employee has earned from all
3 3 employment during the twelve calendar months immediately
3 4 preceding the injury.
3 5 a. In computing the compensation to be allowed a volunteer
3 6 fire fighter, emergency medical care provider, reserve peace
3 7 officer, volunteer ambulance driver, volunteer emergency rescue
3 8 technician as defined in section 147A.1, or emergency medical
3 9 technician trainee, the earnings as a fire fighter, emergency
3 10 medical care provider, reserve peace officer, volunteer
3 11 ambulance driver, volunteer emergency rescue technician, or
3 12 emergency medical technician trainee shall be disregarded and
3 13 the volunteer fire fighter, emergency medical care provider,
3 14 reserve peace officer, volunteer ambulance driver, volunteer
3 15 emergency rescue technician, or emergency medical technician
3 16 trainee shall be paid an amount equal to the compensation
3 17 the volunteer fire fighter, emergency medical care provider,
3 18 reserve peace officer, volunteer ambulance driver, volunteer
3 19 emergency rescue technician, or emergency medical technician
3 20 trainee would be paid if injured in the normal course of the
3 21 volunteer fire fighter's, emergency medical care provider's,
3 22 reserve peace officer's, volunteer ambulance driver's,
3 23 volunteer emergency rescue technician's, or emergency medical
3 24 technician trainee's regular employment or an amount equal to
3 25 one hundred and forty percent of the statewide average weekly
3 26 wage, whichever is greater.
3 27 b. If the employee was an apprentice or trainee when
3 28 injured, and it is established under normal conditions the
3 29 employee's earnings should be expected to increase during the
3 30 period of disability, that fact may be considered in computing
3 31 the employee's weekly earnings.
3 32 c. If the employee was an inmate as defined in section
3 33 85.59, the inmate's actual earnings shall be disregarded, and
3 34 the weekly compensation rate shall be as set forth in section
3 35 85.59.



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4 1 ~~10-~~ 4. If a wage, or method of calculating a wage, is
4 2 used for the basis of the payment of a workers' compensation
4 3 insurance premium for a proprietor, partner, limited liability
4 4 company member, limited liability partner, or officer of a
4 5 corporation, the wage or the method of calculating the wage
4 6 is determinative for purposes of computing the proprietor's,
4 7 partner's, limited liability company member's, limited
4 8 liability partner's, or officer's weekly workers' compensation
4 9 benefit rate.

4 10 ~~11-~~ 5. In computing the compensation to be allowed an
4 11 elected or appointed official, the official may choose either
4 12 of the following payment options:

4 13 a. The official shall be paid an amount of compensation
4 14 based on the official's weekly earnings as an elected or
4 15 appointed official.

4 16 b. The earnings of the official as an elected or appointed
4 17 official shall be disregarded and the official shall be paid
4 18 an amount equal to one hundred forty percent of the statewide
4 19 average weekly wage.

4 20 ~~12.~~ ~~In the case of an employee injured in the course of~~
~~4 21 performing as a professional athlete, the basis of compensation~~
~~4 22 for weekly earnings shall be one-fiftieth of total earnings~~
~~4 23 which the employee has earned from all employment for the~~
~~4 24 previous twelve months prior to the injury.~~

4 25 6. The basis of compensation for permanent total disability
4 26 benefits or death benefits shall increase on January 1 of
4 27 each year for compensation which becomes due that year by
4 28 a percentage equal to the cost-of-living adjustment made
4 29 to disability benefits payable by the United States social
4 30 security administration in December of the immediately
4 31 preceding year.

4 32 Sec. 2. Section 85.61, subsection 3, Code 2009, is amended
4 33 to read as follows:

4 34 3. "Gross earnings" means recurring payments by employer to
4 35 the employee for employment, before any authorized or lawfully



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5 1 required deduction or withholding of funds by the employer,
5 2 excluding irregular bonuses, retroactive pay, ~~overtime~~, penalty
5 3 pay, reimbursement of expenses, expense allowances, and the
5 4 employer's contribution for welfare benefits.

