



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 11, 2009

House Amendment 1018

PAG LIN

1 1 Amend House File 243 as follows:
1 2 #1. Page 1, by striking lines 27 through 28.
1 3 #2. By renumbering as necessary.
1 4
1 5
1 6
1 7 RANTS of Woodbury
1 8
1 9
1 10
1 11 RAECKER of Polk
1 12 HF 243.201 83
1 13 ec/rj/21608
1 14
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Iowa General Assembly
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House Amendment 1019

PAG LIN

1 1 Amend House File 179 as follows:
1 2 #1. Page 1, by inserting before line 1 the
1 3 following:
1 4 <Section 1. Section 232.69, subsection 1,
1 5 unnumbered paragraph 1, Code 2009, is amended to read
1 6 as follows:
1 7 The classes of persons enumerated in this
1 8 subsection shall make a report within twenty-four
1 9 hours and as provided in section 232.70, of cases of
1 10 child abuse. In addition, the classes of persons
1 11 enumerated in this subsection shall make a report of
1 12 abuse of a child who is under ~~twelve~~ fourteen years of
1 13 age and may make a report of abuse of a child who is
1 14 ~~twelve~~ fourteen years of age or older, which would be
1 15 defined as child abuse under section 232.68,
1 16 subsection 2, paragraph "c" or "e", except that the
1 17 abuse resulted from the acts or omissions of a person
1 18 other than a person responsible for the care of the
1 19 child.>
1 20 #2. By renumbering as necessary.
1 21
1 22
1 23
1 24 SCHULTZ of Crawford
1 25 HF 179.503 83
1 26 jp/rj/12063
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Iowa General Assembly
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House File 256 - Introduced

HOUSE FILE
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 139)

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

A BILL FOR

1 An Act relating to bidders at a property tax sale and owners of
2 tax sale certificates and including effective and
3 applicability date provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 1163HV 83
6 sc/rj/14



Iowa General Assembly
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House File 256 - Introduced continued

PAG LIN

1 1 Section 1. Section 446.16, Code 2009, is amended by adding
1 2 the following new subsection:

1 3 NEW SUBSECTION. 4. Only those persons as defined in
1 4 section 4.1 are authorized to register to bid or to bid at the
1 5 tax sale or to own a tax sale certificate by purchase,
1 6 assignment, or otherwise. To be authorized to register to bid
1 7 or to bid at a tax sale or to own a tax sale certificate, a
1 8 person, other than an individual, must have a federal tax
1 9 identification number and either a designation of agent for
1 10 service of process on file with the secretary of state or a
1 11 verified statement meeting the requirements of chapter 547 on
1 12 file with the county recorder of the county in which the
1 13 person wishes to register to bid or to bid at tax sale or of
1 14 the county where the property that is the subject of the tax
1 15 sale certificate is located.

1 16 Sec. 2. EFFECTIVE AND APPLICABILITY DATES. This Act,
1 17 being deemed of immediate importance, takes effect upon
1 18 enactment and applies to tax sales held on or after June 1,
1 19 2009.

1 20 EXPLANATION

1 21 This bill provides that a bidder at a tax sale for
1 22 delinquent property taxes must meet the statutory definition
1 23 of "person". Code section 4.1, subsection 20, defines
1 24 "person" and includes the following: an individual,
1 25 corporation, limited liability company, business trust,
1 26 estate, trust, partnership or association, or any other legal
1 27 entity. The bill provides that, in order to register to bid
1 28 or to bid at a tax sale or to own a tax sale certificate, a
1 29 person, other than an individual, must have a federal tax
1 30 identification number and either have filed with the secretary
1 31 of state a designation of agent for service of process or have
1 32 filed with the appropriate county recorder a verified
1 33 statement of trade name of a business.

