



Iowa General Assembly
Daily Bills, Amendments & Study Bills
January 16, 2009

House File 26 - Introduced

HOUSE FILE
BY TJEPKES

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

A BILL FOR

1 An Act relating to the minimum hours of instructional school time
2 in a school year for grades one through twelve for school
3 districts, charter schools, and accredited nonpublic schools,
4 and providing an effective date.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
6 TL5B 1604YH 83
7 kh/rj/5



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1 1 Section 1. Section 256.7, subsection 19, Code 2009, is
1 2 amended by striking the subsection and inserting in lieu
1 3 thereof the following:

1 4 19. Adopt rules that define what constitutes instructional
1 5 time for purposes of the minimum hours of instructional time
1 6 set forth in section 279.10. Instructional time shall not
1 7 include the lunch period, recess, time for noninstructional
1 8 assemblies, late arrival or early dismissal times required for
1 9 emergency health or safety factors, weather-related late
1 10 starts or early releases, or time used for professional
1 11 development.

1 12 Sec. 2. Section 256F.4, subsection 5, Code 2009, is
1 13 amended to read as follows:

1 14 5. A charter school shall provide instruction for at least
1 15 the number of ~~days~~ hours required by section 279.10,
1 16 subsection 1, ~~or shall provide at least the equivalent number~~
~~1 17 of total hours.~~

1 18 Sec. 3. Section 279.10, subsections 1 and 2, Code 2009,
1 19 are amended to read as follows:

1 20 1. The school year shall begin on the first day of July
1 21 and each regularly established elementary and secondary school
1 22 shall begin no sooner than a day during the calendar week in
1 23 which the first day of September falls but no later than the
1 24 first Monday in December. However, if the first day of
1 25 September falls on a Sunday, school may begin on a day during
1 26 the calendar week which immediately precedes the first day of
1 27 September. School ~~shall continue for at least one hundred~~
~~1 28 eighty days, except as provided in subsection 3, and may be~~
1 29 maintained during the entire calendar year. ~~However, if the~~
~~1 30 board of directors of a district extends the school calendar~~
~~1 31 because inclement weather caused the district to temporarily~~
~~1 32 close school during the regular school calendar, the A school~~
1 33 district ~~may excuse~~ shall require a graduating senior who has
~~1 34 met district or school to meet the same requirements for~~
1 35 ~~graduation from~~ attendance during the ~~extended~~ school calendar



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2 1 as those required of any other class of students enrolled at
2 2 the secondary level in the school district, except with regard
2 3 to activities related to graduation as authorized by the
2 4 school district. The minimum hours of instructional time in a
2 5 school year for grades one through six shall be nine hundred
2 6 ninety hours. The minimum hours of instructional time in a
2 7 school year for grades seven through twelve shall be one
2 8 thousand eighty hours. A school corporation may begin
2 9 employment of personnel for in-service training and
2 10 development purposes before the date to begin elementary and
2 11 secondary school.

2 12 2. The board of directors shall hold a public hearing on
2 13 any ~~proposal~~ request authorized under subsection 4 prior to
2 14 submitting it to the department of education for approval.

2 15 Sec. 4. Section 279.10, subsection 3, Code 2009, is
2 16 amended by striking the subsection.

2 17 Sec. 5. Section 299.1, unnumbered paragraph 1, Code 2009,
2 18 is amended to read as follows:

2 19 Except as provided in section 299.2, the parent, guardian,
2 20 or legal or actual custodian of a child who is of compulsory
2 21 attendance age, shall cause the child to attend some public
2 22 school, an accredited nonpublic school, or competent private
2 23 instruction in accordance with the provisions of chapter 299A,
2 24 during a school year, as defined under section 279.10. The
2 25 board of directors of a public school district or the
2 26 governing body of an accredited nonpublic school shall set the
2 27 number of ~~days~~ hours of required attendance for the schools
2 28 under its control.

2 29 Sec. 6. STATE MANDATE FUNDING SPECIFIED. In accordance
2 30 with section 25B.2, subsection 3, the state cost of requiring
2 31 compliance with any state mandate included in this Act shall
2 32 be paid by a school district from state school foundation aid
2 33 received by the school district under section 257.16. This
2 34 specification of the payment of the state cost shall be deemed
2 35 to meet all of the state funding-related requirements of



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3 1 section 25B.2, subsection 3, and no additional state funding
3 2 shall be necessary for the full implementation of this Act by
3 3 and enforcement of this Act against all affected school
3 4 districts.
3 5 Sec. 7. FUTURE EFFECTIVE DATE. This Act takes effect July
3 6 1, 2011.

3 7 EXPLANATION

3 8 This bill replaces the current 180-day school calendar,
3 9 which converts to a required 990 hours of instructional school
3 10 time at 5.5 hours per day, with a requirement that the school
3 11 calendar include 990 hours of instructional time for grades
3 12 1-6 and 1,080 hours of instructional time for grades 7-12.

3 13 The bill strikes a Code provision directing the state board
3 14 of education to define the minimum school day and allowing the
3 15 minimum hours to include early dismissals or late arrivals for
3 16 inclement weather or emergency health factors and staff
3 17 development. However, the bill adds a new requirement that
3 18 the state board define what constitutes instructional time,
3 19 which the bill states cannot include recess, the lunch period,
3 20 noninstructional assemblies, late arrival or exceptional
3 21 dismissal times, or professional development time.

3 22 The bill eliminates a provision that authorizes a school
3 23 district to excuse a graduating senior from attendance on days
3 24 added to the school calendar to make up for days lost due to
3 25 inclement weather. The bill requires that graduating seniors
3 26 meet the same attendance requirements as those required of any
3 27 other class of students at the secondary level, except with
3 28 regard to graduation activities.

3 29 The bill makes a conforming change by striking a provision
3 30 that permitted school districts to request approval for a
3 31 pilot program in which a school district could substitute an
3 32 equivalent number of hours for the 180-day school calendar
3 33 requirement. The bill also makes a technical change to a
3 34 provision which specifies that a school district must hold a
3 35 public hearing on a request to change the school start date



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4 1 prior to submitting the request to the department.
4 2 The bill may include a state mandate as defined in Code
4 3 section 25B.3. The bill requires that the state cost of any
4 4 state mandate included in the bill be paid by a school
4 5 district from state school foundation aid received by the
4 6 school district under Code section 257.16. The specification
4 7 is deemed to constitute state compliance with any state
4 8 mandate funding-related requirements of Code section 25B.2.
4 9 The inclusion of this specification is intended to reinstate
4 10 the requirement of political subdivisions to comply with any
4 11 state mandates included in the bill.
4 12 The bill takes effect July 1, 2011.
4 13 LSB 1604YH 83
4 14 kh/rj/5



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House File 27 - Introduced

HOUSE FILE
BY BAUDLER

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

A BILL FOR

1 An Act relating to the awarding of bonuses to appointed state
2 officers and state employees, employees of entities created
3 for the joint exercise of governmental powers, and employees
4 of entities receiving government funds pursuant to a service
5 contract with the state, and providing an effective date.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
7 TLSB 1638YH 83
8 ec/rj/14



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1 1 Section 1. Section 8F.3, subsection 1, Code 2009, is
1 2 amended by adding the following new paragraph:
1 3 NEW PARAGRAPH. e. Information that the recipient entity's
1 4 policies prohibit the use of any of the moneys received
1 5 pursuant to a service contract to provide bonus pay, as
1 6 defined in section 70A.1, to officers or employees of the
1 7 recipient entity.

1 8 Sec. 2. Section 28E.5, Code 2009, is amended by adding the
1 9 following new subsection:

1 10 NEW SUBSECTION. 5A. The requirement that employees of the
1 11 joint or cooperative undertaking not receive bonus pay, as
1 12 defined in section 70A.1.

1 13 Sec. 3. Section 70A.1, subsection 1, Code 2009, is amended
1 14 to read as follows:

1 15 1. a. Salaries specifically provided for in an
1 16 appropriation Act of the general assembly shall be in lieu of
1 17 existing statutory salaries, for the positions provided for in
1 18 the Act, and all salaries, including longevity where
1 19 applicable by express provision in the Code, shall be paid
1 20 according to the provisions of chapter 91A and shall be in
1 21 full compensation of all services, including any service on
1 22 committees, boards, commissions or similar duty for Iowa
1 23 government, except for members of the general assembly. A
1 24 state employee on an annual salary shall not be paid for a pay
1 25 period an amount which exceeds the employee's annual salary
1 26 transposed into a rate applicable to the pay period by
1 27 dividing the annual salary by the number of pay periods in the
1 28 fiscal year. Salaries for state employees covered by the
1 29 overtime payment provisions of the federal Fair Labor
1 30 Standards Act shall be established on an hourly basis. In
1 31 addition, unless otherwise authorized by law or required
1 32 pursuant to a collective bargaining agreement, a state
1 33 employee shall not receive bonus pay for or during the time
1 34 period beginning on or after the effective date of this Act.

1 35 b. For purposes of this section, "bonus pay" means any



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2 1 additional remuneration provided an employee in the form of a
2 2 bonus, including but not limited to a retention bonus,
2 3 recruitment bonus, exceptional job performance pay,
2 4 extraordinary job performance pay, exceptional performance
2 5 pay, extraordinary duty pay, or extraordinary or special duty
2 6 pay, and any extra benefit not otherwise provided to other
2 7 similarly situated employees.

2 8 Sec. 4. Section 99G.10, subsection 5, Code 2009, is
2 9 amended to read as follows:

2 10 5. The authority may establish incentive programs for
2 11 authority employees. However, the incentive programs shall
2 12 not provide for bonus pay, as defined in section 70A.1, for
2 13 authority employees.

2 14 Sec. 5. 2008 Iowa Acts, chapter 1191, section 13,
2 15 unnumbered paragraph 3, is amended to read as follows:

2 16 A person whose salary is established pursuant to the
2 17 section of this division of this Act that addresses the salary
2 18 ranges of state officers and who is a full-time, year-round
2 19 employee of the state shall not receive any other remuneration
2 20 from the state or from any other source for the performance of
2 21 that person's duties ~~unless the additional remuneration is~~
2 22 ~~first approved by the governor or authorized by law.~~ However,
2 23 this provision does not exclude the reimbursement for
2 24 necessary travel and expenses incurred in the performance of
2 25 duties or fringe benefits normally provided to employees of
2 26 the state.

2 27 Sec. 6. EFFECTIVE DATE. This Act, being deemed of
2 28 immediate importance, takes effect upon enactment.

2 29 EXPLANATION

2 30 This bill prohibits the granting of bonuses to state
2 31 employees and employees of entities under Code chapter 28E,
2 32 and the use of government moneys to provide bonuses to
2 33 employees of an entity that enters into a service contract
2 34 with the state.

2 35 Code section 8F.3, concerning contractual requirements for



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3 1 entities entering into a service contract with a state agency,
3 2 is amended to provide that the entity entering into the
3 3 contract shall have policies in place prohibiting the use of
3 4 any of the moneys received pursuant to the service contract to
3 5 provide bonuses to officers or employees of the entity.

3 6 Code section 28E.5, concerning agreements entered into for
3 7 purposes of a joint or cooperative undertaking, is amended to
3 8 provide that the agreement not permit payment of bonuses to
3 9 employees of the joint or cooperative undertaking.

3 10 Code section 70A.1, concerning salaries and benefits of
3 11 state employees, is amended to provide that no bonuses shall
3 12 be paid to state employees unless otherwise authorized by law
3 13 or a collective bargaining agreement. The amendment to the
3 14 Code section also defines bonus pay as any additional
3 15 remuneration or extra benefits provided to an employee.

3 16 Code section 99G.10, concerning the lottery authority, is
3 17 amended to provide that employees of the authority not receive
3 18 bonus pay.

3 19 2008 Iowa Acts, chapter 1191, concerning the pay of
3 20 appointed state officers, is amended to eliminate the ability
3 21 of the officer to receive additional remuneration if approved
3 22 by the governor or otherwise authorized by law.

3 23 The bill takes effect upon enactment.

3 24 LSB 1638YH 83

3 25 ec/rj/14



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House File 28 - Introduced

HOUSE FILE
BY WENTHE

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

A BILL FOR

- 1 An Act concerning the appointment of airport commissioners.
- 2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 3 TLSB 1215HH 83
- 4 dea/nh/14



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1 1 Section 1. Section 330.20, Code 2009, is amended to read
1 2 as follows:

1 3 330.20 APPOINTMENT OF COMMISSION == TERMS.

1 4 When a majority of the voters favors airport control and
1 5 management by a commission, the governing body shall, within
1 6 ten days, appoint an airport commission of three or five
1 7 resident voters members, each of whom shall be a resident of
1 8 the city or county establishing the commission or a resident
1 9 of a city or county served by the airport. The governing body

1 10 shall by ordinance set the commencement dates of office and
1 11 the length of the terms of office which shall be no more than
1 12 six and no less than three years. The terms of the first
1 13 appointees of a newly created commission shall be staggered by
1 14 length of term and all subsequent appointments shall be for
1 15 full terms. ~~The governing body shall also provide for~~

~~1 16 staggered terms of office for the appointees of commissions~~
~~1 17 existing on July 1, 1991.~~ Vacancies shall be filled as

1 18 original appointments are made. Members of the airport
1 19 commission shall serve without compensation. Each
1 20 commissioner shall execute and furnish a bond in an amount
1 21 fixed by the governing body and filed with the city clerk or
1 22 county auditor. The commission shall elect from its own
1 23 members a chairperson and a secretary who shall serve for a
1 24 term as the commission shall determine.

1 25 EXPLANATION

1 26 This bill provides that a person appointed by the governing
1 27 body of a city or county to serve on an airport commission
1 28 must be either a resident of that city or county or a resident
1 29 of a city or county served by the airport. Under current law,
1 30 only resident voters of the city or county that established
1 31 the airport commission may serve as members of the commission.

1 32 The bill also strikes obsolete language from Code section
1 33 330.20 relating to members' terms of office for commissions in
1 34 existence in 1991.

1 35 LSB 1215HH 83



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2 1 dea/nh/14



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House File 29

HOUSE FILE
BY ZIRKELBACH and BAILEY

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

A BILL FOR

1 An Act establishing the interstate compact on educational
2 opportunity for military children and providing an effective
3 date.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 1182HH 83
6 kh/rj/24



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1 1 Section 1. NEW SECTION. 256G.1 INTERSTATE COMPACT OF
1 2 EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN.
1 3 The interstate compact on educational opportunity for
1 4 military children is enacted into law and entered into by this
1 5 state with any other state or jurisdiction legally joining the
1 6 compact in the form substantially as follows:
1 7 1. ARTICLE I == PURPOSE. It is the purpose of this
1 8 compact to remove barriers to educational success imposed on
1 9 children of military families because of frequent moves and
1 10 deployment of their parents by:
1 11 a. Facilitating the timely enrollment of children of
1 12 military families and ensuring that they are not placed at a
1 13 disadvantage due to difficulty in the transfer of education
1 14 records from the previous school district or variations in
1 15 entrance and age requirements.
1 16 b. Facilitating the student placement process through
1 17 which children of military families are not disadvantaged by
1 18 variations in attendance requirements, scheduling, sequencing,
1 19 grading, course content, or assessment.
1 20 c. Facilitating the qualification and eligibility for
1 21 enrollment, educational programs, and participation in
1 22 extracurricular academic, athletic, and social activities.
1 23 d. Facilitating the on-time graduation of children of
1 24 military families.
1 25 e. Providing for the promulgation and enforcement of
1 26 administrative rules implementing the provisions of this
1 27 compact.
1 28 f. Providing for the uniform collection and sharing of
1 29 information between and among member states, schools, and
1 30 military families under this compact.
1 31 g. Promoting coordination between this compact and other
1 32 compacts affecting military children.
1 33 h. Promoting flexibility and cooperation between the
1 34 educational system, parents, and the student in order to
1 35 achieve educational success for the student.