5 5 EXPLANATION

5 6 This bill requires certain weekly workers' compensation
5 7 benefits to be calculated by including an employee's overtime
5 8 and premium pay, and to include an annual cost-of-living
5 9 adjustment.

5 10 The bill amends Code section 85.36 to require the
5 11 calculation of the amount of weekly workers' compensation
5 12 benefits to include, not exclude, an employee's earnings for
5 13 overtime and premium pay. A coordinating amendment is made to
5 14 Code section 85.61.

5 15 The bill also amends Code section 85.36 to require the basis
5 16 of compensation for weekly workers' compensation benefits
5 17 payable for permanent total disability benefits or death
5 18 benefits to increase on January 1 each year for compensation
5 19 which becomes due that year, by a percentage equal to the
5 20 cost-of-living adjustment made to disability benefits payable
5 21 by the United States social security administration in December
5 22 of the immediately preceding year.

5 23 Technical corrections are also made to Code section 85.36 to
5 24 remove an unnumbered paragraph and for purposes of clarity.

LSB 5737SC (2) 83

av/nh



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Senate Study Bill 3176

SENATE FILE
BY (PROPOSED COMMITTEE ON
LABOR AND BUSINESS
RELATIONS BILL BY
CHAIRPERSON COURTNEY)

A BILL FOR

1 An Act providing minimum paid sick and safe time for employees
2 and including applicability provisions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 5393XC (4) 83
ak/nh



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1 1 Section 1. NEW SECTION. 91F.1 Title.
1 2 This chapter shall be known as the "Healthy and Safe Families
1 3 and Workplaces Act".
1 4 Sec. 2. NEW SECTION. 91F.2 Definitions.
1 5 1. "Commissioner" means the labor commissioner, appointed
1 6 pursuant to section 91.2.
1 7 2. "Domestic abuse assault" means as defined in section
1 8 708.2A.
1 9 3. "Employee" means as defined in the federal Fair Labor
1 10 Standards Act of 1938, as amended to January 1, 2007.
1 11 4. "Employer" means as defined in the federal Fair Labor
1 12 Standards Act of 1938, as amended to January 1, 2007.
1 13 5. "Family member" means any of the following:
1 14 a. An employee's spouse or domestic partner.
1 15 b. A child or foster child; stepchild; legal ward; a child
1 16 of a domestic partner; or a child to whom the employee stands
1 17 in loco parentis.
1 18 c. A parent or foster parent; stepparent; legal guardian;
1 19 or a person who stood in loco parentis to the employee when the
1 20 employee was a minor child.
1 21 d. A grandparent or spouse or domestic partner of a
1 22 grandparent.
1 23 e. A grandchild.
1 24 f. A sibling or foster sibling; stepsibling; or spouse or
1 25 domestic partner of a sibling, foster sibling, or stepsibling.
1 26 g. Any other individual related to the employee by blood
1 27 or affinity whose close association with the employee is the
1 28 equivalent of a familial relationship.
1 29 6. "Health care professional" means as defined in section
1 30 135.157.
1 31 7. "Paid sick and safe time" means time that is compensated
1 32 at the same hourly rate and with the same benefits, including
1 33 health care benefits, as the employee normally earns during
1 34 hours worked and is provided by an employer to an employee for
1 35 the purposes described in section 91F.4, but in no instance