1 34 LSB 1163HV 83

1 35 sc/rj/14



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House File 257 - Introduced

HOUSE FILE
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 31)

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

A BILL FOR

1 An Act relating to the judicial branch including contested and
2 uncontested parking violations, filing civil citations of
3 municipal infractions with the clerk, records kept by the
4 clerk, and service of original notice in a small claims
5 action.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
7 TLSB 1402HV 83
8 jm/rj/8



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House File 257 - Introduced continued

PAG LIN

1 1 Section 1. Section 321.236, subsection 1, unnumbered
1 2 paragraph 2, Code 2009, is amended to read as follows:
1 3 Parking meter, snow route, and overtime parking violations
1 4 which are ~~denied~~ contested shall be charged and proceed before
1 5 a court the same as other traffic violations. Filing fees and
1 6 court costs shall be assessed as provided in section 602.8106,
1 7 subsection 1 and section 805.6, subsection 1, paragraph "a"
1 8 for parking violation cases. ~~Parking violations which are~~
~~1 9 admitted:~~

1 10 Sec. 2. Section 321.236, subsection 1, paragraphs a and b,
1 11 Code 2009, are amended to read as follows:

1 12 a. ~~May~~ Parking violations which are uncontested shall be
1 13 charged and collected upon a simple notice of a fine payable
1 14 to the city clerk, ~~if authorized by ordinance~~. The fine for
1 15 each violation charged under a simple notice of a fine shall
1 16 be established by ordinance. The fine may be increased by
1 17 five dollars if the parking violation is not paid within
1 18 thirty days of the date upon which the violation occurred, ~~if~~
~~1 19 authorized by ordinance~~. Violations of section 321L.4,
1 20 subsection 2, ~~may~~ shall be charged and collected upon a simple
1 21 notice of a one hundred dollar fine payable to the city clerk,
~~1 22 if authorized by ordinance~~. ~~No costs~~ Costs or other charges
1 23 shall be assessed. All fines collected by a city pursuant to
1 24 this paragraph shall be retained by the city and all fines
1 25 collected by a county pursuant to this paragraph shall be
1 26 retained by the county, except as provided by an agreement
1 27 between a city and a county treasurer for the collection of
1 28 fines pursuant to section 331.553, subsection 8.

1 29 b. ~~Notwithstanding any such ordinance, may be prosecuted~~
~~1 30 under the provisions of sections 805.7 to 805.13 or as any~~
~~1 31 other traffic violation.~~

1 32 Sec. 3. Section 364.22, subsection 4, unnumbered paragraph
1 33 1, Code 2009, is amended to read as follows:

1 34 An officer authorized by a city to enforce a city code or
1 35 regulation may issue a civil citation to a person who commits



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House File 257 - Introduced continued

2 1 a municipal infraction. ~~The~~ A copy of the citation may be
2 2 served by personal service as provided in rule of civil
2 3 procedure 1.305, by certified mail addressed to the defendant
2 4 at the defendant's last known mailing address, return receipt
2 5 requested, or by publication in the manner as provided in rule
2 6 of civil procedure 1.310 and subject to the conditions of rule
2 7 of civil procedure 1.311. A copy of the citation shall be
2 8 retained by the issuing officer, and ~~one copy~~ the original
2 9 citation shall be sent to the clerk of the district court.

2 10 The citation shall serve as notification that a civil offense
2 11 has been committed and shall contain the following
2 12 information:

2 13 Sec. 4. Section 523I.602, subsection 4, Code 2009, is
2 14 amended to read as follows:

2 15 4. RECEIPT == ~~CEMETERY~~ RECORD. Every such trustee shall
2 16 execute and deliver to the donor a receipt showing the amount
2 17 of money or other property received, and the use to be made of
2 18 the net proceeds from the same, duly attested by the clerk of
2 19 the court granting letters of trusteeship, ~~and a copy thereof,~~
~~2 20 signed by the trustee and so attested, shall be filed with and~~
~~2 21 recorded by the clerk in a book to be known as the cemetery~~
~~2 22 record, in which shall be recorded all reports and other~~
~~2 23 papers, including orders made by the court relative to~~
~~2 24 cemetery matters and the trustee shall keep a signed and~~
2 25 attested copy of the receipt.

2 26 Sec. 5. Section 602.8104, subsection 2, paragraph h, Code
2 27 2009, is amended by striking the paragraph.

2 28 Sec. 6. Section 602.8104, subsection 2, Code 2009, is
2 29 amended by adding the following new paragraph:

2 30 NEW PARAGRAPH. k. A record book of certificates of
2 31 deposit, not in the clerk's name, which are being held by the
2 32 clerk on behalf of a conservatorship, trust, or an estate
2 33 pursuant to a court order as provided in section 636.37.