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2 1 2. ARTICLE II == DEFINITIONS. As used in this compact,
2 2 unless the context clearly requires a different construction:
2 3 a. "Active duty" means full-time duty status in the active
2 4 uniformed service of the United States, including members of
2 5 the national guard and reserve on active duty orders pursuant
2 6 to 10 U.S.C. } 1209 and 1211.
2 7 b. "Children of military families" means a school-aged
2 8 child, enrolled in kindergarten through twelfth grade, in the
2 9 household of an active duty member.
2 10 c. "Compact commissioner" means the voting representative
2 11 of each compacting state appointed pursuant to article VIII of
2 12 this compact.
2 13 d. "Deployment" means the period one month prior to the
2 14 service members' departure from their home station on military
2 15 orders through six months after return to their home station.
2 16 e. "Education records" or "educational records" means
2 17 those official records, files, and data directly related to a
2 18 student and maintained by the school or local education
2 19 agency, including but not limited to records encompassing all
2 20 the material kept in the student's cumulative folder such as
2 21 general identifying data, records of attendance and of
2 22 academic work completed, records of achievement and results of
2 23 evaluative tests, health data, disciplinary status, test
2 24 protocols, and individualized education programs.
2 25 f. "Extracurricular activities" means a voluntary activity
2 26 sponsored by the school or local education agency or an
2 27 organization sanctioned by the local education agency.
2 28 Extracurricular activities include but are not limited to
2 29 preparation for and involvement in public performances,
2 30 contests, athletic competitions, demonstrations, displays, and
2 31 club activities.
2 32 g. "Interstate commission" means the commission on
2 33 educational opportunity for military children that is created
2 34 under article IX of this compact.
2 35 h. "Local education agency" means a public authority



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3 1 legally constituted by the state as an administrative agency
3 2 to provide control of and direction for kindergarten through
3 3 twelfth grade public educational institutions.
3 4 i. "Member state" means a state that has enacted this
3 5 compact.
3 6 j. "Military installation" means a base, camp, post,
3 7 station, yard, center, homeport facility for any ship, or
3 8 other activity under the jurisdiction of the United States
3 9 department of defense, including any leased facility, which is
3 10 located within any state. Such term does not include any
3 11 facility used primarily for civil works, rivers and harbors
3 12 projects, or flood control projects.
3 13 k. "Nonmember state" means a state that has not enacted
3 14 this compact.
3 15 l. "Receiving state" means the state to which a child of a
3 16 military family is sent, brought, or caused to be sent or
3 17 brought.
3 18 m. "Rule" means a written statement by the interstate
3 19 commission promulgated pursuant to article XII of this compact
3 20 that is of general applicability, implements, interprets, or
3 21 prescribes a policy or provision of the compact, or an
3 22 organizational, procedural, or practice requirement of the
3 23 interstate commission, and has the force and effect of
3 24 statutory law in a member state, and includes the amendment,
3 25 repeal, or suspension of an existing rule.
3 26 n. "Sending state" means the state from which a child of a
3 27 military family is sent, brought, or caused to be sent or
3 28 brought.
3 29 o. "State" means the same as defined in section 4.1.
3 30 p. "Student" means the child of a military family for whom
3 31 the local education agency receives public funding and who is
3 32 formally enrolled in kindergarten through twelfth grade.
3 33 q. "Transition" means the formal and physical process of
3 34 transferring from school to school or the period of time in
3 35 which a student moves from one school in the sending state to



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4 1 another school in the receiving state.
4 2 r. "Uniformed service" means the army, navy, air force,
4 3 marine corps, coast guard, commissioned corps of the national
4 4 oceanic and atmospheric administration, or commissioned corps
4 5 of the public health services.
4 6 s. "Veteran" means a person who served in the uniformed
4 7 services and who was discharged or released therefrom under
4 8 conditions other than dishonorable.
4 9 3. ARTICLE III == APPLICABILITY.
4 10 a. Except as otherwise provided in paragraph "b", this
4 11 compact shall apply to the children of:
4 12 (1) Active duty members of the uniformed services as
4 13 defined in this compact, including members of the national
4 14 guard and reserve on active duty orders pursuant to 10 U.S.C.
4 15 } 1209 and 1211.
4 16 (2) Members or veterans of the uniformed services who are
4 17 severely injured and medically discharged or retired for a
4 18 period of one year after medical discharge or retirement.
4 19 (3) Members of the uniformed services who die on active
4 20 duty or as a result of injuries sustained on active duty for a
4 21 period of one year after death.
4 22 b. The provisions of this interstate compact shall only
4 23 apply to local education agencies as defined in this compact.
4 24 c. The provisions of this compact shall not apply to the
4 25 children of any of the following:
4 26 (1) Inactive members of the national guard and military
4 27 reserves.
4 28 (2) Members of the uniformed services now retired, except
4 29 as provided in paragraph "a".
4 30 (3) Veterans of the uniformed services, except as provided
4 31 in paragraph "a".
4 32 (4) Other United States department of defense personnel
4 33 and other federal agency civilian and contract employees not
4 34 defined as active duty members of the uniformed services.
4 35 4. ARTICLE IV == EDUCATIONAL RECORDS AND ENROLLMENT.



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5 1 a. UNOFFICIAL OR HAND=CARRIED EDUCATION RECORDS. In the
5 2 event that official education records cannot be released to
5 3 the parents for the purpose of transfer, the custodian of the
5 4 records in the sending state shall prepare and furnish to the
5 5 parent a complete set of unofficial educational records
5 6 containing uniform information as determined by the interstate
5 7 commission. Upon receipt of the unofficial education records
5 8 by a school in the receiving state, the school shall enroll
5 9 and appropriately place the student based on the information
5 10 provided in the unofficial records pending validation by the
5 11 official records, as quickly as possible.

5 12 b. OFFICIAL EDUCATION RECORDS OR TRANSCRIPTS.
5 13 Simultaneous with the enrollment and conditional placement of
5 14 the student, the school in the receiving state shall request
5 15 the student's official education record from the school in the
5 16 sending state. Upon receipt of this request, the school in
5 17 the sending state will process and furnish the official
5 18 education records to the school in the receiving state within
5 19 ten days or within such time as is reasonably determined under
5 20 the rules promulgated by the interstate commission.

5 21 c. IMMUNIZATIONS. Compacting states shall give students
5 22 thirty days from the date of enrollment or such time as is
5 23 reasonably determined under the rules promulgated by the
5 24 interstate commission, to obtain any immunization required by
5 25 the receiving state. For a series of immunizations, initial
5 26 vaccinations must be obtained within thirty days or within
5 27 such time as is reasonably determined under the rules
5 28 promulgated by the interstate commission.

5 29 d. KINDERGARTEN AND FIRST GRADE ENTRANCE AGE. Students
5 30 shall be allowed to continue their enrollment at grade level
5 31 in the receiving state commensurate with their grade level,
5 32 including kindergarten, from a local education agency in the
5 33 sending state at the time of transition, regardless of age. A
5 34 student who has satisfactorily completed the prerequisite
5 35 grade level in the local education agency in the sending state



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6 1 shall be eligible for enrollment in the next highest grade
6 2 level in the receiving state, regardless of age. A student
6 3 transferring after the start of the school year in the
6 4 receiving state shall enter the school in the receiving state
6 5 on the student's validated level from an accredited school in
6 6 the sending state.

6 7 5. ARTICLE V == PLACEMENT AND ATTENDANCE.

6 8 a. COURSE PLACEMENT. When the student transfers before or
6 9 during the school year, the receiving state school shall
6 10 initially honor placement of the student in educational
6 11 courses based on the student's enrollment in the sending state
6 12 school or educational assessments conducted at the school in
6 13 the sending state if the courses are offered, or both. Course
6 14 placement includes but is not limited to honors, international
6 15 baccalaureate, advanced placement, vocational, technical, and
6 16 career pathways courses. Continuing the student's academic
6 17 program from the previous school and promoting placement in
6 18 academically and career challenging courses should be
6 19 paramount when considering placement. This does not preclude
6 20 the school in the receiving state from performing subsequent
6 21 evaluations to ensure appropriate placement and continued
6 22 enrollment of the student in the course.

6 23 b. EDUCATIONAL PROGRAM PLACEMENT. The receiving state
6 24 school shall initially honor placement of the student in
6 25 educational programs based on current educational assessments
6 26 conducted at the school in the sending state or participation
6 27 and placement in like programs in the sending state. Such
6 28 programs include but are not limited to gifted and talented
6 29 programs and English as a second language programs. This does
6 30 not preclude the school in the receiving state from performing
6 31 subsequent evaluations to ensure appropriate placement of the
6 32 student.

6 33 c. SPECIAL EDUCATION SERVICES. In compliance with the
6 34 federal requirements of the Individuals with Disabilities
6 35 Education Act, 20 U.S.C. } 1400 et seq., the receiving state



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7 1 shall initially provide comparable services to a student with
7 2 disabilities based on the student's current individualized
7 3 education program; and, in compliance with the requirements of
7 4 section 504 of the Rehabilitation Act, 29 U.S.C. } 794, and
7 5 with Title II of the Americans with Disabilities Act, 42
7 6 U.S.C. } 12131=12165, the receiving state shall make
7 7 reasonable accommodations and modifications to address the
7 8 needs of incoming students with disabilities, subject to an
7 9 existing section 504 or Title II plan, to provide the student
7 10 with equal access to education. This does not preclude the
7 11 school in the receiving state from performing subsequent
7 12 evaluations to ensure appropriate placement of the student.

7 13 d. PLACEMENT FLEXIBILITY. Local education agency
7 14 administrative officials shall have flexibility in waiving
7 15 course and program prerequisites, or other preconditions for
7 16 placement in courses and programs offered under the
7 17 jurisdiction of the local education agency.

7 18 e. ABSENCE AS RELATED TO DEPLOYMENT ACTIVITIES. A student
7 19 whose parent or legal guardian is an active duty member of the
7 20 uniformed services, as defined by this compact, and has been
7 21 called to duty for, is on leave from, or immediately returned
7 22 from deployment to a combat zone or combat support posting,
7 23 shall be granted additional excused absences at the discretion
7 24 of the local education agency superintendent to visit with the
7 25 student's parent or legal guardian relative to such leave or
7 26 deployment of the parent or guardian.

7 27 6. ARTICLE VI == ELIGIBILITY.

7 28 a. ELIGIBILITY FOR ENROLLMENT.

7 29 (1) Special power of attorney, relative to the
7 30 guardianship of a child of a military family and executed
7 31 under applicable law shall be sufficient for the purposes of
7 32 enrollment and all other actions requiring parental
7 33 participation and consent.

7 34 (2) A local education agency shall be prohibited from
7 35 charging local tuition to a transitioning military child



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8 1 placed in the care of a noncustodial parent or other person
8 2 standing in loco parentis who lives in a jurisdiction other
8 3 than that of the custodial parent.

8 4 (3) A transitioning military child, placed in the care of
8 5 a noncustodial parent or other person standing in loco
8 6 parentis who lives in a jurisdiction other than that of the
8 7 custodial parent, may continue to attend the school in which
8 8 the child was enrolled while residing with the custodial
8 9 parent.

8 10 b. ELIGIBILITY FOR EXTRACURRICULAR PARTICIPATION. State
8 11 and local education agencies shall facilitate the opportunity
8 12 for transitioning military children's inclusion in
8 13 extracurricular activities, regardless of application
8 14 deadlines, to the extent they are otherwise qualified.

8 15 7. ARTICLE VII == GRADUATION. In order to facilitate the
8 16 on-time graduation of children of military families, states
8 17 and local education agencies shall incorporate the following
8 18 procedures:

8 19 a. WAIVER REQUIREMENTS. Local education agency
8 20 administrative officials shall waive specific courses required
8 21 for graduation if similar course work has been satisfactorily
8 22 completed in another local education agency or shall provide
8 23 reasonable justification for denial. Should a waiver not be
8 24 granted to a student who would qualify to graduate from the
8 25 sending school, the local education agency shall provide an
8 26 alternative means of acquiring required coursework so that
8 27 graduation may occur on time.

8 28 b. EXIT EXAMS.

8 29 (1) States shall accept any of the following in lieu of
8 30 testing requirements for graduation in the receiving state:

8 31 (a) Exit or end-of-course exams required for graduation
8 32 from the sending state.

8 33 (b) National norm-referenced achievement tests.

8 34 (c) Alternative testing.

8 35 (2) In the event the above alternatives cannot be



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9 1 accommodated by the receiving state for a student transferring
9 2 in the student's senior year, then the provisions of paragraph
9 3 "c" shall apply.

9 4 c. TRANSFERS DURING SENIOR YEAR. Should a military
9 5 student transferring at the beginning or during the student's
9 6 senior year be ineligible to graduate from the receiving local
9 7 education agency after all alternatives have been considered,
9 8 the sending and receiving local education agencies shall
9 9 ensure the receipt of a diploma from the sending local
9 10 education agency, if the student meets the graduation
9 11 requirements of the sending local education agency. In the
9 12 event that one of the states in question is not a member of
9 13 this compact, the member state shall use best efforts to
9 14 facilitate the on-time graduation of the student in accordance
9 15 with paragraphs "a" and "b".

9 16 8. ARTICLE VIII == STATE COORDINATION.

9 17 a. Each member state shall, through the creation of a
9 18 state council or use of an existing body or board, provide for
9 19 the coordination among its agencies of government, local
9 20 education agencies and military installations concerning the
9 21 state's participation in, and compliance with, this compact
9 22 and interstate commission activities. While each member state
9 23 may determine the membership of its own state council, its
9 24 membership must include at least: the director of the
9 25 department of education, superintendent of a school district
9 26 with a high concentration of military children, representative
9 27 from a military installation, one representative each from the
9 28 legislative and executive branches of government, and other
9 29 offices and stakeholder groups the state council deems
9 30 appropriate. A member state that does not have a school
9 31 district deemed to contain a high concentration of military
9 32 children may appoint a superintendent from another school
9 33 district to represent local education agencies on the state
9 34 council.

9 35 b. The state council of each member state shall appoint or



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10 1 designate a military family education liaison to assist
10 2 military families and the state in facilitating the
10 3 implementation of this compact.
10 4 c. The compact commissioner responsible for the
10 5 administration and management of the state's participation in
10 6 this compact shall be appointed by the governor or as
10 7 otherwise determined by each member state.
10 8 d. The compact commissioner and the military family
10 9 education liaison designated in sections 256G.2 and 256G.3
10 10 shall be ex officio members of the state council, unless
10 11 either is already a full voting member of the state council.
10 12 9. ARTICLE IX == INTERSTATE COMMISSION ON EDUCATIONAL
10 13 OPPORTUNITY FOR MILITARY CHILDREN. The member states hereby
10 14 create the interstate commission on educational opportunity
10 15 for military children. The activities of the interstate
10 16 commission are the formation of public policy and are a
10 17 discretionary state function. The interstate commission
10 18 shall:
10 19 a. Be a body corporate and joint agency of the member
10 20 states and shall have all the responsibilities, powers, and
10 21 duties set forth herein, and such additional powers as may be
10 22 conferred upon it by a subsequent concurrent action of the
10 23 respective legislatures of the member states in accordance
10 24 with the terms of this compact.
10 25 b. Consist of one interstate commission voting
10 26 representative from each member state who shall be that
10 27 state's compact commissioner.
10 28 (1) Each member state represented at a meeting of the
10 29 interstate commission is entitled to one vote.
10 30 (2) A majority of the total member states shall constitute
10 31 a quorum for the transaction of business, unless a larger
10 32 quorum is required by the bylaws of the interstate commission.
10 33 (3) A representative shall not delegate a vote to another
10 34 member state. In the event the compact commissioner is unable
10 35 to attend a meeting of the interstate commission, the governor



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11 1 or state council may delegate voting authority to another
11 2 person from the compact commissioner's state for a specified
11 3 meeting.

11 4 (4) The bylaws may provide for meetings of the interstate
11 5 commission to be conducted by telecommunication or electronic
11 6 communication.

11 7 c. Consist of ex officio, nonvoting representatives who
11 8 are members of interested organizations. Such ex officio
11 9 members, as defined in the bylaws may include but not be
11 10 limited to members of the representative organizations of
11 11 military family advocates, local education agency officials,
11 12 parent and teacher groups, the United States department of
11 13 defense, the education commission of the states, the
11 14 interstate agreement on the qualification of educational
11 15 personnel and other interstate compacts affecting the
11 16 education of children of military members.

11 17 d. Meet at least once each calendar year. The chairperson
11 18 may call additional meetings and, upon the request of a simple
11 19 majority of the member states, shall call additional meetings.

11 20 e. Establish an executive committee, whose members shall
11 21 include the officers of the interstate commission and such
11 22 other members of the interstate commission as determined by
11 23 the bylaws. Members of the executive committee shall serve a
11 24 one-year term. Members of the executive committee shall be
11 25 entitled to one vote each. The executive committee shall have
11 26 the power to act on behalf of the interstate commission, with
11 27 the exception of rulemaking, during periods when the
11 28 interstate commission is not in session. The executive
11 29 committee shall oversee the day-to-day activities of the
11 30 administration of this compact including enforcement and
11 31 compliance with the provisions of this compact, its bylaws and
11 32 rules, and other such duties as deemed necessary. The United
11 33 States department of defense, shall serve as an ex officio,
11 34 nonvoting member of the executive committee.

11 35 f. Establish bylaws and rules that provide for conditions



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12 1 and procedures under which the interstate commission shall
12 2 make its information and official records available to the
12 3 public for inspection or copying. The interstate commission
12 4 may exempt from disclosure information or official records to
12 5 the extent disclosure would adversely affect personal privacy
12 6 rights or proprietary interests.

12 7 g. Give public notice of all meetings and all meetings
12 8 shall be open to the public, except as set forth in the rules
12 9 or as otherwise provided in this compact. The interstate
12 10 commission and its committees may close a meeting, or portion
12 11 thereof, where it determines by two-thirds vote that an open
12 12 meeting would likely do any of the following:

12 13 (1) Relate solely to the interstate commission's internal
12 14 personnel practices and procedures.

12 15 (2) Disclose matters specifically exempted from disclosure
12 16 by federal and state statute.

12 17 (3) Disclose trade secrets or commercial or financial
12 18 information which is privileged or confidential.

12 19 (4) Involve accusing a person of a crime, or formally
12 20 censuring a person.

12 21 (5) Disclose information of a personal nature where
12 22 disclosure would constitute a clearly unwarranted invasion of
12 23 personal privacy.

12 24 (6) Disclose investigative records compiled for law
12 25 enforcement purposes.

12 26 (7) Specifically relate to the interstate commission's
12 27 participation in a civil action or other legal proceeding.

12 28 h. Cause its legal counsel or designee to certify that a
12 29 meeting may be closed and shall reference each relevant
12 30 exemptible provision for any meeting, or portion of a meeting,
12 31 which is closed pursuant to this provision. The interstate
12 32 commission shall keep minutes which shall fully and clearly
12 33 describe all matters discussed in a meeting and shall provide
12 34 a full and accurate summary of actions taken, and the reasons
12 35 therefore, including a description of the views expressed and



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13 1 the record of a roll call vote. All documents considered in
13 2 connection with an action shall be identified in such minutes.
13 3 All minutes and documents of a closed meeting shall remain
13 4 under seal, subject to release by a majority vote of the
13 5 interstate commission.

13 6 i. Collect standardized data concerning the educational
13 7 transition of the children of military families under this
13 8 compact as directed through its rules which shall specify the
13 9 data to be collected, the means of collection, and data
13 10 exchange and reporting requirements. Such methods of data
13 11 collection, exchange, and reporting shall, in so far as is
13 12 reasonably possible, conform to current technology and
13 13 coordinate its information functions with the appropriate
13 14 custodian of records as identified in the bylaws and rules.

13 15 j. Create a process that permits military officials,
13 16 education officials, and parents to inform the interstate
13 17 commission if and when there are alleged violations of this
13 18 compact or its rules or when issues subject to the
13 19 jurisdiction of this compact or its rules are not addressed by
13 20 the state or local education agency. This section shall not
13 21 be construed to create a private right of action against the
13 22 interstate commission or any member state.

13 23 10. ARTICLE X == POWERS AND DUTIES OF THE INTERSTATE
13 24 COMMISSION. The interstate commission shall have the
13 25 following powers:

13 26 a. To provide for dispute resolution among member states.

13 27 b. To promulgate rules and take all necessary actions to
13 28 effect the goals, purposes, and obligations as enumerated in
13 29 this compact. The rules shall have the force and effect of
13 30 statutory law and shall be binding in the compact states to
13 31 the extent and in the manner provided in this compact.