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2 1 shall the hourly wage be less than that provided in section
2 2 91D.1.
2 3 8. "Retaliatory personnel action" means the discharge,
2 4 suspension, or demotion of, or any other adverse action taken
2 5 by an employer against, an employee.
2 6 9. "Sexual abuse" means as defined in section 709.1.
2 7 10. "Stalking" means as defined in section 708.11.
2 8 Sec. 3. NEW SECTION. 91F.3 Accrual == paid sick and safe
2 9 time.
2 10 1. An employee who works for compensation for an employer
2 11 shall have the right to accrue and use paid sick and safe time
2 12 as provided in this chapter if the employee meets one of the
2 13 following criteria:
2 14 a. The employee works for one thousand forty hours or more
2 15 in a year.
2 16 b. The employee works for twenty hours or more in a week.
2 17 2. a. An employee shall accrue a minimum of five and
2 18 fifty-four hundredths hours of paid sick and safe time for
2 19 every forty hours worked.
2 20 b. An employee shall not accrue more than one hundred
2 21 forty-four hours of paid sick and safe time in a calendar year,
2 22 unless the employer selects a higher limit.
2 23 3. Employees who are exempt from overtime requirements
2 24 under 29 U.S.C. { 213(a)(1) of the federal Fair Labor Standards
2 25 Act of 1938 are deemed to work forty hours in each work week for
2 26 purposes of paid sick and safe time accrual unless their normal
2 27 work week is less than forty hours, in which case paid sick and
2 28 safe time accrues based upon that normal work week.
2 29 4. Paid sick and safe time as provided in this section shall
2 30 begin to accrue upon the commencement of employment for new
2 31 employees and for existing employees beginning July 1, 2010.
2 32 5. a. A new employee may use accrued paid sick and
2 33 safe time beginning on the sixtieth calendar day following
2 34 commencement of the employee's employment. On and after the
2 35 sixtieth calendar day of employment, an employee may use



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3 1 accrued paid sick and safe time and accruing paid sick and safe
3 2 time as it accrues.
3 3 b. Existing employees may use paid sick and safe time as it
3 4 accrues pursuant to this chapter.
3 5 6. Accrued paid sick and safe time shall be carried over to
3 6 the following calendar year subject to the limit described in
3 7 subsection 2, paragraph "b".
3 8 7. An employer with a paid leave policy who makes available
3 9 an amount of paid leave sufficient to meet the accrual
3 10 requirements of this section that may be used for the same
3 11 purposes and under the same conditions as paid sick and safe
3 12 time under this chapter is not required to provide additional
3 13 paid sick and safe time.
3 14 8. Nothing in this section shall be construed as requiring
3 15 financial or other reimbursement to an employee from an
3 16 employer upon the employee's termination, resignation,
3 17 retirement, or other separation from employment for accrued
3 18 paid sick and safe time that has not been used.
3 19 9. a. If an employee is transferred to a separate division,
3 20 entity, or location, but remains employed by the same employer,
3 21 the employee is entitled to all paid sick and safe time
3 22 previously accrued; is entitled to immediately use all accrued
3 23 paid sick and safe time as provided in this chapter; and shall
3 24 continue to accrue paid sick and safe time at the same rate or
3 25 higher as before the transfer.
3 26 b. When there is a separation from employment and the
3 27 employee is rehired within three months of the separation
3 28 by the same employer, previously accrued paid sick and safe
3 29 time that had not been used prior to the separation shall be
3 30 reinstated. The employee may use such accrued paid sick and
3 31 safe time immediately upon rehire, and paid sick and safe time
3 32 shall begin to accrue immediately upon rehire.
3 33 10. At the employer's discretion, the employer may advance
3 34 paid sick and safe time to an employee ahead of accrual of such
3 35 time by the employee.



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4 1 Sec. 4. NEW SECTION. 91F.4 Use == paid sick and safe time.
4 2 1. Paid sick and safe time shall be provided to an employee
4 3 by an employer for the following purposes:
4 4 a. An employee's mental or physical illness, injury, or
4 5 health condition; an employee's need for medical diagnosis,
4 6 care, or treatment of a mental or physical illness, injury, or
4 7 health condition; an employee's need for preventive medical
4 8 care.
4 9 b. An employee's need to care for a family member with a
4 10 mental or physical illness, injury, or health condition; an
4 11 employee's need to care for a family member who needs medical
4 12 diagnosis, care, or treatment of a mental or physical illness,
4 13 injury, or health condition; an employee's need to care for a
4 14 family member who needs preventive medical care.
4 15 c. (1) Closure of the employee's place of work by order of
4 16 a public official due to a public health emergency.
4 17 (2) An employee's need to care for a family member whose
4 18 school or place of care has been closed by order of a public
4 19 official due to a public health emergency.
4 20 (3) An employee's need to care for a family member when
4 21 public health authorities or a health care professional has
4 22 determined that the family member's presence in the community
4 23 jeopardizes the health of others because of the family member's
4 24 exposure to communicable disease, whether or not the family
4 25 member has actually contracted the communicable disease.
4 26 d. An employee's need to be absent from work due to domestic
4 27 abuse assault, sexual abuse, or stalking, provided the leave
4 28 from work is to do one or more of the following:
4 29 (1) Seek medical attention for the employee or family member
4 30 to recover from physical or psychological injury or disability
4 31 caused by domestic abuse assault or sexual abuse.
4 32 (2) Obtain services from a victim services organization.
4 33 (3) Obtain psychological or other counseling.
4 34 (4) Seek relocation due to the domestic abuse assault,
4 35 sexual abuse, or stalking.