2 34 Sec. 7. Section 602.8106, subsection 1, paragraph c, Code
2 35 2009, is amended to read as follows:



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House File 257 - Introduced continued

3 1 c. For filing and docketing a complaint or information or
3 2 uniform citation and complaint for parking violations under
3 3 sections 321.236, 321.239, 321.358, 321.360, and 321.361,
3 4 eight dollars, effective January 1, 2004. The court costs in
3 5 cases of parking meter and overtime parking violations which
3 6 are ~~denied~~ contested, and charged and collected pursuant to
3 7 section 321.236, subsection 1, or pursuant to a uniform
3 8 citation and complaint, are eight dollars per information or
3 9 complaint or per uniform citation and complaint effective
3 10 January 1, 1991.

3 11 Sec. 8. Section 631.4, subsection 1, paragraph a, Code
3 12 2009, is amended to read as follows:

3 13 a. If the defendant is a resident of this state, or if the
3 14 defendant is a nonresident of this state and is subject to the
3 15 jurisdiction of the court under rule of civil procedure 1.306,
3 16 the plaintiff may elect service under this paragraph, and upon
3 17 receipt of the prescribed costs the clerk shall mail to the
3 18 defendant by certified mail, restricted delivery, return
3 19 receipt to the clerk requested, a copy of the original notice
3 20 together with a conforming copy of an answer form. However,
3 21 if the defendant is a corporation, partnership, or
3 22 association, the clerk shall mail to the defendant by
3 23 certified mail, return receipt to the clerk requested, a copy
3 24 of the original notice with a conforming copy of an answer
3 25 form. The defendant is required to appear within twenty days
3 26 following the date service is made.

3 27 Sec. 9. Section 636.37, Code 2009, is amended to read as
3 28 follows:

3 29 636.37 DUTY OF CLERK.

3 30 1. The clerk of the district court with whom any deposit
3 31 of funds, moneys, or securities shall be made, as provided by
3 32 any law or an order of court, shall enter in a book, to be
3 33 provided and kept for that purpose, the amount of such
3 34 deposit, the character thereof, the date of its deposit, from
3 35 whom received, from what source derived, to whom due or to



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4 1 become due, if known.

4 2 2. A separate book shall be maintained for all

4 3 certificates of deposit not in the name of the clerk of the

4 4 district court that are being held by the clerk on behalf of a

4 5 conservatorship, trust, or estate. The book shall list the

4 6 relevant details of the transaction, including but not limited

4 7 to the name of the conservator, trustee, or executor, and

4 8 cross references to the court orders opening and closing the

4 9 conservatorship, trust, or estate.

4 10 Sec. 10. Section 805.8A, subsection 1, paragraph a, Code
4 11 2009, is amended to read as follows:

4 12 a. For parking violations under sections 321.236, 321.239,

4 13 321.358, 321.360, and 321.361, the scheduled fine is five

4 14 dollars, except if the local authority has established the

4 15 fine by ordinance ~~pursuant to section 321.236, subsection 1.~~

4 16 The scheduled fine for a parking violation pursuant to section

4 17 321.236 increases by five dollars, ~~as if~~ authorized by

4 18 ordinance ~~pursuant to section 321.236, subsection 1,~~ and if

4 19 the parking violation is not paid within thirty days of the

4 20 date upon which the violation occurred. For purposes of

4 21 calculating the unsecured appearance bond required under

4 22 section 805.6, the scheduled fine shall be five dollars, or if

4 23 the amount of the fine is greater than five dollars, the

4 24 unsecured appearance bond shall be the amount of the fine

4 25 established by the local authority ~~pursuant to section~~

4 26 ~~321.236, subsection 1.~~ However, violations charged by a city

4 27 or county upon simple notice of a fine instead of a uniform

4 28 citation and complaint ~~as permitted~~ required by section

4 29 321.236, subsection 1, paragraph "a", are not scheduled

4 30 violations, and this section shall not apply to any offense

4 31 charged in that manner. For a parking violation under section

4 32 321.362 or 461A.38, the scheduled fine is ten dollars.