13 32 c. To issue, upon request of a member state, advisory
13 33 opinions concerning the meaning or interpretation of this
13 34 compact, its bylaws, rules, and actions.

13 35 d. To enforce compliance with the compact provisions, the



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14 1 rules promulgated by the interstate commission, and the
14 2 bylaws, using all necessary and proper means, including but
14 3 not limited to the use of judicial process.
14 4 e. To establish and maintain offices which shall be
14 5 located within one or more of the member states.
14 6 f. To purchase and maintain insurance and bonds.
14 7 g. To borrow, accept, hire, or contract for services of
14 8 personnel.
14 9 h. To establish and appoint committees including but not
14 10 limited to an executive committee as required by article IX of
14 11 this compact which shall have the power to act on behalf of
14 12 the interstate commission in carrying out its powers and
14 13 duties under this compact.
14 14 i. To elect or appoint such officers, attorneys,
14 15 employees, agents, or consultants, and to fix their
14 16 compensation, define their duties, and determine their
14 17 qualifications; and to establish the interstate commission's
14 18 personnel policies and programs relating to conflicts of
14 19 interest, rates of compensation, and qualifications of
14 20 personnel.
14 21 j. To accept any and all donations and grants of money,
14 22 equipment, supplies, materials, and services, and to receive,
14 23 utilize, and dispose of it.
14 24 k. To lease, purchase, accept contributions or donations
14 25 of, or otherwise to own, hold, improve, or use any property,
14 26 real, personal, or mixed.
14 27 l. To sell, convey, mortgage, pledge, lease, exchange,
14 28 abandon, or otherwise dispose of any property, real, personal,
14 29 or mixed.
14 30 m. To establish a budget and make expenditures.
14 31 n. To adopt a seal and bylaws governing the management and
14 32 operation of the interstate commission.
14 33 o. To report annually to the legislatures, governors,
14 34 judiciary, and state councils of the member states concerning
14 35 the activities of the interstate commission during the



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15 1 preceding year. Such reports shall also include any
15 2 recommendations that may have been adopted by the interstate
15 3 commission.
15 4 p. To coordinate education, training, and public awareness
15 5 regarding this compact, its implementation and operation for
15 6 officials and parents involved in such activity.
15 7 q. To establish uniform standards for the reporting,
15 8 collecting, and exchanging of data.
15 9 r. To maintain corporate books and records in accordance
15 10 with the bylaws.
15 11 s. To perform such functions as may be necessary or
15 12 appropriate to achieve the purposes of this compact.
15 13 t. To provide for the uniform collection and sharing of
15 14 information between and among member states, schools, and
15 15 military families under this compact.
15 16 11. ARTICLE XI == ORGANIZATION AND OPERATION OF THE
15 17 INTERSTATE COMMISSION.
15 18 a. The interstate commission shall, by a majority of the
15 19 members present and voting, within twelve months after the
15 20 first interstate commission meeting, adopt bylaws to govern
15 21 its conduct as may be necessary or appropriate to carry out
15 22 the purposes of this compact, including but not limited to:
15 23 (1) Establishing the fiscal year of the interstate
15 24 commission.
15 25 (2) Establishing an executive committee, and such other
15 26 committees as may be necessary.
15 27 (3) Providing for the establishment of committees and for
15 28 governing any general or specific delegation of authority or
15 29 function of the interstate commission.
15 30 (4) Providing reasonable procedures for calling and
15 31 conducting meetings of the interstate commission, and ensuring
15 32 reasonable notice of each such meeting.
15 33 (5) Establishing the titles and responsibilities of the
15 34 officers and staff of the interstate commission.
15 35 (6) Providing a mechanism for concluding the operations of



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16 1 the interstate commission and the return of surplus funds that
16 2 may exist upon the termination of this compact after the
16 3 payment and reserving of all of its debts and obligations.

16 4 (7) Providing start-up rules for initial administration of
16 5 this compact.

16 6 b. The interstate commission shall, by a majority of the
16 7 members, elect annually from among its members a chairperson,
16 8 a vice chairperson, and a treasurer, each of whom shall have
16 9 such authority and duties as may be specified in the bylaws.
16 10 The chairperson or, in the chairperson's absence or
16 11 disability, the vice chairperson, shall preside at all
16 12 meetings of the interstate commission. The officers so
16 13 elected shall serve without compensation or remuneration from
16 14 the interstate commission; provided that, subject to the
16 15 availability of budgeted funds, the officers shall be
16 16 reimbursed for ordinary and necessary costs and expenses
16 17 incurred by them in the performance of their responsibilities
16 18 as officers of the interstate commission.

16 19 c. (1) The executive committee shall have such authority
16 20 and duties as may be set forth in the bylaws, including but
16 21 not limited to the following:

16 22 (a) Managing the affairs of the interstate commission in a
16 23 manner consistent with the bylaws and purposes of the
16 24 interstate commission.

16 25 (b) Overseeing an organizational structure within, and
16 26 appropriate procedures for the interstate commission to
16 27 provide for the creation of rules, operating procedures, and
16 28 administrative and technical support functions.

16 29 (c) Planning, implementing, and coordinating
16 30 communications and activities with other state, federal, and
16 31 local government organizations in order to advance the goals
16 32 of the interstate commission.

16 33 (2) The executive committee may, subject to the approval
16 34 of the interstate commission, appoint or retain an executive
16 35 director for such period, upon such terms and conditions and



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17 1 for such compensation, as the interstate commission may deem
17 2 appropriate. The executive director shall serve as secretary
17 3 to the interstate commission, but shall not be a member of the
17 4 interstate commission. The executive director shall hire and
17 5 supervise such other persons as may be authorized by the
17 6 interstate commission.

17 7 d. The interstate commission's executive director and its
17 8 employees shall be immune from suit and liability, either
17 9 personally or in their official capacity, for a claim for
17 10 damage to or loss of property or personal injury or other
17 11 civil liability caused or arising out of or relating to an
17 12 actual or alleged act, error, or omission that occurred, or
17 13 that such person had a reasonable basis for believing
17 14 occurred, within the scope of interstate commission
17 15 employment, duties, or responsibilities; provided, that such
17 16 person shall not be protected from suit or liability for
17 17 damage, loss, injury, or liability caused by the intentional
17 18 or willful and wanton misconduct of such person.

17 19 (1) The liability of the interstate commission's executive
17 20 director and employees or interstate commission
17 21 representatives, acting within the scope of such person's
17 22 employment or duties for acts, errors, or omissions occurring
17 23 within such person's state shall not exceed the limits of
17 24 liability set forth under the Constitution and laws of that
17 25 state for state officials, employees, and agents. The
17 26 interstate commission is considered to be an instrumentality
17 27 of the states for the purposes of any such action. Nothing in
17 28 this paragraph "d" shall be construed to protect such person
17 29 from suit or liability for damage, loss, injury, or liability
17 30 caused by the intentional or willful and wanton misconduct of
17 31 such person.

17 32 (2) The interstate commission shall defend the executive
17 33 director and its employees and, subject to the approval of the
17 34 attorney general or other appropriate legal counsel of the
17 35 member state represented by an interstate commission



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18 1 representative, shall defend such interstate commission
18 2 representative in any civil action seeking to impose liability
18 3 arising out of an actual or alleged act, error, or omission
18 4 that occurred within the scope of interstate commission
18 5 employment, duties, or responsibilities, or that the defendant
18 6 had a reasonable basis for believing occurred within the scope
18 7 of interstate commission employment, duties, or
18 8 responsibilities, provided that the actual or alleged act,
18 9 error, or omission did not result from intentional or willful
18 10 and wanton misconduct on the part of such person.

18 11 (3) To the extent not covered by the state involved,
18 12 member state, or the interstate commission, the
18 13 representatives or employees of the interstate commission
18 14 shall be held harmless in the amount of a settlement or
18 15 judgment, including attorney's fees and costs, obtained
18 16 against such persons arising out of an actual or alleged act,
18 17 error, or omission that occurred within the scope of
18 18 interstate commission employment, duties, or responsibilities,
18 19 or that such persons had a reasonable basis for believing
18 20 occurred within the scope of interstate commission employment,
18 21 duties, or responsibilities, provided that the actual or
18 22 alleged act, error, or omission did not result from
18 23 intentional or willful and wanton misconduct on the part of
18 24 such persons.

18 25 12. ARTICLE XII == RULEMAKING FUNCTIONS OF THE INTERSTATE
18 26 COMMISSION.

18 27 a. The interstate commission shall promulgate reasonable
18 28 rules in order to effectively and efficiently achieve the
18 29 purposes of this compact. Notwithstanding the foregoing, in
18 30 the event the interstate commission exercises its rulemaking
18 31 authority in a manner that is beyond the scope of the purposes
18 32 of this compact, or the powers granted under this compact,
18 33 then such an action by the interstate commission shall be
18 34 invalid and have no force or effect.

18 35 b. Rules shall be made pursuant to a rulemaking process



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19 1 that substantially conforms to the model state administrative
19 2 procedure Act of 1981, uniform laws annotated, as amended, as
19 3 may be appropriate to the operations of the interstate
19 4 commission.

19 5 c. Not later than thirty days after a rule is promulgated,
19 6 any person may file a petition for judicial review of the
19 7 rule; provided, that the filing of such a petition shall not
19 8 stay or otherwise prevent the rule from becoming effective
19 9 unless the court finds that the petitioner has a substantial
19 10 likelihood of success. The court shall give deference to the
19 11 actions of the interstate commission consistent with
19 12 applicable law and shall not find the rule to be unlawful if
19 13 the rule represents a reasonable exercise of the interstate
19 14 commission's authority.

19 15 d. If a majority of the legislatures of the compacting
19 16 states rejects a rule by enactment of a statute or resolution
19 17 in the same manner used to adopt this compact, then such rule
19 18 shall have no further force and effect in any compacting
19 19 state.

19 20 13. ARTICLE XIII == OVERSIGHT, ENFORCEMENT, AND DISPUTE
19 21 RESOLUTION.

19 22 a. OVERSIGHT.

19 23 (1) The executive, legislative, and judicial branches of
19 24 state government in each member state shall enforce this
19 25 compact and shall take all actions necessary and appropriate
19 26 to effectuate this compact's purposes and intent. The
19 27 provisions of this compact and the rules promulgated under
19 28 this compact shall have standing as statutory law.

19 29 (2) All courts shall take judicial notice of this compact
19 30 and the rules in any judicial or administrative proceeding in
19 31 a member state pertaining to the subject matter of this
19 32 compact which may affect the powers, responsibilities, or
19 33 actions of the interstate commission.

19 34 (3) The interstate commission shall be entitled to receive
19 35 all service of process in any such proceeding, and shall have



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20 1 standing to intervene in the proceeding for all purposes.
20 2 Failure to provide service of process to the interstate
20 3 commission shall render a judgment or order void as to the
20 4 interstate commission, this compact, or promulgated rules.
20 5 b. DEFAULT, TECHNICAL ASSISTANCE, SUSPENSION, AND
20 6 TERMINATION.
20 7 (1) If the interstate commission determines that a member
20 8 state has defaulted in the performance of its obligations or
20 9 responsibilities under this compact, or the bylaws or
20 10 promulgated rules, the interstate commission shall:
20 11 (a) Provide written notice to the defaulting state and
20 12 other member states, of the nature of the default, the means
20 13 of curing the default, and any action taken by the interstate
20 14 commission. The interstate commission shall specify the
20 15 conditions by which the defaulting state must cure its
20 16 default.
20 17 (b) Provide remedial training and specific technical
20 18 assistance regarding the default.
20 19 (2) If the defaulting state fails to cure the default, the
20 20 defaulting state shall be terminated from this compact upon an
20 21 affirmative vote of a majority of the member states and all
20 22 rights, privileges, and benefits conferred by this compact
20 23 shall be terminated from the effective date of termination. A
20 24 cure of the default does not relieve the offending state of
20 25 obligations or liabilities incurred during the period of the
20 26 default.
20 27 (3) Suspension or termination of membership in this
20 28 compact shall be imposed only after all other means of
20 29 securing compliance have been exhausted. Notice of intent to
20 30 suspend or terminate shall be given by the interstate
20 31 commission to the governor, the majority and minority leaders
20 32 of the defaulting state's legislature, and each of the member
20 33 states.
20 34 (4) The state which has been suspended or terminated is
20 35 responsible for all assessments, obligations, and liabilities



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21 1 incurred through the effective date of suspension or
21 2 termination including obligations, the performance of which
21 3 extends beyond the effective date of suspension or
21 4 termination.
21 5 (5) The interstate commission shall not bear any costs
21 6 relating to any state that has been found to be in default or
21 7 which has been suspended or terminated from the compact,
21 8 unless otherwise mutually agreed upon in writing between the
21 9 interstate commission and the defaulting state.
21 10 (6) The defaulting state may appeal the action of the
21 11 interstate commission by petitioning the United States
21 12 district court for the District of Columbia or the federal
21 13 district where the interstate commission has its principal
21 14 offices. The prevailing party shall be awarded all costs of
21 15 such litigation including reasonable attorney's fees.
21 16 c. DISPUTE RESOLUTION.
21 17 (1) The interstate commission shall attempt, upon the
21 18 request of a member state, to resolve disputes which are
21 19 subject to this compact and which may arise among member
21 20 states and between member and nonmember states.
21 21 (2) The interstate commission shall promulgate a rule
21 22 providing for both mediation and binding dispute resolution
21 23 for disputes as appropriate.
21 24 d. ENFORCEMENT.
21 25 (1) The interstate commission, in the reasonable exercise
21 26 of its discretion, shall enforce the provisions and rules of
21 27 this compact.
21 28 (2) The interstate commission, may by majority vote of the
21 29 members, initiate legal action in the United States district
21 30 court for the District of Columbia or, at the discretion of
21 31 the interstate commission, in the federal district where the
21 32 interstate commission has its principal offices, to enforce
21 33 compliance with the provisions of this compact, its
21 34 promulgated rules and bylaws, against a member state in
21 35 default. The relief sought may include both injunctive relief



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22 1 and damages. In the event judicial enforcement is necessary,
22 2 the prevailing party shall be awarded all costs of such
22 3 litigation including reasonable attorney's fees.

22 4 (3) The remedies in this compact shall not be the
22 5 exclusive remedies of the interstate commission. The
22 6 interstate commission may avail itself of any other remedies
22 7 available under state law or the regulation of a profession.

22 8 14. ARTICLE XIV == FINANCING OF THE INTERSTATE COMMISSION.

22 9 a. The interstate commission shall pay, or provide for the
22 10 payment of the reasonable expenses of its establishment,
22 11 organization, and ongoing activities.

22 12 b. The interstate commission may levy on and collect an
22 13 annual assessment from each member state to cover the cost of
22 14 the operations and activities of the interstate commission and
22 15 its staff which must be in a total amount sufficient to cover
22 16 the interstate commission's annual budget as approved each
22 17 year. The aggregate annual assessment amount shall be
22 18 allocated based upon a formula to be determined by the
22 19 interstate commission, which shall promulgate a rule binding
22 20 upon all member states.

22 21 c. The interstate commission shall not incur obligations
22 22 of any kind prior to securing the funds adequate to meet the
22 23 same; nor shall the interstate commission pledge the credit of
22 24 any of the member states, except by and with the authority of
22 25 the member state.

22 26 d. The interstate commission shall keep accurate accounts
22 27 of all receipts and disbursements. The receipts and
22 28 disbursements of the interstate commission shall be subject to
22 29 the audit and accounting procedures established under its
22 30 bylaws. However, all receipts and disbursements of funds
22 31 handled by the interstate commission shall be audited yearly
22 32 by a certified or licensed public accountant and the report of
22 33 the audit shall be included in and become part of the annual
22 34 report of the interstate commission.

22 35 15. ARTICLE XV == MEMBER STATES, EFFECTIVE DATE, AND



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23 1 AMENDMENT.

23 2 a. Any state is eligible to become a member state.

23 3 b. This compact shall become effective and binding upon
23 4 legislative enactment of this compact into law by no less than
23 5 ten of the states. The effective date shall be no earlier
23 6 than December 1, 2007. Thereafter it shall become effective
23 7 and binding as to any other member state upon enactment of
23 8 this compact into law by that state. The governors of
23 9 nonmember states or their designees shall be invited to
23 10 participate in the activities of the interstate commission on
23 11 a nonvoting basis prior to adoption of this compact by all
23 12 states.

23 13 c. The interstate commission may propose amendments to
23 14 this compact for enactment by the member states. An amendment
23 15 shall not become effective and binding upon the interstate
23 16 commission and the member states unless and until it is
23 17 enacted into law by unanimous consent of the member states.

23 18 16. ARTICLE XVI == WITHDRAWAL AND DISSOLUTION.

23 19 a. WITHDRAWAL.

23 20 (1) Once effective, this compact shall continue in force
23 21 and remain binding upon each and every member state; provided
23 22 that a member state may withdraw from this compact by
23 23 specifically repealing the statute which enacted this compact
23 24 into law.

23 25 (2) Withdrawal from this compact shall be by the enactment
23 26 of a statute repealing the same, but shall not take effect
23 27 until one year after the effective date of such statute and
23 28 until written notice of the withdrawal has been given by the
23 29 withdrawing state to the governor of each other member
23 30 jurisdiction.

23 31 (3) The withdrawing state shall immediately notify the
23 32 chairperson of the interstate commission in writing upon the
23 33 introduction of legislation repealing this compact in the
23 34 withdrawing state. The interstate commission shall notify the
23 35 other member states of the withdrawing state's intent to



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24 1 withdraw within sixty days of its receipt of the notice.
24 2 (4) The withdrawing state is responsible for all
24 3 assessments, obligations, and liabilities incurred through the
24 4 effective date of withdrawal, including obligations, the
24 5 performance of which extend beyond the effective date of
24 6 withdrawal.
24 7 (5) Reinstatement following withdrawal of a member state
24 8 shall occur upon the withdrawing state reenacting this compact
24 9 or upon such later date as determined by the interstate
24 10 commission.
24 11 b. DISSOLUTION OF COMPACT.
24 12 (1) This compact shall dissolve effective upon the date of
24 13 the withdrawal or default of the member state which reduces
24 14 the membership in this compact to one member state.
24 15 (2) Upon the dissolution of this compact, this compact
24 16 becomes null and void and shall be of no further force or
24 17 effect, and the business and affairs of the interstate
24 18 commission shall be concluded and surplus funds shall be
24 19 distributed in accordance with the bylaws.
24 20 17. ARTICLE XVII == SEVERABILITY AND CONSTRUCTION.
24 21 a. The provisions of this compact shall be severable, and
24 22 if any phrase, clause, sentence, or provision is deemed
24 23 unenforceable, the remaining provisions of the compact shall
24 24 be enforceable.
24 25 b. The provisions of this compact shall be liberally
24 26 construed to effectuate its purposes.
24 27 c. Nothing in this compact shall be construed to prohibit
24 28 the applicability of other interstate compacts to which the
24 29 states are members.
24 30 18. ARTICLE XVIII == BINDING EFFECT OF COMPACT AND OTHER
24 31 LAWS.
24 32 a. OTHER LAWS.
24 33 (1) Nothing in this compact prevents the enforcement of
24 34 any other law of a member state that is not inconsistent with
24 35 this compact.