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5 1 (5) Take legal action, including preparing for or
5 2 participating in any civil or criminal legal proceeding related
5 3 to or resulting from the domestic abuse assault, sexual abuse,
5 4 or stalking.

5 5 2. Paid sick and safe time shall be allowed upon the oral
5 6 request of an employee. When possible, the employee shall
5 7 include the expected duration of the employee's absence.

5 8 3. When the use of paid sick and safe time is foreseeable,
5 9 the employee shall make a good faith effort to provide notice
5 10 of the need for such time to the employer in advance of the use
5 11 of the paid sick and safe time, and the employee shall make a
5 12 reasonable effort to schedule the use of paid sick and safe
5 13 time in a manner that does not unduly disrupt the operations of
5 14 the employer.

5 15 4. Accrued paid sick and safe time may be used in the
5 16 smaller of hourly increments or the smallest increment that the
5 17 employer's payroll system uses to account for absences or use
5 18 of other time.

5 19 5. a. For paid sick and safe time for more than three
5 20 consecutive days, an employer may require reasonable
5 21 documentation that the paid sick and safe time is for the
5 22 purposes described in subsection 1.

5 23 (1) Documentation signed by a health care professional
5 24 indicating that sick time is necessary shall be considered
5 25 reasonable documentation.

5 26 (2) A police report indicating that the employee was a
5 27 victim of domestic abuse assault, sexual abuse, or stalking; a
5 28 court order; or a signed statement from a victim and witness
5 29 advocate affirming that the employee is involved in legal
5 30 action related to domestic abuse assault, sexual abuse, or
5 31 stalking shall be considered reasonable documentation.

5 32 b. An employer may not require that the documentation
5 33 explain the nature of the medical reason or the details of the
5 34 domestic abuse, sexual abuse, or stalking.

5 35 c. (1) If an employer chooses to require documentation



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6 1 for use of paid sick time and the employee does not have
6 2 health insurance, the employer is responsible for paying all
6 3 out-of-pocket expenses the employee incurs in obtaining the
6 4 documentation.

6 5 (2) If the employee does have health insurance, the
6 6 employer is responsible for paying any costs charged to the
6 7 employee by the health care provider for providing the specific
6 8 documentation required by the employer.

6 9 6. An employer shall not require as a condition of allowing
6 10 paid sick and safe time under this chapter that the employee
6 11 search for or find a replacement worker to cover the hours
6 12 during which the employee will be using paid sick and safe
6 13 time.

6 14 Sec. 5. NEW SECTION. 91F.5 Exercise of rights ==
6 15 retaliation prohibited.

6 16 1. An employer or any other person shall not interfere with,
6 17 restrain, or deny the exercise of, or the attempt to exercise,
6 18 any right protected under this chapter.

6 19 2. An employer shall not take retaliatory personnel action
6 20 or discriminate against an employee because the employee has
6 21 exercised rights protected under this chapter. Such rights
6 22 include but are not limited to the following:

6 23 a. The right to use paid sick and safe time pursuant to this
6 24 chapter.

6 25 b. The right to file a complaint or inform any person about
6 26 any employer's alleged violation of this chapter.

6 27 c. The right to cooperate with the commissioner in any
6 28 investigation of alleged violations of this chapter.