4 33

EXPLANATION

4 34 This bill relates to the judicial branch including

4 35 contested and uncontested parking violations, filing civil



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5 1 citations of municipal infractions, records kept by the clerk,
5 2 and service of original notice in a small claims action.

5 3 The bill removes the clerk of the district court from
5 4 collecting uncontested parking violation fines of a city or
5 5 county.

5 6 Under the bill, when a violation of a municipal infraction
5 7 occurs and a civil penalty is assessed, a copy of the citation
5 8 shall be served on the defendant, and the original citation
5 9 shall be sent to the clerk of the district court. Current law
5 10 provides that a copy of the citation be sent to the clerk of
5 11 the district court.

5 12 The bill strikes the requirement that the clerk of the
5 13 district court keep a cemetery record book related to Code
5 14 section 523I.602.

5 15 The bill provides that the clerk of the district court
5 16 shall keep a record book of certificates of deposit that have
5 17 not been issued in the name of the clerk but are being held by
5 18 the clerk on behalf of a conservatorship, trust, or an estate.
5 19 The bill also provides that the record book shall list the
5 20 relevant details of the transaction, including but not limited
5 21 to the name of the conservator, trustee, or executor, and
5 22 cross references to the court orders opening and closing the
5 23 conservatorship, trust, or estate. Current law provides the
5 24 clerk to provide a detailed accounting of all funds deposited
5 25 with the clerk pursuant to Code section 636.37.

5 26 The bill provides that if the defendant in a small claims
5 27 action is a corporation, partnership, or association, the
5 28 clerk, to obtain service, shall mail to the defendant a copy
5 29 of the original notice, with a conforming copy of the answer
5 30 form, by certified mail, return receipt to the clerk
5 31 requested.

5 32 LSB 1402HV 83

5 33 jm/rj/8



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House File 258 - Introduced

HOUSE FILE
BY ROBERTS

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

A BILL FOR

- 1 An Act relating to the eligibility of certain watercraft for
- 2 class "D" liquor control licenses.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4 TLSB 1853HH 83
- 5 av/nh/5



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House File 258 - Introduced continued

PAG LIN

1 1 Section 1. Section 123.30, subsection 3, paragraph d,
1 2 subparagraph (1), Code 2009, is amended to read as follows:
1 3 (1) A class "D" liquor control license may be issued to a
1 4 railway corporation, to an air common carrier, and to
1 5 passenger-carrying boats or ships for hire with a capacity of
1 6 twenty-five persons or more operating in inland or boundary
1 7 waters, and shall authorize the holder to sell or furnish
1 8 alcoholic beverages, wine, and beer to passengers for
1 9 consumption only on trains, watercraft as described in this
1 10 section, or aircraft, respectively. Each license is valid
1 11 throughout the state. Only one license is required for all
1 12 trains, watercraft, or aircraft operated in the state by the
1 13 licensee. However, if a watercraft is an excursion gambling
1 14 boat licensed under chapter 99F, the owner shall obtain a
1 15 separate class "D" liquor control license for each excursion
1 16 gambling boat operating in the waters of this state. For the
1 17 purposes of eligibility for issuance of a class "D" liquor
1 18 control license pursuant to this subparagraph, a watercraft is
1 19 not a passenger carrying boat or ship for hire if the
1 20 watercraft is not an excursion gambling boat licensed under
1 21 chapter 99F, the sale of alcoholic liquor, wine, or beer is a
1 22 primary part of the ownership or operation of the watercraft,
1 23 and the transport of passengers for hire is only an incidental
1 24 part of that ownership or operation.

1 25 EXPLANATION
1 26 This bill amends Code section 123.30 of the Iowa alcoholic
1 27 beverage control Act to provide that a watercraft is not a
1 28 passenger carrying boat or ship for hire that is eligible to
1 29 receive a class "D" liquor control license if the watercraft
1 30 is not an excursion gambling boat licensed under Code chapter
1 31 99F, the sale of alcoholic liquor, wine, or beer is a primary
1 32 part of the ownership or operation of the watercraft, and the
1 33 transport of passengers for hire is only an incidental part of
1 34 that ownership or operation.
1 35 LSB 1853HH 83



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House File 258 - Introduced continued

2 1 av/nh/5



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House File 259 - Introduced

HOUSE FILE
BY COMMITTEE ON EDUCATION

(SUCCESSOR TO HF 40)