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25 1 (2) All member states' laws conflicting with this compact
25 2 are superseded to the extent of the conflict.

25 3 b. BINDING EFFECT OF THE COMPACT.

25 4 (1) All lawful actions of the interstate commission,
25 5 including all rules and bylaws promulgated by the interstate
25 6 commission, are binding upon the member states.

25 7 (2) All agreements between the interstate commission and
25 8 the member states are binding in accordance with their terms.

25 9 (3) In the event any provision of this compact exceeds the
25 10 constitutional limits imposed on the legislature of any member
25 11 state, such provision shall be ineffective to the extent of
25 12 the conflict with the constitutional provision in question in
25 13 that member state.

25 14 Sec. 2. NEW SECTION. 256G.2 COUNCIL ON EDUCATIONAL
25 15 OPPORTUNITY FOR MILITARY CHILDREN.

25 16 1. A council on educational opportunity for military
25 17 children is created to provide advice and recommendations
25 18 regarding this state's participation in and compliance with
25 19 the interstate compact on educational opportunity for military
25 20 children in accordance with section 256G.1.

25 21 2. The council shall consist of the following seven
25 22 members:

25 23 a. The director of the department of education or the
25 24 director's designee.

25 25 b. The superintendent, or the superintendent's designee,
25 26 for the school district with the highest percentage per capita
25 27 of military children during the previous school year.

25 28 c. Two members appointed by the governor, one of whom
25 29 shall represent a military installation located within this
25 30 state and one of whom shall represent the executive branch and
25 31 possess experience in assisting military families in obtaining
25 32 educational services for their children. The term of each
25 33 member appointed under this paragraph shall be for four years,
25 34 except that, in order to provide for staggered terms, the
25 35 governor shall initially appoint one member to a term of two



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26 1 years and one member to a term of three years.

26 2 d. One member appointed jointly by the president of the
26 3 senate and the speaker of the house of representatives as
26 4 provided in sections 2.32A and 69.16B.

26 5 e. The compact commissioner appointed pursuant to section
26 6 256G.3 and the military family education liaison appointed in
26 7 accordance with subsection 4, shall serve as nonvoting, ex
26 8 officio members of the council unless already appointed to the
26 9 council as voting members. The compact commissioner and the
26 10 military family education liaison shall serve at the pleasure
26 11 of the governor.

26 12 3. Nonlegislative members of the council shall serve
26 13 without compensation, but shall receive their actual and
26 14 necessary expenses and travel incurred in the performance of
26 15 their duties. Vacancies on the commission shall be filled for
26 16 the unexpired portion of the term in the same manner as the
26 17 original appointments.

26 18 4. The council shall appoint a military family education
26 19 liaison pursuant to section 256G.1, article VIII of the
26 20 interstate compact on educational opportunity for military
26 21 children, to assist military families and the state in
26 22 facilitating the implementation of this compact.

26 23 5. The council shall comply with the requirements of
26 24 chapters 21 and 22.

26 25 6. The department of education shall provide
26 26 administrative support to the council.

26 27 Sec. 3. NEW SECTION. 256G.3 COMPACT COMMISSIONER ==
26 28 APPOINTMENT.

26 29 In accordance with section 256G.1, article VIII of the
26 30 interstate compact on educational opportunity for military
26 31 children, the governor shall designate a compact commissioner,
26 32 who shall serve at the pleasure of the governor and who shall
26 33 be responsible for the administration and management of this
26 34 state's participation in the compact and shall serve as this
26 35 state's voting representative on the interstate commission on



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27 1 educational opportunity for military children as provided in
27 2 section 256G.1, article IX of the compact.

27 3 Sec. 4. EFFECTIVE DATE. This Act, being deemed of
27 4 immediate importance, takes effect upon enactment.

27 5 EXPLANATION

27 6 This bill establishes the interstate compact on educational
27 7 opportunity for military children, the purpose of which is to
27 8 remove barriers to educational success imposed on children of
27 9 military families because of frequent moves and deployment of
27 10 their parents. The bill also establishes a council on
27 11 educational opportunity for military children to provide
27 12 advice and recommendations regarding this state's
27 13 participation in and compliance with the interstate compact
27 14 and directs the governor to appoint a military family
27 15 education liaison to assist military families and the state in
27 16 facilitating the implementation of the compact.

27 17 Article I provides for the compact's purpose. The compact
27 18 facilitates the timely enrollment; student placement;
27 19 qualification and eligibility for enrollment, educational
27 20 programs, and participation in extracurricular academic,
27 21 athletic, and social activities; and on-time graduation of
27 22 children of military families in kindergarten through grade
27 23 12. The compact also provides for the promulgation and
27 24 enforcement of administrative rules to implement the compact,
27 25 and for the uniform collection and sharing of information
27 26 between and among member states, schools, and military
27 27 families.

27 28 Article II provides definitions. Article III establishes
27 29 the applicability of the compact. Articles IV through VII
27 30 establish requirements for educational records and enrollment,
27 31 including immunization, entrance ages, course and educational
27 32 placement, attendance, special education services, eligibility
27 33 for enrollment and extracurricular participation, course
27 34 waiver for graduation, exit exams, and senior year transfers.

27 35 Article VIII provides for state coordination through the



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28 1 creation of a state council, designation of a military family
28 2 education liaison, and the appointment of a compact
28 3 commissioner. The bill provides for the establishment of a
28 4 seven-member state council and designation of the military
28 5 family education liaison in Code section 256G.2, and for the
28 6 appointment of a state compact commissioner by the governor in
28 7 Code section 256G.3. The liaison and the compact commissioner
28 8 serve at the pleasure of the governor.

28 9 Article IX states that the activities of the interstate
28 10 commission on education opportunity for military children are
28 11 the formation of public policy and are a discretionary state
28 12 function. Articles IX and X further describe the interstate
28 13 commission and provide for its powers, duties, and
28 14 responsibilities, including collection of standardized data
28 15 concerning the educational transition of the children of
28 16 military families, the creation of a process that permits
28 17 military officials, education officials, and parents to inform
28 18 the interstate commission if and when there are alleged
28 19 violations of the compact or its rules, and to take all
28 20 necessary actions to effect the goals, purposes, and
28 21 obligations enumerated in the compact.

28 22 Article X further states that the interstate commission's
28 23 rules have the force and effect of statutory law and shall be
28 24 binding in the compact states to the extent and in the manner
28 25 provided in the compact. The interstate commission may use
28 26 the judicial process to enforce compliance with compact
28 27 provisions. The interstate commission is directed to
28 28 establish uniform standards for the reporting, collecting, and
28 29 exchanging of data, and to report annually to the
28 30 legislatures, governors, judiciary, and state councils of the
28 31 member states concerning its activities during the preceding
28 32 year.

28 33 Article XI provides for the organization and operation of
28 34 the interstate commission.

28 35 Article XII establishes the rulemaking functions of the



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29 1 interstate commission. The interstate commission shall
29 2 promulgate rules, however, in the event it exceeds its
29 3 rulemaking authority, the action shall be invalid and have no
29 4 force or effect. Rules shall be made pursuant to a rulemaking
29 5 process that substantially conforms to the model state
29 6 administrative procedure Act of 1981. The article provides
29 7 for judicial review of a rule. A rule can be rejected if a
29 8 majority of the legislatures of the compacting states reject
29 9 the rule by enactment of a statute or resolution in the same
29 10 manner used to adopt the compact.

29 11 Article XIII provides for oversight, enforcement, and
29 12 dispute resolution.

29 13 Article XIV provides for the financing of the interstate
29 14 commission, including its establishment, organization, and
29 15 ongoing activities by permitting the interstate commission to
29 16 levy on and collect an annual assessment from each member
29 17 state to cover its costs in a total amount sufficient to cover
29 18 the interstate commission's annual budget as approved each
29 19 year. The aggregate annual assessment amount shall be
29 20 allocated based upon a formula to be determined by the
29 21 interstate commission.

29 22 Article XV provides that the compact takes effect and is
29 23 binding upon legislative enactment in at least 10 states. As
29 24 of July 11, 2008, Delaware became the 10th state to adopt the
29 25 compact.

29 26 Article XVI provides for withdrawal and dissolution from
29 27 the compact, Article XVII for severability and construction,
29 28 and Article XVIII for the binding effect of the compact and
29 29 other laws.

29 30 The bill takes effect upon enactment.

29 31 LSB 1182HH 83

29 32 kh/rj/24



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House File 30 - Introduced

HOUSE FILE
BY LYKAM

(COMPANION TO LSB 1460SS
BY SENG)

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

Passed Senate, Date _____
Vote: Ayes _____ Nays _____

A BILL FOR

- 1 An Act providing for the regulation of commercial establishments
- 2 that house animals by the department of agriculture and land
- 3 stewardship.
- 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 5 TLSB 1460HH 83
- 6 da/nh/5



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House File 30 - Introduced continued

PAG LIN

1 1 Section 1. Section 162.11, subsection 2, Code 2009, is
1 2 amended to read as follows:
1 3 2. ~~The A~~ certificate of registration may be denied or
1 4 revoked if the person no longer possesses a current and valid
1 5 federal license. ~~Other than obtaining the certificate of~~
~~1 6 registration from the secretary, any dealer or commercial~~
~~1 7 breeder and any person who operates a commercial kennel or~~
~~1 8 public auction shall not be subject to further regulation~~
~~1 9 under the provisions of this chapter.~~

1 10 EXPLANATION

1 11 This bill amends a provision in Code chapter 162
1 12 authorizing the department of agriculture and land stewardship
1 13 to regulate animals kept in commercial establishments.
1 14 Generally, commercial establishments must obtain a license or
1 15 certificate of registration. The bill addresses several types
1 16 of commercial establishments that have obtained a federal
1 17 license in lieu of a state license. The commercial
1 18 establishments of concern are a commercial kennel (Code
1 19 section 162.6), public auction (Code section 162.6), dealer
1 20 (Code section 162.7), and commercial breeder (Code section
1 21 162.8). A federally licensed commercial establishment must
1 22 still obtain a certificate of registration from the
1 23 department.

1 24 Two Code sections address certificates of registration
1 25 issued to a federally licensed commercial establishment. Code
1 26 section 162.11(2) provides that other than obtaining a
1 27 certificate of registration, the commercial establishment is
1 28 not subject to further departmental regulation. However, Code
1 29 section 162.12 provides that the department may deny an
1 30 application for a certificate of registration or revoke a
1 31 certificate of registration that has been issued if the
1 32 department determines that the practices of the commercial
1 33 establishment do not comply with the requirements of the Code
1 34 chapter. The Code section also provides that the premises of
1 35 a certificate holder must be open for inspection during normal



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House File 30 - Introduced continued

2 1 business hours. The bill eliminates the provision in Code
2 2 section 162.11(2) that limits the department's authority to
2 3 regulate federally licensed commercial establishments.
2 4 LSB 1460HH 83
2 5 da/nh/5



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House File 31 - Introduced

HOUSE FILE
BY LUKAN

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

Passed Senate, Date _____
Vote: Ayes _____ Nays _____

A BILL FOR

- 1 An Act relating to textbooks and applicable computer hardware
- 2 adopted for use by school districts and provided to public and
- 3 accredited nonpublic school students.
- 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 5 TLSB 1562HH 83
- 6 kh/rj/8



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House File 31 - Introduced continued

PAG LIN

1 1 Section 1. Section 301.1, subsection 3, Code 2009, is
 1 2 amended to read as follows:
 1 3 3. As used in subsection 2, "textbooks" means ~~books~~ any of
 1 4 the following:

1 5 a. Books and loose-leaf or bound manuals, systems of
 1 6 reusable instructional materials or combinations of books and
 1 7 supplementary instructional materials which convey information
 1 8 to the student or otherwise contribute to the learning
 1 9 process, ~~or electronic.~~

1 10 b. Electronic textbooks, including but not limited to
 1 11 computer software, applications using computer-assisted
 1 12 instruction, interactive videodisc, and other computer
 1 13 courseware and magnetic media.

1 14 c. Computer hardware applicable within a classroom
 1 15 setting.

EXPLANATION

1 16 This bill relates to the use of state funds allocated to
 1 17 school districts for purposes of making textbooks available to
 1 18 accredited nonpublic school pupils by expanding the definition
 1 19 of textbooks to include computer hardware applicable within a
 1 20 classroom setting. Currently the definition is limited to
 1 21 books, supplementary instructional materials, and electronic
 1 22 textbooks, including but not limited to computer software.

1 24 LSB 1562HH 83

1 25 kh/rj/8



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House File 32

HOUSE FILE
BY LYKAM

(COMPANION TO LSB 1461SS
BY SENG)

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

Passed Senate, Date _____
Vote: Ayes _____ Nays _____

A BILL FOR

- 1 An Act relating to domestic abuse protective orders and animals
- 2 owned or held by a petitioner, respondent, or minor child of
- 3 the petitioner or respondent in domestic abuse cases.
- 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 5 TLSB 1461HH 83
- 6 rh/nh/5



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House File 32 continued

PAG LIN

1 1 Section 1. Section 236.3, subsection 6, Code 2009, is
1 2 amended to read as follows:
1 3 6. Name and age of each child under eighteen whose welfare
1 4 may be affected by the controversy. The petition may also
1 5 specify and identify each animal owned, possessed, leased,
1 6 kept, or held by the petitioner, respondent, or minor child of
1 7 the petitioner or respondent whose welfare may be affected by
1 8 the controversy.

1 9 Sec. 2. Section 236.4, subsection 2, Code 2009, is amended
1 10 to read as follows:

1 11 2. a. The court may enter any temporary order it deems
1 12 necessary to protect the plaintiff from domestic abuse prior
1 13 to the hearing, upon good cause shown in an ex parte
1 14 proceeding. Present danger of domestic abuse to the plaintiff
1 15 constitutes good cause for purposes of this subsection.

1 16 b. The court may include in the temporary order issued
1 17 pursuant to this subsection a grant to the petitioner of the
1 18 exclusive care, possession, or control of any animal specified
1 19 and identified in the petition that is owned, possessed,
1 20 leased, kept, or held by the petitioner, respondent, or minor
1 21 child of the petitioner or respondent. The court may order
1 22 the respondent to stay away from the animal and forbid the
1 23 respondent from taking, transferring, encumbering, concealing,
1 24 molesting, attacking, striking, threatening, harming, or
1 25 otherwise disposing of the animal.

1 26 Sec. 3. Section 236.5, subsection 2, Code 2009, is amended
1 27 by adding the following new paragraph:

1 28 NEW PARAGRAPH. f. The court may include in an order
1 29 issued pursuant to this section a grant to the petitioner of
1 30 the exclusive care, possession, or control of any animal
1 31 specified and identified in the petition that is owned,
1 32 possessed, leased, kept, or held by the petitioner,
1 33 respondent, or minor child of the petitioner or respondent.
1 34 The court may order the respondent to stay away from the
1 35 animal and forbid the respondent from taking, transferring,



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2 1 encumbering, concealing, molesting, attacking, striking,
2 2 threatening, harming, or otherwise disposing of the animal.

2 3 EXPLANATION

2 4 This bill relates to domestic abuse protective orders and
2 5 animals owned or held by a petitioner, respondent, or minor
2 6 child of the petitioner or respondent in a domestic abuse
2 7 case.

2 8 The bill provides that a person who files a petition for
2 9 relief from domestic abuse pursuant to Code section 236.3 may
2 10 specify and identify in the petition any animal owned,
2 11 possessed, leased, kept, or held by the petitioner,
2 12 respondent, or minor child of the petitioner or respondent
2 13 whose welfare may be affected by domestic abuse.

2 14 The bill further provides the court may include in both
2 15 temporary and permanent orders issued a grant to the
2 16 petitioner of the exclusive care, possession, or control of
2 17 any animal owned, possessed, leased, kept, or held by the
2 18 petitioner, respondent, or minor child of the petitioner or
2 19 respondent. The court may order the respondent to stay away
2 20 from the animal and forbid the respondent from taking,
2 21 transferring, encumbering, concealing, molesting, attacking,
2 22 striking, threatening, harming, or otherwise disposing of the
2 23 animal.

2 24 LSB 1461HH 83

2 25 rh/nh/5



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House File 33

HOUSE FILE
BY LYKAM

(COMPANION TO LSB 1459SS
BY SENG)

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

A BILL FOR

- 1 An Act providing for the killing of dogs which present an
- 2 immediate public danger and providing penalties.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4 TLSB 1459HH 83
- 5 da/nh/14



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PAG LIN

1 1 Section 1. Section 351.27, Code 2009, is amended to read
1 2 as follows:
1 3 351.27 RIGHT TO KILL TAGGED DOG THAT PRESENTS IMMEDIATE
1 4 PUBLIC DANGER.

1 5 ~~1. It shall be lawful for any~~ A person ~~to~~ shall not kill a
1 6 dog, wearing a collar attached with a rabies vaccination tag
1 7 attached, ~~when unless~~ the dog is ~~caught~~ presents an immediate
1 8 public danger.

1 9 2. A dog presents an immediate public danger only during
1 10 the period when it is in the act of chasing, maiming, or
1 11 killing ~~any~~ a domestic animal or fowl, or ~~when such dog is~~
1 12 attacking or attempting to bite a person.

1 13 3. A person who violates this section is guilty of animal
1 14 abuse, animal neglect, or animal torture as provided in
1 15 chapter 717B.