6 29 d. The right to inform any person of the person's potential
6 30 rights under this chapter.

6 31 3. An employer's absence control policy shall not count paid
6 32 sick and safe time taken pursuant to this chapter as an absence
6 33 that may lead to or result in discipline, discharge, demotion,
6 34 suspension, or any other adverse action.

6 35 4. The protections of this section shall apply to any person



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7 1 who mistakenly but in good faith alleges violations of this
7 2 section.
7 3 5. There is a rebuttable presumption of retaliation under
7 4 this section whenever an employer takes adverse action against
7 5 an employee within ninety days of when that employee has done
7 6 any of the following:
7 7 a. Filed a complaint with the commissioner or a court
7 8 alleging a violation of any provision of this chapter.
7 9 b. Informed any person about an employer's alleged violation
7 10 of this chapter.
7 11 c. Cooperated with the commissioner or others in an
7 12 investigation or prosecution of any alleged violation of this
7 13 chapter.
7 14 d. Opposed any policy, practice, or act that is unlawful
7 15 under this chapter.
7 16 e. Informed any person of the person's potential rights
7 17 under this chapter.
7 18 Sec. 6. NEW SECTION. 91F.6 Notice and posting.
7 19 1. An employer shall give notice to employees of the
7 20 following:
7 21 a. Employees are entitled to paid sick and safe time.
7 22 b. The accrual amounts of paid sick and safe time.
7 23 c. The terms of use of paid sick and safe time guaranteed
7 24 under this chapter.
7 25 d. The prohibition against retaliation against employees who
7 26 request or use paid sick and safe time.
7 27 e. Each employee has the right to file a complaint or
7 28 bring a civil action if paid sick and safe time as required
7 29 by this chapter is denied by the employer, or the employee is
7 30 retaliated against for requesting or taking paid sick and safe
7 31 time.
7 32 2. a. An employer may comply with this section by supplying
7 33 each employee with a notice in English, and in any language
7 34 that is the first language spoken by at least five percent
7 35 of the employer's workforce, that contains the information



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8 1 described in subsection 1.

8 2 b. (1) An employer may comply with this section by
8 3 displaying a poster in a conspicuous and accessible place in
8 4 each establishment where such employees are employed which
8 5 contains in English, and in any language that is the first
8 6 language spoken by at least five percent of the employer's
8 7 workforce, all the information required in subsection 1.

8 8 (2) The commissioner shall create and make available to
8 9 employers posters that contain the information required in
8 10 subsection 1 in English and in any language that the employer
8 11 informs the commissioner that more than five percent of the
8 12 employer's workforce speaks as a first language.

8 13 3. An employer who willfully violates the notice and posting
8 14 requirements of this section shall be subject to a civil
8 15 fine in an amount not to exceed one hundred dollars for each
8 16 separate offense.

8 17 Sec. 7. NEW SECTION. 91F.7 Damages recoverable by an
8 18 employee.

8 19 In an action by an employee against the employee's employer
8 20 or former employer for an alleged violation of this chapter,
8 21 when it has been shown that the employer has intentionally
8 22 failed to provide paid sick and safe time to the employee
8 23 in violation of this chapter or failed to allow the employee
8 24 to use accrued paid sick and safe time as provided by this
8 25 chapter, the employer shall be liable to the employee for
8 26 the monetary value of the owed paid sick and safe time, plus
8 27 liquidated damages for failure to allow the employee to use
8 28 accrued paid sick and safe time, court costs, and any attorney
8 29 fees incurred in the civil action.

8 30 Sec. 8. NEW SECTION. 91F.8 Employer records.

8 31 1. An employer shall retain records documenting hours
8 32 worked by employees and paid sick and safe time taken by
8 33 employees, for a period of five years.