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

A BILL FOR

- 1 An Act relating to the compulsory school attendance age and
- 2 providing effective dates.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4 TLSB 1343HV 83
- 5 kh/nh/14



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House File 259 - Introduced continued

PAG LIN

1 1 Section 1. Section 299.1A, Code 2009, is amended to read
1 2 as follows:
1 3 299.1A COMPULSORY ATTENDANCE AGE.
1 4 1. a. ~~A Except as provided in paragraph "b" and section~~
1 5 ~~299.2, a child who has reached the age of six and is under~~
1 6 ~~sixteen through seventeen years of age by September 15 is of~~
1 7 ~~compulsory attendance age. However, if a child enrolled in a~~
1 8 ~~school district or accredited nonpublic school reaches the age~~
1 9 ~~of sixteen on or after September 15, the child remains of~~
1 10 ~~compulsory age until the end of the regular school calendar.~~
1 11 b. A child who will receive competent private instruction
1 12 in accordance with chapter 299A and who reaches the age of six
1 13 by September 15 is of compulsory attendance age. A child
1 14 receiving such private instruction is of compulsory attendance
1 15 age until the age of sixteen if the child reaches age sixteen
1 16 on or before September 15. A child receiving such private
1 17 instruction who reaches age sixteen on or after September 15
1 18 remains of compulsory attendance age until the end of the
1 19 school year.
1 20 2. a. An individual who reaches the age of eighteen on or
1 21 after September 15 during the school year and intends to
1 22 terminate school enrollment prior to graduation shall file
1 23 with the board of directors of the school district or the
1 24 accredited nonpublic school of enrollment a formal declaration
1 25 of intent to terminate school enrollment and, to the degree
1 26 possible, participate in an exit interview pursuant to
1 27 paragraph "b" and complete a survey in accordance with
1 28 paragraph "c". The school district or accredited nonpublic
1 29 school shall make every effort to notify the individual's
1 30 parent or guardian of receipt of the individual's declaration
1 31 of intent to terminate school enrollment.
1 32 b. To the degree possible, a guidance counselor or other
1 33 school personnel designated by the school district or
1 34 accredited nonpublic school shall conduct an exit interview
1 35 with the individual to do all of the following:



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2 1 (1) Determine the reasons for the individual's decision to
2 2 terminate school enrollment.
2 3 (2) Discuss actions that could be taken to assist the
2 4 individual to stay in school.
2 5 (3) Inform the individual of opportunities to continue the
2 6 individual's education in a different environment, including
2 7 but not limited to adult education and test preparation
2 8 designed to qualify the individual for a high school
2 9 equivalency diploma.
2 10 c. To the degree possible, the individual and the
2 11 individual's parent or guardian shall complete a survey
2 12 provided by the school district in a format prescribed by the
2 13 department of education to provide data on the individual's
2 14 reasons for terminating enrollment and actions taken by the
2 15 school to keep the individual enrolled. The survey shall
2 16 include an open-ended question asking why the individual is
2 17 dropping out of school. The school district or accredited
2 18 nonpublic school shall submit the data from the completed
2 19 surveys to the department of education annually.
2 20 Sec. 2. Section 299.2, unnumbered paragraph 1, Code 2009,
2 21 is amended to read as follows:
2 22 Section Sections 299.1 and 299.1A shall not apply to any
2 23 child:
2 24 Sec. 3. Section 299A.8, Code 2009, is amended to read as
2 25 follows:
2 26 299A.8 DUAL ENROLLMENT.
2 27 If a parent, guardian, or legal custodian of a child who is
2 28 receiving competent private instruction under this chapter ~~or~~
~~2 29 a child over compulsory age who is receiving private~~
~~2 30 instruction submits a request, the child shall also be~~
2 31 registered in a public school for dual enrollment purposes.
2 32 If the child is enrolled in a public school district for dual
2 33 enrollment purposes, the child shall be permitted to
2 34 participate in any academic activities in the district and
2 35 shall also be permitted to participate on the same basis as



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3 1 public school children in any extracurricular activities
3 2 available to children in the child's grade or group, and the
3 3 parent, guardian, or legal custodian shall not be required to
3 4 pay the costs of any annual evaluation under this chapter. If
3 5 the child is enrolled for dual enrollment purposes, the child
3 6 shall be included in the public school's basic enrollment
3 7 under section 257.6. A pupil who is participating only in
3 8 extracurricular activities shall be counted under section
3 9 257.6, subsection 1, paragraph "a", subparagraph (6). A pupil
3 10 enrolled in grades nine through twelve under this section
3 11 shall be counted in the same manner as a shared-time pupil
3 12 under section 257.6, subsection 1, paragraph "a", subparagraph
3 13 (3).