1 16 Sec. 2. Section 717B.2, Code 2009, is amended by adding
1 17 the following new subsection:

1 18 NEW SUBSECTION. 12. A person killing a dog that presents
1 19 an immediate public danger as provided in section 351.27.

1 20 Sec. 3. Section 717B.3A, subsection 2, Code 2009, is
1 21 amended by adding the following new subsection:

1 22 NEW PARAGRAPH. 1. A person killing a dog that presents an
1 23 immediate public danger as provided in section 351.27.

EXPLANATION

1 24 BACKGROUND. Two Code chapters apply to killing dogs. Code
1 25 chapter 351 allows a person to kill a dog running at large and
1 26 Code chapter 717B prohibits the mistreatment of domestic
1 27 animals including dogs, with a number of exceptions. Code
1 28 section 351.27 authorizes a person to kill a dog which is
1 29 wearing a collar with a vaccination tag attached to it, but
1 30 only when the dog is in the act of chasing or menacing
1 31 livestock or attacking a person.

1 32 BILL'S PROVISIONS. This bill prohibits a person from
1 33 killing a dog wearing a vaccination tag, unless it presents an
1 34 immediate public danger. An immediate public danger exists
1 35



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2 1 only when the dog is in the act of chasing or menacing
2 2 livestock or attacking a person. The bill expressly provides
2 3 that a person who violates the prohibition is guilty of animal
2 4 abuse, animal neglect, or animal torture as provided in Code
2 5 chapter 717B.
2 6 Code section 717B.2 provides that a person who
2 7 intentionally injures or kills an animal owned by another
2 8 person commits animal abuse and is guilty of an aggravated
2 9 misdemeanor. An aggravated misdemeanor is punishable by
2 10 confinement for no more than two years and a fine of at least
2 11 \$625 but not more than \$6,250. Code section 717B.3 provides
2 12 that a person who confines an animal and fails to supply it
2 13 with sufficient care or who injures or kills the animal by any
2 14 means which causes unjustified pain commits animal neglect and
2 15 is guilty of a simple misdemeanor. A simple misdemeanor is
2 16 punishable by confinement for no more than 30 days or a fine
2 17 of at least \$65 but not more than \$625 or by both. However, a
2 18 person who intentionally commits animal neglect is guilty of a
2 19 serious misdemeanor. Code section 717B.3A provides that a
2 20 person who inflicts severe physical pain upon an animal with a
2 21 depraved or sadistic intent to cause prolonged suffering or
2 22 death is guilty of animal torture, regardless of whether the
2 23 person is the owner of the animal. A person who commits
2 24 animal torture is guilty of an aggravated misdemeanor for the
2 25 first offense and a class "D" felony for the second offense.
2 26 A class "D" felony is punishable by confinement for no more
2 27 than five years and a fine of at least \$750 but not more than
2 28 \$7,500.
2 29 LSB 1459HH 83
2 30 da/nh/14



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House File 34

HOUSE FILE
BY HEDDENS

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

A BILL FOR

1 An Act relating to the sale of a pseudoephedrine product by a
2 pharmacy or retailer, and providing penalties and contingent
3 applicability.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 1251HH 83
6 jm/rj/14



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PAG LIN

1 1 Section 1. Section 124.212, subsection 4, paragraph c,
1 2 Code 2009, is amended to read as follows:
1 3 c. Pseudoephedrine. A person shall present a
1 4 government-issued photo identification card when purchasing a
1 5 pseudoephedrine product from a pharmacy. A person shall not
1 6 purchase ~~more than seven thousand five hundred milligrams of~~
~~1 7 pseudoephedrine, either separately or collectively, within a~~
~~1 8 thirty-day period a quantity of pseudoephedrine in violation~~
1 9 of section 124.213 from a pharmacy, unless the person has a
1 10 prescription for a pseudoephedrine product in excess of that
1 11 quantity. A pseudoephedrine product not excepted from this
1 12 schedule shall be sold by a pharmacy as provided in section
1 13 124.212A.
1 14 Sec. 2. NEW SECTION. 124.212A PHARMACY PSEUDOEPHEDRINE
1 15 SALE == RESTRICTIONS == RECORDS == CONTINGENT APPLICABILITY.
1 16 1. A pharmacy, an employee of a pharmacy, or a licensed
1 17 pharmacist shall do the following:
1 18 a. Provide for the sale of a pseudoephedrine product in a
1 19 locked cabinet or behind the sales counter where the public is
1 20 unable to reach the product and where the public is not
1 21 permitted.
1 22 b. Require the purchaser to present a government-issued
1 23 photo identification card identifying the purchaser prior to
1 24 purchasing a pseudoephedrine product.
1 25 c. Provide an electronic logbook for purchasers of
1 26 pseudoephedrine products to sign.
1 27 d. Require the purchaser to sign the electronic logbook.
1 28 If the electronic logbook is not available, require a
1 29 signature that is associated with a transaction number.
1 30 e. Enter the purchaser's name, address, date of purchase,
1 31 time of purchase, name of the pseudoephedrine product
1 32 purchased, and the quantity sold in the electronic logbook.
1 33 If the electronic logbook is unavailable, an alternative
1 34 record shall be kept that complies with rules adopted by the
1 35 board.



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2 1 f. Determine that the signature in the electronic logbook
2 2 corresponds with the name on the government-issued photo
2 3 identification card.

2 4 g. Provide notice that a purchaser entering a false
2 5 statement or misrepresentation in the electronic logbook may
2 6 subject the purchaser to criminal penalties under 18 U.S.C. }
2 7 1001.

2 8 h. Keep electronic logbook records and any other records
2 9 obtained if the electronic logbook is unavailable for
2 10 twenty-four months from the date of the last entry.

2 11 i. Disclose electronic logbook information and any other
2 12 associated records as provided by state and federal law.

2 13 j. Comply with training requirements pursuant to federal
2 14 law.

2 15 2. This section is not applicable unless sufficient
2 16 funding is received to implement and maintain the statewide
2 17 real-time central repository and the board establishes the
2 18 statewide real-time central repository. However, subsection
2 19 1, paragraph "h" is applicable upon the effective date of this
2 20 Act.

2 21 Sec. 3. NEW SECTION. 124.212B PSEUDOEPHEDRINE SALES ==
2 22 TRACKING == PENALTY == CONTINGENT APPLICABILITY.

2 23 1. The board shall establish a real-time electronic
2 24 repository to monitor and control the sale of schedule V
2 25 products containing any detectible amount of pseudoephedrine,
2 26 its salts, or optical isomers, or salts of optical isomers;
2 27 ephedrine; or phenylpropanolamine. A pharmacy dispensing such
2 28 products shall report all such sales electronically to a
2 29 central repository under the control of the board.

2 30 2. The information collected in the central repository is
2 31 confidential unless otherwise ordered by a court, or released
2 32 by the lawful custodian of the records pursuant to this
2 33 section.

2 34 3. A pharmacy, an employee of a pharmacy, or a licensed
2 35 pharmacist shall not be provided access to the stored



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3 1 information in the electronic central repository, except for
3 2 the purpose of obtaining sufficient information for a
3 3 pharmacy, an employee of a pharmacy, or a licensed pharmacist
3 4 to determine whether to complete the sale of the product. A
3 5 pharmacy, an employee of a pharmacy, or a licensed pharmacist
3 6 shall not be given the obligation or duty to view the stored
3 7 information.

3 8 4. A pharmacy, or an employee of a pharmacy, or a licensed
3 9 pharmacist shall not be given the obligation or duty to seek
3 10 information from the central repository if the real-time
3 11 electronic logbook becomes unavailable for use.

3 12 5. If the electronic logbook is unavailable for use, a
3 13 paper record for each sale shall be maintained including the
3 14 purchaser's signature. Any paper record maintained by the
3 15 pharmacy shall be provided to the board for inclusion in the
3 16 electronic real-time central repository as soon as
3 17 practicable.

3 18 6. A pharmacy, or an employee of a pharmacy, or a licensed
3 19 pharmacist shall not be liable, if acting reasonably and in
3 20 good faith, to any person for any claim which may arise when
3 21 reporting sales of products enumerated in subsection 1 to the
3 22 central repository.

3 23 7. A person who discloses information stored in the
3 24 central repository in violation of this section commits a
3 25 simple misdemeanor.

3 26 8. The board shall adopt rules to administer this section.

3 27 9. This section is not applicable unless sufficient
3 28 funding is received to implement and maintain this section and
3 29 the board establishes the statewide real-time central
3 30 repository.

3 31 Sec. 4. NEW SECTION. 124.212C PSEUDOEPHEDRINE ADVISORY
3 32 COUNCIL == ELECTRONIC MONITORING.

3 33 1. The board shall establish a pseudoephedrine advisory
3 34 council to provide input and advise the board regarding the
3 35 implementation and maintenance of the statewide real-time



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4 1 central repository established under section 124.212B to
4 2 monitor sales of pseudoephedrine. The board shall specify the
4 3 duties, responsibilities, and other related matters of the
4 4 council.

4 5 2. The council shall consist of four licensed pharmacists.
4 6 The board shall solicit recommendations for membership on the
4 7 council from the Iowa pharmacy association and Iowa retail
4 8 federation, and shall appoint members from the
4 9 recommendations. The council shall include a member from an
4 10 independent pharmacy, a member from a regional chain pharmacy,
4 11 and a member from a national chain pharmacy. The license of
4 12 any member must be current and not subject to disciplinary
4 13 sanctions.

4 14 3. The council may make recommendations regarding the
4 15 implementation and maintenance of the statewide real-time
4 16 central repository monitoring system under section 124.212B.

4 17 4. The council shall do the following:

4 18 a. Assist the board in implementing and maintaining the
4 19 statewide real-time central repository monitoring system.

4 20 b. Assist the board in developing utilization guidance
4 21 related to the statewide real-time central repository
4 22 monitoring system and disseminating such guidance.

4 23 c. Assist the board in developing guidelines to ensure
4 24 patient confidentiality and the integrity of the relationship
4 25 established by the patient and the patient's health care
4 26 provider.

4 27 5. All members of the council shall receive actual and
4 28 necessary expenses incurred in the performance of their
4 29 duties.

4 30 Sec. 5. Section 124.213, Code 2009, is amended by striking
4 31 the section and inserting in lieu thereof the following:

4 32 124.213 PSEUDOEPHEDRINE PURCHASE RESTRICTIONS FROM
4 33 PHARMACY OR RETAILER == PENALTY.

4 34 1. A person shall not purchase more than three thousand
4 35 six hundred milligrams of pseudoephedrine, either separately



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5 1 or collectively, within a twenty-four-hour period from a
5 2 pharmacy, or more than one package of a product containing
5 3 pseudoephedrine within a twenty-four-hour period from a
5 4 retailer in violation of section 126.23A.

5 5 2. A person shall not purchase more than seven thousand
5 6 five hundred milligrams of pseudoephedrine, either separately
5 7 or collectively, within a thirty-day period from a pharmacy or
5 8 from a retailer in violation of section 126.23A.

5 9 3. A person who violates this section commits a serious
5 10 misdemeanor.

5 11 Sec. 6. Section 126.23A, subsection 1, paragraph a,
5 12 subparagraph (1), Code 2009, is amended by striking the
5 13 subparagraph and inserting in lieu thereof the following:

5 14 (1) Sell more than seven thousand five hundred milligrams
5 15 of pseudoephedrine to the same person within a thirty-day
5 16 period.

5 17 Sec. 7. Section 126.23A, subsection 1, paragraph b, Code
5 18 2009, is amended to read as follows:

5 19 b. A retailer or an employee of a retailer shall do the
5 20 following:

5 21 (1) Provide for the sale of a pseudoephedrine product in a
5 22 locked cabinet or behind a sales counter where the public is
5 23 unable to reach the product and where the public is not
5 24 permitted.

5 25 (2) Require a purchaser to present a government-issued
5 26 photo identification card identifying the purchaser prior to
5 27 purchasing a pseudoephedrine product.

5 28 (3) Require the purchaser to sign a logbook and to also
5 29 require the purchaser to legibly print the purchaser's name
5 30 and address in the logbook.

5 31 (4) Print the name of the pseudoephedrine product
5 32 purchased and quantity sold next to the name of each purchaser
5 33 in the logbook.

5 34 ~~(4)~~ (5) Determine the signature in the logbook
5 35 corresponds with the name on the government-issued photo



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6 1 identification card.

6 2 ~~(5)~~ (6) Keep the logbook ~~twelve~~ twenty=four months from
6 3 the date of the last entry.

6 4 ~~(6)~~ (7) Provide notification in a clear and conspicuous
6 5 manner in a location where a pseudoephedrine product is
6 6 offered for sale stating the following:

6 7 Iowa law prohibits the over=the=counter purchase of more
6 8 than one package of a product containing pseudoephedrine in a
6 9 twenty=four=hour period or of more than seven thousand five
6 10 hundred milligrams of pseudoephedrine within a thirty=day
6 11 period. If you purchase a product containing pseudoephedrine,
6 12 you are required to sign a logbook which may be accessible to
6 13 law enforcement officers.

6 14 (8) Provide notification affixed to the logbook stating
6 15 that a purchaser entering a false statement or

6 16 misrepresentation in the logbook may subject the purchaser to
6 17 criminal penalties under 18 U.S.C. } 1001.

6 18 (9) Disclose logbook information as provided by state and
6 19 federal law.

6 20 (10) Comply with training requirements pursuant to federal
6 21 law.

6 22 Sec. 8. CONTINGENT APPLICABILITY == PHARMACY BOARD AND
6 23 CODE EDITOR RESPONSIBILITIES.

6 24 1. The board of pharmacy examiners shall notify the Code
6 25 editor when the establishment of the repository on a statewide
6 26 basis is complete.

6 27 2. When the establishment of the central repository on a
6 28 statewide basis is complete, the Code editor is directed to
6 29 remove section 124.212A, subsection 2, and section 124.212B,
6 30 subsection 9, from the Code and to internally renumber the
6 31 sections as necessary.

6 32 EXPLANATION

6 33 This bill relates to the sale of a pseudoephedrine product
6 34 by a pharmacy or retailer.

6 35 PENALTIES. The bill provides that a person shall not



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7 1 purchase more than 3,600 milligrams of pseudoephedrine, either
7 2 collectively or separately, within a 24-hour period from a
7 3 pharmacy unless the person has a prescription. A person who
7 4 violates this provision of the bill commits a serious
7 5 misdemeanor. Under current law and the bill, a person commits
7 6 a serious misdemeanor if the person purchases more than 7,500
7 7 milligrams of pseudoephedrine within a 30-day period from a
7 8 pharmacy or retailer.

7 9 PHARMACY. The bill requires a purchaser of a
7 10 pseudoephedrine product from a pharmacy to sign an electronic
7 11 logbook. Current law does not require a signature in an
7 12 electronic logbook. The bill also provides that if the
7 13 electronic logbook is unavailable, the pharmacy is required to
7 14 keep an alternative record that complies with rules adopted by
7 15 the state board of pharmacy examiners.

7 16 The bill requires a pharmacy, an employee of a pharmacy, or
7 17 a licensed pharmacist, to enter a purchaser's name, address,
7 18 date of purchase, time of purchase, name of pseudoephedrine
7 19 product, and quantity sold into an electronic logbook. If the
7 20 electronic logbook is unavailable for use, the bill requires
7 21 the pharmacy to keep written records of the transaction
7 22 including a signature.

7 23 The bill requires a pharmacy to keep electronic logbook
7 24 records for a period of 24 months from the date of the last
7 25 entry. Current law requires the pharmacy to keep the logbook
7 26 12 months from the date of the last entry.

7 27 The bill provides that the state board of pharmacy shall
7 28 implement and maintain a statewide real-time central
7 29 repository to track pseudoephedrine product sales at
7 30 pharmacies. The bill requires a pharmacy dispensing
7 31 pseudoephedrine products to report all such sales
7 32 electronically to the central repository under the control of
7 33 the state board of pharmacy. If the pharmacy has written
7 34 records, the records are also to be reported for entry into
7 35 the repository. If the electronic logbook is unavailable for



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8 1 use, the bill requires the pharmacy to keep written records of
8 2 the transaction including a signature.

8 3 The bill makes confidential the information collected in
8 4 the central repository unless otherwise ordered by a court, or
8 5 the records are released by the custodian of the records
8 6 pursuant to new Code section 124.212B.

8 7 The bill provides that a pharmacy, an employee of a
8 8 pharmacy, or a licensed pharmacist shall not be liable to any
8 9 person for any claim which may arise when reporting in good
8 10 faith pseudoephedrine sales to the central repository.

8 11 The bill also requires a pharmacy to comply with training
8 12 requirements pursuant to federal law.

8 13 A person who discloses information stored in the central
8 14 repository in violation of the bill commits a simple
8 15 misdemeanor.

8 16 RETAILER. The bill requires a retailer or an employee of a
8 17 retailer to print the name of the pseudoephedrine product
8 18 purchased and the quantity sold next to the name of each
8 19 purchaser in the logbook.

8 20 The bill requires the retailer to keep the logbook 24
8 21 months from the date of the last entry. Current law requires
8 22 the retailer to keep the logbook 12 months from the date of
8 23 the last entry. The bill does not require a retailer to keep
8 24 an electronic logbook of pseudoephedrine purchases.

8 25 The bill also requires a retailer to comply with training
8 26 requirements pursuant to federal law.

8 27 ADVISORY COMMITTEE. The bill requires the board of
8 28 pharmacy to establish a pseudoephedrine advisory council to
8 29 provide input and advise the board regarding the
8 30 implementation and maintenance of the statewide real-time
8 31 central repository. The advisory council shall consist of
8 32 four licensed pharmacists including a pharmacist from an
8 33 independent pharmacy, a regional chain pharmacy, and a
8 34 national chain pharmacy.