8 34 2. An employer shall allow the commissioner access to such
8 35 records, with notice and at a mutually agreeable time, to



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9 1 monitor compliance with the requirements of this chapter.
9 2 3. If an issue arises as to an employee's entitlement to
9 3 paid sick and safe time under this chapter and the employer
9 4 does not maintain or retain adequate records according to this
9 5 section or does not allow the commissioner access to such
9 6 records, the commissioner or other investigating authority
9 7 shall presume that the employer has violated this chapter,
9 8 absent clear and convincing evidence otherwise.
9 9 Sec. 9. NEW SECTION. 91F.9 Enforcement.
9 10 1. Upon the written complaint of the employee involved,
9 11 the commissioner may determine whether to investigate if an
9 12 employer has violated any provision of this chapter. The
9 13 commissioner shall keep confidential, to the extent permitted
9 14 by applicable law, the name of and other indentifying
9 15 information about the employee reporting the alleged violation.
9 16 However, the commissioner, with the authorization of the
9 17 complaining employee, may disclose the employee's name and
9 18 other information as necessary to enforce this chapter or for
9 19 other appropriate purposes.
9 20 2. If for any reason the commissioner makes a determination
9 21 not to investigate, the commissioner shall notify the
9 22 complaining employee within fourteen days of receipt of
9 23 the complaint. The commissioner shall otherwise notify
9 24 the employee of the determination to investigate within
9 25 a reasonable time. If it is determined that there is an
9 26 enforceable claim, the commissioner, with the consent of the
9 27 complaining employee and with the assistance of the office
9 28 of the attorney general if the commissioner requests such
9 29 assistance, shall, unless a settlement is reached, commence
9 30 a civil action in any court of competent jurisdiction to
9 31 recover for the benefit of any employee any paid sick and safe
9 32 time claims that have been assigned to the commissioner for
9 33 recovery. The commissioner may also request reasonable and
9 34 necessary attorney fees. With the consent of the assigning
9 35 employee, the commissioner may also settle a claim on behalf of



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10 1 the assigning employee.
10 2 3. Proceedings under this section that precede commencement
10 3 of a civil action shall be conducted informally without any
10 4 party having a right to be heard before the commissioner. The
10 5 commissioner may join various assignments in one claim for the
10 6 purpose of settling or litigating their claims.
10 7 4. The provisions of subsections 1 and 2 shall not be
10 8 construed to prevent an employee from settling or bringing an
10 9 action for damages under section 91F.7 if the employee has not
10 10 assigned the claim under subsection 1.
10 11 5. Any recovery of attorney fees, in the case of actions
10 12 brought under this section by the commissioner, shall be
10 13 remitted by the commissioner to the treasurer of state for
10 14 deposit in the general fund of the state. The commissioner
10 15 shall not be required to pay any filing fee or other court
10 16 costs.
10 17 Sec. 10. NEW SECTION. 91F.10 Confidentiality and
10 18 nondisclosure.
10 19 1. An employer may not require disclosure of details
10 20 relating to domestic abuse assault, sexual abuse, or stalking,
10 21 or the details of an employee's medical condition or that of
10 22 a family member as a condition of allowing paid sick and safe
10 23 time under this chapter.
10 24 2. If an employer possesses health information or
10 25 information pertaining to domestic abuse assault, sexual abuse,
10 26 or stalking about an employee or an employee's family member,
10 27 such information shall be treated as confidential and not
10 28 disclosed except to the affected employee or with the written
10 29 permission of the affected employee.
10 30 Sec. 11. NEW SECTION. 91F.11 Other sick and safe time
10 31 policies == legal requirements.
10 32 1. Nothing in this chapter shall be construed to discourage
10 33 or prohibit an employer from the adoption or retention of a
10 34 paid sick and safe time policy that is more generous than that
10 35 provided in this chapter.



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11 1 2. Nothing in this chapter shall be construed as diminishing
11 2 the obligation of an employer to comply with any contract,
11 3 collective bargaining agreement, employment benefit plan, or
11 4 other agreement that provides more generous paid sick and safe
11 5 time to an employee than required in this chapter.

11 6 3. Nothing in this chapter shall be construed as diminishing
11 7 the rights of public employees regarding paid sick and safe
11 8 time or the use of paid sick and safe time as provided by state
11 9 law.