3 14 Sec. 4. SCHOOL DISTRICT COMPULSORY ATTENDANCE SUPPORT
3 15 REVIEW. The board of directors of each school district shall,
3 16 during the school year beginning July 1, 2009, convene a
3 17 working group comprised of educational and community
3 18 stakeholders to review financial and programmatic supports for
3 19 students affected by an increase in the compulsory attendance
3 20 age from sixteen through seventeen. The working group shall
3 21 consider, at a minimum, the necessity of expansion of support
3 22 programs and services for such students, web-based at-risk
3 23 academy courses, summer school offerings, credit recovery
3 24 efforts, mentoring and tutoring services, before and after
3 25 school supports, career academies, and at-risk allowable
3 26 growth provisions, and the use of the instructional support
3 27 levy. The working group shall include in the comprehensive
3 28 school improvement plan submitted to the department of
3 29 education in accordance with section 256.7, subsection 21, a
3 30 plan for addressing the needs of students at risk of dropping
3 31 out, including any proposed changes to the local program or
3 32 funding priorities.

3 33 Sec. 5. COMPULSORY ATTENDANCE WORKING GROUP. The
3 34 department of education shall convene a working group
3 35 comprised of the director of the department of education, or



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4 1 the director's designee, and other education stakeholders
4 2 appointed by the department to review supports for students
4 3 affected by an increase in the compulsory attendance age from
4 4 sixteen to eighteen years of age. The working group shall
4 5 consider, at a minimum, the necessity of expansion of support
4 6 programs and services for such students, online at-risk
4 7 academy courses, career academies, and current at-risk
4 8 allowable growth provisions, and full funding of the
4 9 instructional support levy. The working group shall submit
4 10 its findings and recommendations, including any proposed
4 11 changes in policy or statute, to the state board of education
4 12 and the general assembly by January 15, 2010.

4 13 Sec. 6. STATE MANDATE FUNDING SPECIFIED. In accordance
4 14 with section 25B.2, subsection 3, the state cost of requiring
4 15 compliance with any state mandate included in this Act shall
4 16 be paid by a school district from state school foundation aid
4 17 received by the school district under section 257.16. This
4 18 specification of the payment of the state cost shall be deemed
4 19 to meet all the state funding-related requirements of section
4 20 25B.2, subsection 3, and no additional state funding shall be
4 21 necessary for the full implementation of this Act by and
4 22 enforcement of this Act against all affected school districts.

4 23 Sec. 7. EFFECTIVE DATES. The section of this Act
4 24 providing for a compulsory attendance working group takes
4 25 effect July 1, 2009, and the remainder of the Act takes effect
4 26 July 1, 2010.

4 27 EXPLANATION

4 28 This bill raises the compulsory school attendance age from
4 29 16 to 17 for students other than those receiving competent
4 30 private instruction. The bill requires students, other than
4 31 those who received competent private instruction, who reach
4 32 age 18 on or after September 15 and intend to leave school, to
4 33 file with the school district or accredited nonpublic school a
4 34 formal declaration of intent to terminate school enrollment
4 35 and, to the degree possible, participate in an exit interview.



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House File 259 - Introduced continued

5 1 The student and the student's parent or guardian must also
5 2 complete a survey that will provide data annually to the
5 3 department of education regarding the reasons students are
5 4 terminating enrollment.

5 5 The school district or nonpublic school must make every
5 6 effort to notify the individual's parent or guardian of a
5 7 student's intent to terminate enrollment. To the degree
5 8 possible, in conducting the exit interview, school personnel
5 9 must determine the reasons for the individual's decision to
5 10 terminate school enrollment, discuss actions that could be
5 11 taken to assist the individual to stay in school, and inform
5 12 the individual of opportunities to continue the individual's
5 13 education in a different environment, including but not
5 14 limited to adult education and test preparation designed to
5 15 qualify the individual for a high school equivalency diploma.
5 16 The survey must include an open-ended question asking why the
5 17 student is dropping out.