8 35 CONTINGENT APPLICABILITY. New Code sections 124.212A and



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9 1 124.212B created in the bill do not become applicable until
9 2 sufficient funding is received and the central repository
9 3 under the control of the state board of pharmacy is
9 4 established on a statewide basis. However, Code section
9 5 124.212A, subsection 1, paragraph "h", in the bill, which
9 6 requires a pharmacy to keep logbook records 24 months from the
9 7 date of the last entry, is applicable upon the effective date
9 8 of the bill.
9 9 LSB 1251HH 83
9 10 jm/rj/14



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House File 35 - Introduced

HOUSE FILE
BY HUNTER

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

A BILL FOR

- 1 An Act requiring certain new school buses to be equipped with
- 2 seat belts, requiring the use of such seat belts, and making a
- 3 penalty applicable.
- 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 5 TLSB 1637HH 83
- 6 dea/nh/14



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House File 35 - Introduced continued

PAG LIN

1 1 Section 1. Section 321.373, Code 2009, is amended by
1 2 adding the following new subsection:

1 3 NEW SUBSECTION. 8. A new school bus ordered for purchase
1 4 on or after July 1, 2009, shall be equipped with safety belts
1 5 or safety harnesses in conformance with C.F.R. }
1 6 571.209=571.210 for every seating position.

1 7 Sec. 2. Section 321.445, subsection 2, paragraph d, Code
1 8 2009, is amended to read as follows:

1 9 d. Passengers on a bus other than a school bus equipped
1 10 with safety belts or safety harnesses pursuant to section
1 11 321.373, subsection 8.

1 12 Sec. 3. Section 321.446, subsections 1, 2, and 3, Code
1 13 2009, are amended to read as follows:

1 14 1. a. A child under one year of age and weighing less
1 15 than twenty pounds who is being transported in a motor vehicle
1 16 subject to registration, except a ~~school bus or~~ motorcycle,
1 17 shall be secured during transit in a rear-facing child
1 18 restraint system that is used in accordance with the
1 19 manufacturer's instructions.

1 20 b. A child under six years of age who does not meet the
1 21 description in paragraph "a" and who is being transported in a
1 22 motor vehicle subject to registration, except a ~~school bus or~~
1 23 motorcycle, shall be secured during transit by a child
1 24 restraint system that is used in accordance with the
1 25 manufacturer's instructions.

1 26 2. A child at least six years of age but under eleven
1 27 years of age who is being transported in a motor vehicle
1 28 subject to registration, except a ~~school bus or~~ motorcycle,
1 29 shall be secured during transit by a child restraint system
1 30 that is used in accordance with the manufacturer's
1 31 instructions or by a safety belt or safety harness of a type
1 32 approved under section 321.445.

1 33 3. This section does not apply to peace officers acting on
1 34 official duty. This section also does not apply to the
1 35 transportation of children in 1965 model year or older



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House File 35 - Introduced continued

2 1 vehicles; authorized emergency vehicles; buses, other than
2 2 school buses equipped with safety belts or safety harnesses
2 3 pursuant to section 321.373, subsection 8; or motor homes,
2 4 except when a child is transported in a motor home's passenger
2 5 seat situated directly to the driver's right. This section
2 6 does not apply to the transportation of a child who has been
2 7 certified by a physician licensed under chapter 148 as having
2 8 a medical, physical, or mental condition that prevents or
2 9 makes inadvisable securing the child in a child restraint
2 10 system, safety belt, or safety harness.

2 11 Sec. 4. IMPLEMENTATION OF ACT. Section 25B.2, subsection
2 12 3, shall not apply to this Act.

2 13 EXPLANATION

2 14 This bill requires that new school buses ordered for
2 15 purchase on or after July 1, 2009, be equipped with safety
2 16 belts or safety harnesses, otherwise known as seat belts, that
2 17 meet federal requirements for every seating position. The
2 18 bill also requires the use of seat belts by the driver and
2 19 passengers on school buses so equipped. Current requirements
2 20 for the use of child restraint systems for children under 11
2 21 years of age also apply for school buses equipped with seat
2 22 belts under the bill.

2 23 A violation of seat belt or restraint requirements is a
2 24 scheduled violation subject to a fine of \$25. Seat belt and
2 25 restraint violations are not a factor in establishing grounds
2 26 for license suspension or identifying a person as a habitual
2 27 violator.

2 28 The bill may include a state mandate as defined in Code
2 29 section 25B.3. The bill makes inapplicable Code section
2 30 25B.2, subsection 3, which would relieve a political
2 31 subdivision from complying with a state mandate if funding for
2 32 the cost of the state mandate is not provided or specified.
2 33 Therefore, political subdivisions are required to comply with
2 34 any state mandate included in the bill.

2 35 LSB 1637HH 83



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House File 35 - Introduced continued

3 1 dea/nh/14.1



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House File 36 - Introduced

HOUSE FILE
BY BAUDLER

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

A BILL FOR

- 1 An Act relating to relocation of the child support recovery unit
- 2 to the department of revenue.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4 TLSB 1620YH 83
- 5 pf/nh/24



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House File 36 - Introduced continued

PAG LIN

1 1 Section 1. CHILD SUPPORT RECOVERY UNIT == RELOCATION. It
1 2 is the intent of the general assembly that the child support
1 3 recovery unit be relocated within the department of revenue
1 4 beginning July 1, 2010. The department of human services and
1 5 the department of revenue shall develop a plan for the
1 6 relocation and shall submit the plan to the general assembly
1 7 and the governor no later than December 1, 2009. The plan
1 8 shall include but is not limited to all of the following:

1 9 1. A description of the restructuring of the department of
1 10 revenue necessary to assume the duties of the child support
1 11 recovery unit.

1 12 2. A budget request, including the number of full-time
1 13 equivalent positions to be relocated, to cover the expenses of
1 14 the relocated child support recovery unit.

1 15 3. A listing of any changes in state law and rules, and
1 16 any federal limitations or requirements applicable to and any
1 17 federal approval necessary to allow for the relocation of the
1 18 child support recovery unit.

1 19 EXPLANATION

1 20 This bill directs the department of human services and the
1 21 department of revenue to develop a plan for the relocation of
1 22 the child support recovery unit within the department of
1 23 revenue. The bill specifies that it is the intent of the
1 24 general assembly that the relocation take place by July 1,
1 25 2010. The departments are to submit the plan to the general
1 26 assembly and to the governor by December 1, 2009. The plan is
1 27 to include a description of the restructuring of the
1 28 department of revenue necessary to assume the duties of the
1 29 child support recovery unit, a budget request to cover the
1 30 expenses of the relocation, and a listing of any changes in
1 31 state law and rules, any federal limitations or requirements
1 32 applicable to the relocation, and any federal approval
1 33 necessary to the relocation.

1 34 LSB 1620YH 83

1 35 pf/nh/24



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House File 37

HOUSE FILE
BY WENTHE

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

A BILL FOR

- 1 An Act prohibiting the use of false caller identification for
- 2 campaign purposes and providing penalties.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4 TLSB 1480YH 83
- 5 jr/rj/24



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House File 37 continued

PAG LIN

1 1 Section 1. NEW SECTION. 68A.407 USE OF FALSE CALLER
1 2 IDENTIFICATION FOR CAMPAIGN PURPOSES PROHIBITED.
1 3 1. A person shall not knowingly use or provide to another
1 4 person either of the following:
1 5 a. False caller identification information with intent to
1 6 defraud for purposes related to expressly advocating the
1 7 nomination, election, or defeat of a clearly identified
1 8 candidate or for the passage or defeat of a clearly identified
1 9 ballot issue.
1 10 b. Caller identification information pertaining to an
1 11 actual person without that person's consent and with intent to
1 12 deceive the recipient of a call about the identity of the
1 13 caller.
1 14 2. This section shall not apply to conduct that was
1 15 lawfully authorized as investigative, protective, or
1 16 intelligence activity of a law enforcement agency of the
1 17 United States, a state, or a political subdivision of a state.
1 18 3. As used in this section:
1 19 a. "Caller identification information" means information
1 20 regarding the origination of the telephone call, such as the
1 21 name or the telephone number of the caller.
1 22 b. "Telephone call" means a call made using or received on
1 23 a telecommunications service or voice over internet protocol
1 24 service.
1 25 c. "Voice over internet protocol service" means a service
1 26 to which all of the following apply:
1 27 (1) The service provides real-time two-way voice
1 28 communications transmitted using internet protocol, or a
1 29 successor protocol.
1 30 (2) The service is offered to the public, or such classes
1 31 of users as to be effectively available to the public.
1 32 (3) The service has the capability to originate traffic
1 33 to, or terminate traffic from, the public switched telephone
1 34 network or a successor network.
1 35 4. The board shall adopt rules pursuant to chapter 17A to



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2 1 administer this section.

2 2 5. A person who violates this section is subject to
2 3 sections 68A.701 and 68B.32D.

2 4 EXPLANATION

2 5 This bill prohibits any person from using either false
2 6 caller identification information with intent to defraud for
2 7 purposes related to expressly advocating the nomination,
2 8 election, or defeat of a clearly identified candidate or for
2 9 the passage or defeat of a clearly identified ballot issue.
2 10 The bill also prohibits using another person's identification
2 11 information without that person's consent and with intent to
2 12 deceive the recipient of a call.

2 13 The bill applies to telephone communications made either
2 14 through a traditional service provider or through the
2 15 internet. As provided in Code section 68A.701, a willful
2 16 violation of any provision of the campaign finance chapter is
2 17 a serious misdemeanor punishable by confinement for up to one
2 18 year and a fine of at least \$315 but not more than \$1,875. A
2 19 variety of civil remedies are also available in Code section
2 20 68B.32D for a violation of Code chapter 68A or rules of the
2 21 ethics and campaign disclosure board, ranging from a reprimand
2 22 to a civil penalty of not more than \$2,000.

2 23 LSB 1480YH 83

2 24 jr/rj/24.1



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Senate Study Bill 1061

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

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

Passed House, Date _____
Vote: Ayes _____ Nays _____

A BILL FOR

- 1 An Act relating to a state false claims Act, providing penalties,
- 2 and providing an effective date and applicability provision.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4 TLSB 1346DP 83
- 5 pf/nh/5



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Senate Study Bill 1061 continued

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1 1 Section 1. NEW SECTION. 685.1 DEFINITIONS.
1 2 As used in this chapter, unless the context otherwise
1 3 requires:
1 4 1. "Claim" means any request or demand for money,
1 5 property, or services made to any employee, officer, or agent
1 6 of the state, or to any contractor, grantee, or other
1 7 recipient, whether under contract or not, if any portion of
1 8 the money, property, or services requested or demanded issued
1 9 from, or was provided by, the state, or if the state will
1 10 reimburse the contractor, grantee, or other recipient for any
1 11 portion of the money or property which is requested or
1 12 demanded.
1 13 2. "Employer" means any natural person, corporation, firm,
1 14 association, organization, partnership, business, trust, or
1 15 state-affiliated entity involved in a nongovernmental
1 16 function, including state universities and state hospitals.
1 17 3. a. "Knowing" or "knowingly" means that a person, with
1 18 respect to information, does any of the following:
1 19 (1) Has actual knowledge of the information.
1 20 (2) Acts in deliberate ignorance of the truth or falsity
1 21 of the information.
1 22 (3) Acts in reckless disregard of the truth or falsity of
1 23 the information.
1 24 b. "Knowing" or "knowingly" with respect to information
1 25 does not require proof of specific intent to defraud.
1 26 4. "Qui tam plaintiff" means a private plaintiff who
1 27 brings an action under this chapter on behalf of the state.
1 28 Sec. 2. NEW SECTION. 685.2 ACTS SUBJECTING PERSON TO
1 29 TREBLE DAMAGES, COSTS, AND CIVIL PENALTIES == EXCEPTIONS.
1 30 1. A person who commits any of the following acts is
1 31 liable to the state for three times the amount of damages
1 32 which the state sustains because of the act of that person. A
1 33 person who commits any of the following acts shall also be
1 34 liable to the state for the costs of a civil action brought to
1 35 recover any of those penalties or damages, and shall be liable



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Senate Study Bill 1061 continued

2 1 to the state for a civil penalty of not less than five
2 2 thousand dollars and not more than ten thousand dollars for
2 3 each violation:

2 4 a. Knowingly presents or causes to be presented to any
2 5 employee, officer, or agent of the state, or to any
2 6 contractor, grantee, or other recipient of state funds, a
2 7 false or fraudulent claim for payment or approval.

2 8 b. Knowingly makes, uses, or causes to be made or used, a
2 9 false record or statement to get a false or fraudulent claim
2 10 paid or approved.

2 11 c. Conspires to defraud the state by getting a false claim
2 12 allowed or paid, or conspires to defraud the state by
2 13 knowingly making, using, or causing to be made or used, a
2 14 false record or statement to conceal, avoid, or decrease an
2 15 obligation to pay or transmit money or property to the state.

2 16 d. Has possession, custody, or control of public property
2 17 or money used or to be used by the state and knowingly
2 18 delivers or causes to be delivered less property than the
2 19 amount for which the person receives a certificate or receipt.

2 20 e. Is authorized to make or deliver a document certifying
2 21 receipt of property used or to be used by the state and
2 22 knowingly makes or delivers a receipt that falsely represents
2 23 the property used or to be used.

2 24 f. Knowingly buys, or receives as a pledge of an
2 25 obligation or debt, public property from any person who
2 26 lawfully may not sell or pledge the property.

2 27 g. Knowingly makes, uses, or causes to be made or used, a
2 28 false record or statement to conceal, avoid, or decrease an
2 29 obligation to pay or transmit money or property to the state.

2 30 h. Is a beneficiary of an inadvertent submission of a
2 31 false claim to any employee, officer, or agent of the state,
2 32 or to any contractor, grantee, or other recipient of state
2 33 funds, subsequently discovers the falsity of the claim, and
2 34 fails to disclose the false claim to the attorney general
2 35 within a reasonable time after discovery of the false claim.



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Senate Study Bill 1061 continued

3 1 2. Notwithstanding subsection 1, the court may assess not
3 2 less than two times the amount of damages which the state
3 3 sustains because of the act of the person described in
3 4 subsection 1, and no civil penalty, if the court finds all of
3 5 the following:

3 6 a. The person committing the violation furnished the
3 7 attorney general with all information known to that person
3 8 about the violation within thirty days after the date on which
3 9 the person first obtained the information.

3 10 b. The person fully cooperated with any investigation by
3 11 the attorney general.

3 12 c. At the time the person furnished the attorney general
3 13 with information about the violation, a criminal prosecution,
3 14 civil action, or administrative action had not commenced with
3 15 respect to the violation, and the person did not have actual
3 16 knowledge of the existence of an investigation into the
3 17 violation.

3 18 3. This section shall not apply to claims, records, or
3 19 statements made under Title X relating to state revenue and
3 20 taxation.

3 21 Sec. 3. NEW SECTION. 685.3 INVESTIGATIONS AND
3 22 PROSECUTIONS == POWERS OF PROSECUTING AUTHORITY == CIVIL
3 23 ACTIONS BY INDIVIDUALS AS QUI TAM PLAINTIFFS AND AS PRIVATE
3 24 CITIZENS == JURISDICTION OF COURTS.

3 25 1. The attorney general shall diligently investigate a
3 26 violation under section 685.2. If the attorney general finds
3 27 that a person has violated or is violating section 685.2, the
3 28 attorney general may bring a civil action under this section
3 29 against that person.

3 30 2. a. A person may bring a civil action for a violation
3 31 of this chapter for the person and for the state in the name
3 32 of the state. The person bringing the action shall be
3 33 referred to as the qui tam plaintiff. Once filed, the action
3 34 may be dismissed only with the written consent of the court,
3 35 taking into account the best interest of the parties involved



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4 1 and the public purposes behind this chapter.

4 2 b. A copy of the complaint and written disclosure of
4 3 substantially all material evidence and information the person
4 4 possesses shall be served on the attorney general. The
4 5 complaint shall also be filed in camera, shall remain under
4 6 seal for at least sixty days, and shall not be served on the
4 7 defendant until the court so orders. The attorney general may
4 8 elect to intervene and proceed with the action within sixty
4 9 days after the attorney general receives both the complaint
4 10 and the material evidence and the information.

4 11 c. The attorney general may, for good cause shown, move
4 12 the court for extensions of the time during which the
4 13 complaint remains under seal under paragraph "b". Any such
4 14 motions may be supported by affidavits or other submissions in
4 15 camera. The defendant shall not be required to respond to any
4 16 complaint filed under this section until after the complaint
4 17 is unsealed and served upon the defendant pursuant to rules of
4 18 civil procedure.

4 19 d. Before the expiration of the sixty-day period or any
4 20 extensions obtained under paragraph "c", the attorney general
4 21 shall do one of the following:

4 22 (1) Proceed with the action, in which case the action
4 23 shall be conducted by the attorney general.

4 24 (2) Notify the court that the attorney general declines to
4 25 take over the action, in which case the person bringing the
4 26 action shall have the right to conduct the action.

4 27 e. When a person brings a valid action under this section,
4 28 no person other than the attorney general may intervene or
4 29 bring a related action based on the facts underlying the
4 30 pending action.

4 31 3. a. If the attorney general proceeds with the action,
4 32 the attorney general shall have the primary responsibility for
4 33 prosecuting the action, and shall not be bound by an act of
4 34 the person bringing the action. Such person shall have the
4 35 right to continue as a party to the action, subject to the



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5 1 limitations specified in paragraph "b".
5 2 b. (1) The attorney general may move to dismiss the
5 3 action for good cause notwithstanding the objections of the
5 4 qui tam plaintiff if the qui tam plaintiff has been notified
5 5 by the attorney general of the filing of the motion and the
5 6 court has provided the qui tam plaintiff with an opportunity
5 7 to oppose the motion and present evidence at a hearing.
5 8 (2) The attorney general may settle the action with the
5 9 defendant notwithstanding the objections of the qui tam
5 10 plaintiff if the court determines, after a hearing providing
5 11 the qui tam plaintiff an opportunity to present evidence, that
5 12 the proposed settlement is fair, adequate, and reasonable
5 13 under all of the circumstances.
5 14 (3) Upon a showing by the attorney general that
5 15 unrestricted participation during the course of the litigation
5 16 by the person initiating the action would interfere with or
5 17 unduly delay the attorney general's prosecution of the case,
5 18 or would be repetitious, irrelevant, or for purposes of
5 19 harassment, the court may, in its discretion, impose
5 20 limitations on the person's participation, including but not
5 21 limited to any of the following:
5 22 (a) Limiting the number of witnesses the person may call.
5 23 (b) Limiting the length of the testimony of such
5 24 witnesses.
5 25 (c) Limiting the person's cross-examination of witnesses.
5 26 (d) Otherwise limiting the participation by the person in
5 27 the litigation.
5 28 (4) Upon a showing by the defendant that unrestricted
5 29 participation during the course of the litigation by the
5 30 person initiating the action would be for purposes of
5 31 harassment or would cause the defendant undue burden or
5 32 unnecessary expense, the court may limit the participation by
5 33 the person in the litigation.
5 34 c. If the attorney general elects not to proceed with the
5 35 action, the person who initiated the action shall have the



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6 1 right to conduct the action. If the attorney general
6 2 requests, the attorney general shall be served with copies of
6 3 all pleadings filed in the action and shall be supplied with
6 4 copies of all deposition transcripts at the state's expense.
6 5 When a person proceeds with the action, the court, without
6 6 limiting the status and rights of the person initiating the
6 7 action, may permit the attorney general to intervene at a
6 8 later date upon a showing of good cause.