11 10 4. This chapter provides minimum requirements pertaining to
11 11 paid sick and safe time and shall not be construed to preempt,
11 12 limit, or otherwise affect the applicability of any other law,
11 13 regulation, requirement, policy, or standard that provides for
11 14 greater accrual or use by employees of sick and safe time,
11 15 whether paid or unpaid, or that extends other protections to
11 16 employees.

11 17 Sec. 12. Section 91.4, subsection 5, Code 2009, is amended
11 18 to read as follows:

11 19 5. The director of the department of workforce development,
11 20 in consultation with the labor commissioner, shall, at the time
11 21 provided by law, make an annual report to the governor setting
11 22 forth in appropriate form the business and expense of the
11 23 division of labor services for the preceding year, the number
11 24 of disputes or violations processed by the division and the
11 25 disposition of the disputes or violations, and other matters
11 26 pertaining to the division which are of public interest,
11 27 together with recommendations for change or amendment of the
11 28 laws in this chapter and chapters 88, 88A, 88B, 89, 89A, 89B,
11 29 90A, 91A, 91C, 91D, 91E, 91F, 92, and 94A, and section 85.68,
11 30 and the recommendations, if any, shall be transmitted by the
11 31 governor to the first general assembly in session after the
11 32 report is filed.

11 33 Sec. 13. **APPLICABILITY.** This Act applies to all existing
11 34 employees on and after the effective date of this Act and to
11 35 all new employees hired on or after that date.



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13 1 an employee.

13 2 The bill provides specific reasons for which employees may
13 3 use the paid sick and safe time in new Code section 91F.4.
13 4 An employee shall give reasonable notice to an employer
13 5 when use of paid sick and safe time is foreseeable. When an
13 6 employee uses more than three consecutive days of paid sick and
13 7 safe time, an employer may require reasonable documentation
13 8 that the time used is covered by the reasons the time may
13 9 be taken as provided in the bill. An employer who requests
13 10 documentation for use of paid sick time by an employee without
13 11 health insurance is responsible for paying all expenses related
13 12 to acquiring the documentation; for an employee with health
13 13 insurance, the employer is responsible for paying any costs
13 14 charged to the employee to receive the documentation. An
13 15 employer shall not require an employee to find a replacement
13 16 worker in order to use paid sick and safe time.

13 17 An employee's rights under the bill, including the right to
13 18 use paid sick and safe time and to file a complaint against
13 19 an employer, and the prohibitions against an employer's
13 20 retaliating against an employee exercising those rights are
13 21 explained in new Code section 91F.5.

13 22 Employers are required to give employees notice of their
13 23 rights to paid sick and safe time as described in new Code
13 24 section 91F.6, either by supplying each employee with a notice
13 25 or by posting such notice in an accessible and obvious place
13 26 where employees work. The notices for either method must
13 27 be in English and in any other language that at least five
13 28 percent of the employer's workforce speaks as a first language.
13 29 The commissioner shall create and make available the posters
13 30 for the employers. Violations of the notice and posting
13 31 requirements may result in a civil fine of not more than \$100
13 32 for each offense.

13 33 An employee may recover the monetary value of owed paid sick
13 34 and safe time plus liquidated damages for the wrongful denial
13 35 of use of accrued paid sick and safe time if an employer is



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14 1 shown to have intentionally violated the bill pursuant to new
14 2 Code section 91F.7.

14 3 An employer must retain records documenting hours worked
14 4 by each employee and the amount of paid sick and safe time
14 5 taken by the employees for five years. The commissioner
14 6 shall have reasonable access to these records. If a question
14 7 arises about an employee's right to paid sick and safe time
14 8 and an employer does not have adequate records or does not
14 9 allow the commissioner to examine the employer's records, the
14 10 commissioner shall presume that the employer has violated the
14 11 bill.

14 12 Pursuant to new Code section 91F.9, an employee may submit
14 13 a written complaint to the commissioner, who will determine
14 14 whether to investigate the claim that an employer has violated
14 15 any provision of new Code chapter 91F. If the commissioner
14 16 decides to investigate, the commissioner shall commence a civil
14 17 action against the employer.