6 9 d. Whether or not the attorney general proceeds with the
6 10 action, upon a showing by the attorney general that certain
6 11 actions of discovery by the person initiating the action would
6 12 interfere with the attorney general's investigation or
6 13 prosecution of a criminal or civil matter arising out of the
6 14 same facts, the court may stay such discovery for a period of
6 15 not more than sixty days. Such a showing shall be conducted in
6 16 camera. The court may extend the sixty-day period upon a
6 17 further showing in camera that the attorney general has
6 18 pursued the criminal or civil investigation or proceedings
6 19 with reasonable diligence and any proposed discovery in the
6 20 civil action will interfere with the ongoing criminal or civil
6 21 investigation or proceedings.

6 22 e. Notwithstanding subsection 2, the attorney general may
6 23 elect to pursue the state's claim through any alternate remedy
6 24 available to the state, including any administrative
6 25 proceeding to determine a civil penalty. If any such
6 26 alternate remedy is pursued in another proceeding, the person
6 27 initiating the action shall have the same rights in such
6 28 proceeding as such person would have had if the action had
6 29 continued under this section. Any finding of fact or
6 30 conclusion of law made in such other proceeding that has
6 31 become final with respect to a party who is also a party to an
6 32 action under this section, shall be conclusive as to all such
6 33 parties to an action under this section. For purposes of this
6 34 paragraph, a finding or conclusion is final if it has been
6 35 finally determined on appeal to the appropriate court of the



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7 1 state, if all time for filing such an appeal with respect to
7 2 the finding or conclusion has expired, or if the finding or
7 3 conclusion is not subject to judicial review.

7 4 4. a. (1) If the attorney general proceeds with an
7 5 action brought by a person under subsection 2, the person
7 6 shall, subject to subparagraph (2), receive at least fifteen
7 7 percent but not more than twenty-five percent of the proceeds
7 8 of the action or settlement of the claim, which includes
7 9 damages, civil penalties, payments for costs of compliance,
7 10 and any other economic benefit realized by the state or
7 11 federal government as a result of the action, depending upon
7 12 the extent to which the person substantially contributed to
7 13 the prosecution of the action.

7 14 (2) If the action is one which the court finds to be based
7 15 primarily on disclosures of specific information, other than
7 16 information provided by the person bringing the action,
7 17 relating to allegations or transactions specifically in a
7 18 criminal, civil, or administrative hearing, or in a
7 19 legislative or administrative report, hearing, audit, or
7 20 investigation, or from the news media, the court may award an
7 21 amount the court considers appropriate, but in no case more
7 22 than ten percent of the proceeds, taking into account the
7 23 significance of the information and the role of the person
7 24 bringing the action in advancing the case to litigation.

7 25 (3) Any payment to a person under subparagraph (1) or (2)
7 26 shall be made from the proceeds. Any such person shall also
7 27 receive an amount for reasonable expenses which the
7 28 appropriate court finds to have been necessarily incurred,
7 29 plus reasonable attorney fees and costs. All such expenses,
7 30 fees, and costs shall be awarded against the defendant.

7 31 b. If the attorney general does not proceed with an action
7 32 under this section, the person bringing the action or settling
7 33 the claim shall receive an amount which the court decides is
7 34 reasonable for collecting the civil penalty and damages. The
7 35 amount shall be not less than twenty-five percent and not more



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8 1 than thirty percent of the proceeds of the action or
8 2 settlement and shall be paid out of such proceeds, which
8 3 includes damages, civil penalties, payments for costs of
8 4 compliance, and any other economic benefit realized by the
8 5 state or federal government as a result of the action. Such
8 6 person shall also receive an amount for reasonable expenses
8 7 which the appropriate court finds to have been necessarily
8 8 incurred, plus reasonable attorney fees and costs. All such
8 9 expenses, fees, and costs shall be awarded against the
8 10 defendant.

8 11 c. Whether or not the attorney general proceeds with the
8 12 action, if the court finds that the action was brought by a
8 13 person who planned and initiated the violation of section
8 14 685.2 upon which the action was brought, the court may, to the
8 15 extent the court considers appropriate, reduce the share of
8 16 the proceeds of the action which the person would otherwise
8 17 receive under paragraph "a" or "b", taking into account the
8 18 role of that person in advancing the case to litigation and
8 19 any relevant circumstances pertaining to the violation. If
8 20 the person bringing the action is convicted of criminal
8 21 conduct arising from the person's role in the violation of
8 22 section 685.2, the person shall be dismissed from the civil
8 23 action and shall not receive any share of the proceeds of the
8 24 action. Such dismissal shall not prejudice the right of the
8 25 attorney general to continue the action.

8 26 d. If the attorney general does not proceed with the
8 27 action and the person bringing the action conducts the action,
8 28 the court may award to the defendant reasonable attorney fees
8 29 and expenses if the defendant prevails in the action and the
8 30 court finds that the claim of the person bringing the action
8 31 was clearly frivolous, clearly vexatious, or brought primarily
8 32 for purposes of harassment.

8 33 5. a. A court shall not have jurisdiction over an action
8 34 brought under subsection 2 against a member of the general
8 35 assembly, a member of the judiciary, or an executive branch



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9 1 official if the action is based on evidence or information
9 2 known to the attorney general when the action was brought.
9 3 b. A person shall not bring an action under subsection 2
9 4 which is based upon allegations or transactions which are the
9 5 subject of a civil suit or an administrative civil penalty
9 6 proceeding in which the state is already a party.
9 7 c. Upon motion of the attorney general, the court may in
9 8 consideration of all the equities, dismiss a qui tam plaintiff
9 9 if the elements of the actionable false claims alleged in the
9 10 qui tam complaint have been publicly disclosed specifically in
9 11 the news media or in a publicly disseminated governmental
9 12 report, at the time the complaint is filed.
9 13 d. The state is not liable for expenses which a person
9 14 incurs in bringing an action under this section.
9 15 6. Any employee who is discharged, demoted, suspended,
9 16 threatened, harassed, or in any other manner discriminated
9 17 against in the terms and conditions of employment by the
9 18 person's employer because of lawful acts performed by the
9 19 employee on behalf of the employee or others in furtherance of
9 20 an action under this section, including investigation for,
9 21 initiation of, testimony for, or assistance in an action filed
9 22 or to be filed under this section, shall be entitled to all
9 23 relief necessary to make the employee whole. Such relief
9 24 shall include reinstatement with the same seniority status
9 25 such employee would have had but for the discrimination, two
9 26 times the amount of back pay, interest on the back pay, and
9 27 compensation for any special damages sustained as a result of
9 28 the discrimination, including litigation costs and reasonable
9 29 attorney fees. An employee may bring an action in the
9 30 appropriate court of the state for the relief provided in this
9 31 subsection.
9 32 Sec. 4. NEW SECTION. 685.4 LIMITATION OF ACTIONS ==
9 33 BURDEN OF PROOF.
9 34 1. A civil action under section 685.3 shall not be brought
9 35 more than ten years after the date on which the violation was



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10 1 committed.

10 2 2. A civil action under section 685.3 may be brought based
10 3 on activity prior to January 1, 2007, if the limitations
10 4 period pursuant to subsection 1 has not lapsed.

10 5 3. In any action brought under section 685.3, the attorney
10 6 general or the qui tam plaintiff shall be required to prove
10 7 all essential elements of the cause of action, including
10 8 damages, by a preponderance of the evidence.

10 9 4. Notwithstanding any other provision of law, a guilty
10 10 verdict rendered in a criminal proceeding charging false
10 11 statements or fraud, whether upon a verdict after trial or
10 12 upon a plea of guilty or nolo contendere, shall estop the
10 13 defendant from denying the essential elements of the offense
10 14 in any action which involves the same transaction as in the
10 15 criminal proceeding and which is brought under section 685.3,
10 16 subsection 1, 2, or 3.

10 17 Sec. 5. NEW SECTION. 685.5 REMEDIES UNDER OTHER LAWS ==
10 18 APPLICATION.

10 19 1. The provisions of this chapter are not exclusive, and
10 20 the remedies provided for in this chapter shall be in addition
10 21 to any other remedies provided for in any other law or
10 22 available under common law.

10 23 2. This chapter shall be liberally construed and applied
10 24 to promote the public interest. This chapter shall also be
10 25 construed and applied in a manner that reflects the
10 26 congressional intent behind the federal False Claims Act, 31
10 27 U.S.C. } 3729=3733, including the legislative history
10 28 underlying the 1986 amendments to the federal False Claims
10 29 Act.

10 30 Sec. 6. NEW SECTION. 685.6 VENUE.

10 31 An action brought under this chapter may be brought in any
10 32 judicial district in which the defendant or, in the case of
10 33 multiple defendants, any one defendant can be found, resides,
10 34 transacts business, or in which any act proscribed under this
10 35 chapter occurred. A summons as required by the rules of civil



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11 1 procedure shall be issued by the appropriate district court
11 2 and service at any place within or outside the United States.
11 3 Sec. 7. EFFECTIVE DATE == RETROACTIVE APPLICABILITY. This
11 4 Act, being deemed of immediate importance, takes effect upon
11 5 enactment and is retroactively applicable to January 1, 2007.

11 6 EXPLANATION

11 7 This bill establishes a state false claims Act to allow a
11 8 procedure for the state and private individuals to bring an
11 9 action for fraud against another person that might result in
11 10 financial loss to the government. The federal Deficit
11 11 Reduction Act of 2005, Pub. L. No. 109=171, } 6032, provided
11 12 financial encouragement to states to have in effect a law
11 13 dealing with false or fraudulent claims that meets certain
11 14 federal requirements. If a state has such a law in place,
11 15 when recoveries are made for Medicaid funds improperly paid,
11 16 the share owed to the federal government will be decreased by
11 17 10 percent. This provision of the federal Deficit Reduction
11 18 Act took effect January 1, 2007.

11 19 The bill provides definitions of "claim", "employer",
11 20 "knowing" or "knowingly", and "qui tam plaintiff" which means
11 21 a private plaintiff who brings an action under the bill on
11 22 behalf of the state.

11 23 The bill provides that a person who commits certain
11 24 specified acts is liable to the state for three times the
11 25 amount of damages which the state sustains because of the act
11 26 of that person, and is also liable to the state for the costs
11 27 of a civil action brought to recover any of those penalties or
11 28 damages, and for a civil penalty of not less than \$5,000 and
11 29 not more than \$10,000 for each violation. The prohibited acts
11 30 include: knowingly presenting or causing to be presented to
11 31 any employee, officer, or agent of the state, or to any
11 32 contractor, grantee, or other recipient of state funds, a
11 33 false or fraudulent claim for payment or approval; knowingly
11 34 making, using, or causing to be made or used, a false record
11 35 or statement to get a false or fraudulent claim paid or



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12 1 approved; conspiring to defraud the state by getting a false
12 2 claim allowed or paid, or conspiring to defraud the state by
12 3 knowingly making, using, or causing to be made or used, a
12 4 false record or statement to conceal, avoid, or decrease an
12 5 obligation to pay or transmit money or property to the state;
12 6 having possession, custody, or control of public property or
12 7 money used or to be used by the state and knowingly delivering
12 8 or causing to be delivered less property than the amount for
12 9 which the person receives a certificate or receipt; being
12 10 authorized to make or deliver a document certifying receipt of
12 11 property used or to be used by the state and knowingly making
12 12 or delivering a receipt that falsely represents the property
12 13 used or to be used; knowingly buying or receiving as a pledge
12 14 of an obligation or debt, public property from any person who
12 15 lawfully may not sell or pledge the property; knowingly
12 16 making, using, or causing to be made or used, a false record
12 17 or statement to conceal, avoid, or decrease an obligation to
12 18 pay or transmit money or property to the state; and being a
12 19 beneficiary of an inadvertent submission of a false claim to
12 20 any employee, officer, or agent of the state, or to any
12 21 contractor, grantee, or other recipient of state funds,
12 22 subsequently discovering the falsity of the claim, and failing
12 23 to disclose the false claim to the attorney general within a
12 24 reasonable time after discovery of the false claim. The bill
12 25 provides for an assessment of a lesser amount of damages under
12 26 certain circumstances.

12 27 The bill provides a process for the attorney general to
12 28 investigate and bring civil actions under the bill. The bill
12 29 also provides a process for a person to bring a civil action
12 30 for a violation of the bill for the person and for the state
12 31 in the name of the state as a qui tam plaintiff. The bill
12 32 provides for awards to the qui tam plaintiff, bars certain
12 33 actions including those brought against a member of the state
12 34 legislature, a member of the judicial branch or an executive
12 35 branch official if the action is based on evidence or



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13 1 information known to the attorney general when the action was
13 2 brought and other actions in which the state is already a
13 3 party. The bill provides that the state is not liable for
13 4 expenses which a person incurs in bringing an action under the
13 5 bill, and provides for relief to a person who is retaliated
13 6 against by an employer for bringing a private action under the
13 7 bill.

13 8 The bill provides that a civil action under the bill must
13 9 be brought not more than 10 years after the date on which the
13 10 violation was committed, and requires the attorney general or
13 11 the private plaintiff to prove all essential elements of the
13 12 cause of action by a preponderance of the evidence.

13 13 LSB 1346DP 83

13 14 pf/nh/5.1



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Senate Study Bill 1062

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

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

Passed House, Date _____
Vote: Ayes _____ Nays _____

A BILL FOR

1 An Act relating to required testing for infectious diseases of
2 persons under supervision of judicial district departments of
3 correctional services.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 1219DP 83
6 jm/rj/8



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1 1 Section 1. NEW SECTION. 905.15 REQUIRED TEST.
1 2 1. For purposes of this section, "infectious disease"
1 3 means any infectious condition, which if spread by
1 4 contamination, would place others at a serious health risk.
1 5 2. A person under supervision of a district department,
1 6 who bites another person, who causes an exchange of bodily
1 7 fluids with another person, or who causes any bodily secretion
1 8 to be cast upon another person, shall submit to the withdrawal
1 9 of a bodily specimen for testing to determine if the person is
1 10 infected with a contagious infectious disease. The bodily
1 11 specimen to be taken shall be determined by a physician. The
1 12 specimen taken shall be sent to the state hygienic laboratory
1 13 at the state university at Iowa City or some other laboratory
1 14 approved by the department of public health. If a person to
1 15 be tested pursuant to this section refuses to submit to the
1 16 withdrawal of a bodily specimen, application may be made by
1 17 the director to the district court for an order compelling the
1 18 person to submit to the withdrawal and, if infected, to
1 19 available treatment. An order authorizing the withdrawal of a
1 20 specimen for testing may be issued only by a district judge or
1 21 district associate judge upon application by the director.
1 22 3. Failure to comply with an order issued pursuant to this
1 23 section may result in revocation of probation, parole, or work
1 24 release.
1 25 4. Personnel at an institution under the control of the
1 26 department of corrections or of a residential facility
1 27 operated by a judicial district department of correctional
1 28 services shall be notified if a person committed to any of
1 29 these institutions is found to have a contagious infectious
1 30 disease.
1 31 5. The district department in cooperation with the
1 32 department of corrections shall adopt policies and procedures
1 33 to prevent the transmittal of a contagious infectious disease
1 34 to other persons.

1 35

EXPLANATION



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2 1 This bill relates to required testing for infectious
2 2 diseases of persons under supervision of judicial district
2 3 departments of correctional services.
2 4 The bill provides that a person under supervision of a
2 5 judicial district department of correctional services who
2 6 causes an exchange of bodily fluids with another person, shall
2 7 submit to the withdrawal of a bodily fluid for testing to
2 8 determine if the person is infected with a contagious
2 9 infectious disease.
2 10 The bill provides that if the person refuses to submit to
2 11 the withdrawal of bodily fluid, the director of the judicial
2 12 district department of correctional services may make an
2 13 application to the court for an order compelling the person to
2 14 submit to a withdrawal.
2 15 In addition, failure to comply with a court order issued
2 16 pursuant to the bill may result in the revocation of
2 17 probation, parole, or work release.
2 18 LSB 1219DP 83
2 19 jm/rj/8



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Senate Study Bill 1063

SENATE/HOUSE FILE
BY (PROPOSED GOVERNOR'S
OFFICE OF DRUG CONTROL
POLICY BILL)

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

A BILL FOR

1 An Act relating to the unlawful manufacture, delivery, or
2 possession with the intent to deliver cocaine or substances or
3 counterfeit substances related to cocaine, and making
4 penalties applicable.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
6 TLSB 1222DP 83
7 jm/rj/5



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1 1 Section 1. Section 124.401, subsection 1, paragraph a,
1 2 subparagraph (2), unnumbered paragraph 1, Code 2009, is
1 3 amended to read as follows:

1 4 More than ~~five hundred~~ fifty grams of a mixture or
1 5 substance containing a detectable amount of any of the
1 6 following:

1 7 Sec. 2. Section 124.401, subsection 1, paragraph a,
1 8 subparagraph (2), Code 2009, is amended by adding the
1 9 following new subparagraph division:

1 10 NEW SUBPARAGRAPH DIVISION. (e) Any mixture or substance
1 11 referred to in subparagraph divisions (a) through (d) which
1 12 contains cocaine base.

1 13 Sec. 3. Section 124.401, subsection 1, paragraph a,
1 14 subparagraph (3), Code 2009, is amended by striking the
1 15 subparagraph.