14 18 An employer may not require an employee to disclose details
14 19 relating to domestic abuse assault, sexual abuse, stalking, or
14 20 a medical condition as a condition of using paid sick and safe
14 21 time. An employer who has such information shall treat the
14 22 information as confidential and not disclose it without written
14 23 consent of the affected employee, according to new Code section
14 24 91F.10.

14 25 In new Code section 91F.11, the following considerations
14 26 are addressed: the Code chapter does not prohibit an employer
14 27 from providing a more generous paid sick and safe time policy;
14 28 it does not diminish an employer's previous contractual
14 29 obligations for more generous paid sick and safe time; and it
14 30 does not diminish public employees' rights to paid sick and
14 31 safe time as provided by law.

14 32 The bill applies to all existing employees on and after July
14 33 1, 2010, and to all new hires on or after that date.

LSB 5393XC (4) 83

ak/nh



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SENATE/HOUSE FILE
BY (PROPOSED DEPARTMENT
OF NATURAL RESOURCES
BILL)

A BILL FOR

1 An Act relating to permits issued under the national pollutant
2 discharge elimination system, and making penalties
3 applicable.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 5283XD (7) 83
da/nh



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2 1 confinement feeding operation that is a concentrated animal
2 2 feeding operation as defined in 40 C.F.R. { 122.23(b) shall
2 3 comply with applicable national pollutant discharge elimination
2 4 system permit requirements as provided in the federal Water
2 5 Pollution Control Act, 33 U.S.C. ch. 26, as amended, and 40
2 6 C.F.R. pts. 122 and 412, pursuant to rules that shall be
2 7 adopted by the commission. Any rules adopted pursuant to this
2 8 subsection shall be no more stringent than requirements under
2 9 the federal Water Pollution Control Act, 33 U.S.C. ch. 26, as
2 10 amended, and 40 C.F.R. pts. 122 and 412.

2 11 EXPLANATION

2 12 DIVISION I == PERSONS CONTESTING THE DENIAL OF APPLICATIONS
2 13 OR PERMITS ISSUED UNDER NPDES. This division provides for
2 14 water pollution control permits issued under the federal
2 15 national pollutant discharge elimination system (NPDES). Code
2 16 section 455B.174 provides that a person who has been denied
2 17 an NPDES permit or who has been issued an NPDES permit by the
2 18 director of the department of natural resources may appeal the
2 19 director's decision to the environmental protection commission.
2 20 The commission's decision is the agency's final decision (or
2 21 final agency action) under the Iowa administrative procedure
2 22 Act (Code chapter 17A), meaning that the person may appeal the
2 23 decision to district court under Code section 17A.19. This
2 24 bill provides a substitute procedure. In lieu of a commission
2 25 hearing, the person may initiate a contested case proceeding
2 26 under Code chapter 17A which must be heard by an administrative
2 27 law judge (ALJ).

2 28 DIVISION II == NPDES PERMITS ISSUED TO CONFINEMENT FEEDING
2 29 OPERATIONS. This division amends Code chapter 459, the
2 30 animal agriculture compliance Act (Code section 459.101).
2 31 Generally, a confinement feeding operation is prohibited from
2 32 discharging manure directly into water of the state or into
2 33 a tile line that discharges directly into water of the state
2 34 (Code section 459.311). This bill provides that a confinement
2 35 feeding operation that is classified as a concentrated animal



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3 1 feeding operation under the NPDES must comply with applicable
3 2 NPDES permit requirements pursuant to rules adopted by the
3 3 environmental protection commission. The rules cannot be more
3 4 stringent than federal law.
3 5 A person who violates a provision in Code chapter 459
3 6 relating to water quality is subject to penalties as provided
3 7 in Code section 455B.109 or 455B.191 (see Code section
3 8 459.603). A person in violation of a requirement may be
3 9 assessed a civil penalty by the commission, according to a
3 10 schedule, not to exceed \$10,000 or may be assessed a judicially
3 11 assessed civil penalty of up to \$5,000 per each day of the
3 12 violation.

LSB 5283XD (7) 83
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