1 16 Sec. 4. Section 124.401, subsection 1, paragraph b,
1 17 subparagraph (2), unnumbered paragraph 1, Code 2009, is
1 18 amended to read as follows:

1 19 More than ~~one hundred~~ ten grams but not more than ~~five~~
1 20 ~~hundred~~ fifty grams of any of the following:

1 21 Sec. 5. Section 124.401, subsection 1, paragraph b,
1 22 subparagraph (2), Code 2009, is amended by adding the
1 23 following new subparagraph division:

1 24 NEW SUBPARAGRAPH DIVISION. (e) Any mixture or substance
1 25 referred to in subparagraph divisions (a) through (d) which
1 26 contains cocaine base.

1 27 Sec. 6. Section 124.401, subsection 1, paragraph b,
1 28 subparagraph (3), Code 2009, is amended by striking the
1 29 subparagraph.

1 30 Sec. 7. Section 124.401, subsection 1, paragraph c,
1 31 subparagraph (2), unnumbered paragraph 1, Code 2009, is
1 32 amended to read as follows:

1 33 ~~One hundred~~ Ten grams or less of any of the following:

1 34 Sec. 8. Section 124.401, subsection 1, paragraph c,
1 35 subparagraph (2), Code 2009, is amended by adding the



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2 1 following new subparagraph division:
2 2 NEW SUBPARAGRAPH DIVISION. (e) Any mixture or substance
2 3 referred to in subparagraph divisions (a) through (d) which
2 4 contains cocaine base.
2 5 Sec. 9. Section 124.401, subsection 1, paragraph c,
2 6 subparagraph (3), Code 2009, is amended by striking the
2 7 subparagraph.

2 8 EXPLANATION

2 9 This bill relates to the unlawful manufacture, delivery, or
2 10 possession with the intent to manufacture or deliver cocaine
2 11 or substances or counterfeit substances related to cocaine.
2 12 The bill makes uniform criminal penalties for offenses related
2 13 to cocaine substances and cocaine base or "crack cocaine".

2 14 The bill provides that a person who unlawfully
2 15 manufactures, delivers, or possesses with intent to
2 16 manufacture or deliver more than 50 grams of a controlled
2 17 substance related to cocaine, commits a class "B" felony,
2 18 punishable by confinement for no more than 50 years, and a
2 19 fine of not more than \$1 million. Under existing law, a
2 20 person who delivers more than 500 grams of cocaine-related
2 21 substances other than cocaine base may be charged with a class
2 22 "B" felony punishable by confinement for no more than 50 years
2 23 and a fine of not more than \$1 million.

2 24 The bill provides that a person who unlawfully
2 25 manufactures, delivers, or possesses with intent to
2 26 manufacture or deliver more than 10 grams but not more than 50
2 27 grams of a controlled substance related to cocaine, commits a
2 28 class "B" felony, punishable by confinement for no more than
2 29 25 years, and a fine of not less than \$5,000 but not more than
2 30 \$100,000. Under existing law, a person who delivers more than
2 31 100 grams but not more than 500 grams of cocaine-related
2 32 substances other than cocaine base may be charged with a class
2 33 "B" felony punishable by confinement for no more than 25 years
2 34 and a fine from \$5,000 to \$100,000.

2 35 The bill provides that a person who unlawfully



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3 1 manufactures, delivers, or possesses with intent to
3 2 manufacture or deliver 10 grams or less of a controlled
3 3 substance related to cocaine, commits a class "C" felony,
3 4 punishable by confinement for no more than 10 years, and a
3 5 fine of not less than \$1,000 but no more than \$50,000. Under
3 6 existing law, a person who delivers more than 100 grams or
3 7 less of cocaine-related substances other than cocaine base may
3 8 be charged with a class "C" felony and a fine from \$1,000 to
3 9 \$50,000.
3 10 LSB 1222DP 83
3 11 jm/rj/5



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Senate Study Bill 1064

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

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

Passed House, Date _____
Vote: Ayes _____ Nays _____

A BILL FOR

1 An Act relating to the criminal offenses of enticing a minor, and
2 the possession, distribution, and reporting of obscene
3 material, and providing penalties.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 1332DP 83
6 jm/rj/24



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1 1 DIVISION I
1 2 ENTICING A MINOR
1 3 Section 1. Section 692A.1, subsection 5, paragraph n, Code
1 4 2009, is amended to read as follows:
1 5 n. Enticing ~~away~~ a minor in violation of section 710.10,
1 6 subsection 1.
1 7 Sec. 2. Section 710.10, Code 2009, is amended to read as
1 8 follows:
1 9 710.10 ENTICING ~~AWAY~~ A MINOR.
1 10 1. A person commits a class "C" felony when, without
1 11 authority and with the intent to commit sexual abuse or sexual
1 12 exploitation upon a minor under the age of ~~thirteen~~ sixteen,
1 13 the person entices ~~away~~ or attempts to entice the minor under
1 14 the age of ~~thirteen~~ sixteen for the purpose of committing
1 15 sexual abuse or sexual exploitation, or entices ~~away~~ or
1 16 attempts to entice a person reasonably believed to be under
1 17 the age of ~~thirteen~~ sixteen for the purpose of committing
1 18 sexual abuse or sexual exploitation.
1 19 2. A person commits a class "D" felony when, without
1 20 authority and with the intent to commit ~~an illegal act upon a~~
1 21 ~~minor under the age of sixteen, the person entices away a~~
1 22 ~~minor under the age of sixteen, or entices away a person~~
1 23 ~~reasonably believed to be under the age of sixteen sexual~~
1 24 ~~exploitation, the person entices or attempts to entice a minor~~
1 25 ~~who is sixteen or seventeen years of age for the purpose of~~
1 26 ~~committing sexual exploitation or entices or attempts to~~
1 27 ~~entice a person reasonably believed to be a minor who is~~
1 28 ~~sixteen or seventeen years of age for the purpose of~~
1 29 ~~committing sexual exploitation.~~
1 30 3. A person commits a class "D" felony when, without
1 31 authority and with the intent to commit an illegal act upon a
1 32 minor under the age of sixteen, the person entices or attempts
1 33 to entice a minor under the age of sixteen for the purpose of
1 34 committing an illegal act, or entices or attempts to entice a
1 35 person reasonably believed to be under the age of sixteen for



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2 1 the purpose of committing the illegal act.
 2 2 ~~3.~~ 4. A person commits an aggravated misdemeanor when,
 2 3 without authority and with the intent to commit an illegal act
 2 4 upon a minor ~~under the age of sixteen, the person attempts to~~
~~2 5 entice away a minor under the age of sixteen, or attempts to~~
~~2 6 entice away a person reasonably believed to be under the age~~
~~2 7 of sixteen who is sixteen or seventeen years of age, the~~
 2 8 person entices or attempts to entice a minor who is sixteen or
 2 9 seventeen years of age for the purpose of committing an
 2 10 illegal act, or entices or attempts to entice a person
 2 11 reasonably believed to be a minor who is sixteen or seventeen
 2 12 years of age for the purpose of committing an illegal act.
 2 13 ~~4.~~ 5. A person's intent to commit ~~a violation of this~~
~~2 14 section~~ sexual abuse, sexual exploitation, or an illegal act
 2 15 upon a minor may be inferred when the person is not known to
 2 16 the ~~person being enticed away~~ minor whom the person is
 2 17 enticing or attempting to entice and the person does not have
 2 18 the permission of the parent, guardian, or custodian to
 2 19 contact the ~~person being enticed away~~ minor whom the person is
 2 20 enticing or attempting to entice.
 2 21 ~~5.~~ 6. For purposes of determining jurisdiction under
 2 22 section 803.1, an offense is considered committed in this
 2 23 state if the communication to entice ~~away~~ or to attempt to
 2 24 entice a minor or a person believed to be a minor who is
 2 25 present in this state originates from another state, or the
 2 26 communication to entice ~~away~~ or to attempt to entice a minor
 2 27 or a person believed to be a minor is sent from this state.
 2 28 Sec. 3. Section 901A.1, subsection 1, paragraph c, Code
 2 29 2009, is amended to read as follows:
 2 30 c. Enticing a minor ~~away~~ in violation of section 710.10,
 2 31 subsection 1.
 2 32 DIVISION II
 2 33 POSSESSION, DISTRIBUTION, AND REPORTING
 2 34 OF OBSCENE MATERIAL
 2 35 Sec. 4. Section 728.1, subsection 3, Code 2009, is amended



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3 1 to read as follows:

3 2 3. "Material" means any book, magazine, newspaper or other
3 3 printed or written material or any picture, drawing,
3 4 photograph, motion picture, or other pictorial representation
3 5 or any statue or other figure, or any recording, transcription
3 6 or mechanical, chemical or electrical reproduction, or any
3 7 live transmission, or any other articles, equipment, machines
3 8 or materials.

3 9 Sec. 5. Section 728.1, subsection 7, paragraphs e and g,
3 10 Code 2009, are amended to read as follows:

3 11 e. Sodomasochistic abuse of a minor for the purpose of
3 12 arousing or satisfying the sexual desires of a person who may
3 13 view a visual depiction of the abuse.

3 14 g. Nudity of a minor for the purpose of arousing or
3 15 satisfying the sexual desires of a person who may view a
3 16 visual depiction of the nude minor.

3 17 Sec. 6. Section 728.1, Code 2009, is amended by adding the
3 18 following new subsection:

3 19 NEW SUBSECTION. 11. "Visual depiction" means but is not
3 20 limited to any picture, drawing, cartoon, painting, slide,
3 21 photograph, digital or electronic image, book, magazine,
3 22 negative image, undeveloped film, motion picture, videotape,
3 23 digital or electronic recording, live transmission, sculpture,
3 24 or other pictorial or three-dimensional representation.

3 25 Sec. 7. Section 728.12, subsection 1, Code 2009, is
3 26 amended to read as follows:

3 27 1. It shall be unlawful to employ, use, persuade, induce,
3 28 entice, coerce, solicit, knowingly permit, or otherwise cause
3 29 or attempt to cause a minor to engage in a prohibited sexual
3 30 act or in the simulation of a prohibited sexual act. A person
3 31 must know, or have reason to know, or intend that the act or
3 32 simulated act may be photographed, filmed, or otherwise
3 33 preserved in a ~~negative, slide, book, magazine, computer,~~
~~3 34 computer disk, or other print or visual medium, or be~~
~~3 35 preserved in an electronic, magnetic, or optical storage~~



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~~4 1 system, or in any other type of storage system visual~~
4 2 depiction. A person who commits a violation of this
4 3 subsection commits a class "C" felony. Notwithstanding
4 4 section 902.9, the court may assess a fine of not more than
4 5 fifty thousand dollars for each offense under this subsection
4 6 in addition to imposing any other authorized sentence.
4 7 Sec. 8. Section 728.12, subsection 3, unnumbered paragraph
4 8 1, Code 2009, is amended to read as follows:
4 9 It shall be unlawful to knowingly purchase or possess a
4 10 ~~negative, slide, book, magazine, computer, computer disk, or~~
4 11 ~~other print or visual medium, or an electronic, magnetic, or~~
4 12 ~~optical storage system, or any other type of storage system~~
4 13 which depicts a visual depiction of a minor engaging in a
4 14 prohibited sexual act or the simulation of a prohibited sexual
4 15 act. A person who commits a violation of this subsection
4 16 commits an aggravated misdemeanor for a first offense and a
4 17 class "D" felony for a second or subsequent offense. For
4 18 purposes of this subsection, an offense is considered a second
4 19 or subsequent offense if, prior to the person's having been
4 20 convicted under this subsection, any of the following apply:
4 21 Sec. 9. Section 728.14, subsection 1, Code 2009, is
4 22 amended to read as follows:
4 23 1. A commercial film and photographic print processor who
4 24 has knowledge of or observes, within the scope of the
4 25 processor's professional capacity or employment, a ~~film,~~
4 26 ~~photograph, video tape, negative, or slide which depicts~~
4 27 visual depiction of a minor whom the processor knows or
4 28 reasonably should know to be under the age of eighteen,
4 29 engaged in a prohibited sexual act or in the simulation of a
4 30 prohibited sexual act, shall report the depiction to the
4 31 county attorney immediately or as soon as possible as required
4 32 in this section. The processor shall not report to the county
4 33 attorney visual depictions involving mere nudity of the minor,
4 34 but shall report visual depictions involving a prohibited
4 35 sexual act. This section shall not be construed to require a



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5 1 processor to review all ~~films, photographs, video tapes,~~
~~5 2 negatives, or slides~~ visual depictions delivered to the
5 3 processor within the processor's professional capacity or
5 4 employment.

5 5 For purposes of this section, "prohibited sexual act" means
5 6 any of the following:

5 7 a. A sex act as defined in section 702.17.

5 8 b. An act of bestiality involving a minor.

5 9 c. Fondling or touching the pubes or genitals of a minor
5 10 for the purpose of arousing or satisfying the sexual desires
5 11 of a person who may view a visual depiction of the act.

5 12 d. Fondling or touching the pubes or genitals of a person
5 13 by a minor for the purpose of arousing or satisfying the
5 14 sexual desires of a person who may view a visual depiction of
5 15 the act.

5 16 e. Sadomasochistic abuse of a minor for the purpose of
5 17 arousing or satisfying the sexual desires of a person who may
5 18 view a visual depiction of the abuse.

5 19 f. Sadomasochistic abuse of a person by a minor for the
5 20 purpose of arousing or satisfying the sexual desires of a
5 21 person who may view a visual depiction of the abuse.

5 22 g. Nudity of a minor for the purpose of arousing or
5 23 satisfying the sexual desires of a person who may view a
5 24 visual depiction of the nude minor.

5 25 EXPLANATION

5 26 Division I relates to criminal offenses of enticing a
5 27 minor.

5 28 The division renames the criminal offense of enticing away
5 29 a minor to enticing a minor, and eliminates the provisions
5 30 related to enticing "away" a minor.

5 31 Under the division, it is a class "C" felony if a person
5 32 without authority and with the intent to commit sexual abuse
5 33 or sexual exploitation upon a minor under the age of 16,
5 34 entices or attempts to entice the minor for the purpose of
5 35 committing sexual abuse or sexual exploitation. The division



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6 1 also makes it a class "C" felony if the person being enticed
6 2 is believed to be a minor under the age of 16. Current law
6 3 makes it a class "C" felony to entice away a minor under the
6 4 age of 13 or reasonably believed to be under the age of 13 for
6 5 the purpose of committing sexual abuse or sexual exploitation.

6 6 The division makes it a class "D" felony if a person,
6 7 without authority, and with the intent to commit sexual abuse
6 8 or sexual exploitation upon a minor 16 or 17 years of age,
6 9 entices or attempts to entice the minor for the purpose of
6 10 committing sexual exploitation. The division also makes it a
6 11 class "D" felony if the person being enticed is believed to be
6 12 a minor 16 or 17 years of age. Current law makes it a class
6 13 "D" felony to entice away a minor under the age of 16 or
6 14 reasonably believed to be under the age of 16 for the purpose
6 15 of committing an illegal act.

6 16 The division makes it a class "D" felony if a person,
6 17 without authority and with the intent to commit an illegal act
6 18 upon a minor under the age of 16, entices or attempts to
6 19 entice the minor for the purpose of committing an illegal act.

6 20 The division also makes it a class "D" felony if the person
6 21 being enticed is believed to be a minor under the age of 16.
6 22 Current law makes it an aggravated misdemeanor to entice away
6 23 a minor under the age of 16 or reasonably believed to be under
6 24 the age of 16 for the purpose of committing an illegal act.

6 25 The division makes it an aggravated misdemeanor if a
6 26 person, without authority and with the intent to commit an
6 27 illegal act upon a minor 16 or 17 years of age, entices or
6 28 attempts to entice the minor for the purpose of committing an
6 29 illegal act. The division also makes it an aggravated
6 30 misdemeanor if the person being enticed is believed to be a
6 31 minor 16 or 17 years of age. Under current law, a person does
6 32 not commit enticing away a minor for illegal acts upon a minor
6 33 16 or 17 years of age.

6 34 Division II relates to the possession or distribution of
6 35 obscene material.



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7 1 The division modifies the definition of "material" in Code
7 2 chapter 728 to include live transmissions.

7 3 Under the division, the modification of the definition of
7 4 the term "material" results in changes to the elements of the
7 5 following criminal offenses: dissemination of obscene
7 6 material to minors (Code section 728.2), admitting minors to
7 7 premises where obscene material is exhibited (Code section
7 8 728.3), rental or sale of hard-core pornography (Code section
7 9 728.4), sexual exploitation of a minor (Code section
7 10 728.12(2)), and telephone dissemination of obscene material
7 11 (Code section 728.15).

7 12 The division changes the elements of the criminal offense
7 13 of sexual exploitation of a minor to prohibit purchasing or
7 14 possessing "visual depictions" of a minor engaged in a
7 15 prohibited or simulated sex act.

7 16 The division defines the term "visual depiction" to include
7 17 any picture, drawing, cartoon, painting, slide, photograph,
7 18 digital or electronic image, book, magazine, negative image,
7 19 undeveloped film, motion picture, videotape, digital or
7 20 electronic recording, live transmission, sculpture, or other
7 21 pictorial or three-dimensional representation. The division
7 22 strikes current references to a computer or other types of
7 23 storage systems that may preserve such prohibited images.

7 24 The changes to the criminal offense of sexual exploitation
7 25 of a minor are in response to State v. Muhlenbruch, 728 N.W.2d
7 26 212 (Iowa 2009).

7 27 The division also substitutes "visual depiction" for
7 28 storage systems referenced in Code sections 728.12(1) and
7 29 728.14 to conform with the sexual exploitation of a minor
7 30 changes in Code section 728.12(3) due to the Muhlenbruch case.
7 31 In addition, the division adds the word "visual" in Code
7 32 section 728.1(7) to also conform with the changes in the
7 33 division.

7 34 A class "C" felony is punishable by confinement for no more
7 35 than 10 years and a fine of at least \$1,000 but not more than



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8 1 \$10,000. A class "D" felony is punishable by confinement for
8 2 no more than five years and a fine of at least \$750 but not
8 3 more than \$7,500. An aggravated misdemeanor is punishable by
8 4 confinement for no more than two years and a fine of at least
8 5 \$625 but not more than \$6,250.
8 6 LSB 1332DP 83
8 7 jm/rj/24