5 18 The bill directs each school district to convene a working
5 19 group during the 2009=2010 school year to review financial and
5 20 programmatic supports for students affected by the increase in
5 21 the compulsory age of attendance. The working group must
5 22 include in the school district's comprehensive school
5 23 improvement plan a plan for addressing the needs of students
5 24 at risk of dropping out.

5 25 The bill also directs the department of education to
5 26 convene a compulsory attendance working group. The working
5 27 group is to review supports for affected students and to
5 28 consider the necessity of expanding support programs and
5 29 services, online at-risk academy courses, career academies,
5 30 current at-risk allowable growth provisions, and full funding
5 31 of the instructional support levy. The working group must
5 32 submit a report to the general assembly and the department of
5 33 education by January 15, 2010.

5 34 The bill includes technical amendments to eliminate a
5 35 reference to the compulsory attendance age for purposes of



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6 1 dual enrollment and to exempt children who meet conditions
6 2 existing in Code section 299.2.
6 3 The provision relating to the compulsory attendance working
6 4 group takes effect July 1, 2009, while the remainder of the
6 5 bill takes effect July 1, 2010.
6 6 The bill may include a state mandate as defined in Code
6 7 section 25B.3. The bill requires that the state cost of any
6 8 state mandate included in the bill be paid by a school
6 9 district from state school foundation aid received by the
6 10 school district under Code section 257.16. The specification
6 11 is deemed to constitute state compliance with any state
6 12 mandate funding-related requirements of Code section 25B.2.
6 13 The inclusion of this specification is intended to reinstate
6 14 the requirement of political subdivisions to comply with any
6 15 state mandates included in the bill.
6 16 LSB 1343HV 83
6 17 kh/nh/14



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HOUSE FILE
BY COMMITTEE ON LOCAL GOVERNMENT

(SUCCESSOR TO HSB 110)

Passed House, Date _____

Passed Senate, Date _____

Vote: Ayes _____ Nays _____

Vote: Ayes _____ Nays _____

Approved

A BILL FOR

- 1 An Act relating to the operation of county, city, and memorial
- 2 hospitals and the duties and powers of hospital trustees and
- 3 commissioners.
- 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 5 TLSB 1162HV 83
- 6 md/sc/5



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PAG LIN

1 1 Section 1. Section 21.5, subsection 1, paragraph 1, Code
1 2 2009, is amended to read as follows:
1 3 1. To discuss patient care quality and process improvement
1 4 initiatives in a meeting of a public hospital or to discuss
1 5 marketing and pricing strategies or similar proprietary
1 6 information in a meeting of a public hospital, where public
1 7 disclosure of such information would harm such a hospital's
1 8 competitive position when no public purpose would be served by
1 9 public disclosure. The minutes and the audio recording of a
1 10 closed session under this paragraph shall be available for
1 11 public inspection when the public disclosure would no longer
1 12 harm the hospital's competitive position. For purposes of
1 13 this paragraph, "public hospital" means the same as defined in
1 14 section 249J.3. This paragraph does not apply to the
1 15 information required to be disclosed pursuant to section
1 16 347.13, subsection ~~14~~ 11, or to any discussions relating to
1 17 terms or conditions of employment, including but not limited
1 18 to compensation of an officer or employee or group of officers
1 19 or employees.
1 20 Sec. 2. Section 37.9, subsection 5, Code 2009, is amended
1 21 to read as follows:
1 22 5. The commissioners having the management and control of
1 23 a memorial hospital shall, within ten days after their
1 24 appointment, qualify by taking the usual oath of office, but
1 25 no bonds shall be required of them ~~except as hereinafter~~
~~1 26 provided.~~ The commissioners shall organize by electing a
1 27 chairperson, secretary, and treasurer. ~~The secretary and~~
~~1 28 treasurer shall each file with the chairperson of the~~
~~1 29 commission a surety bond in such sum as the commission may~~
~~1 30 require, with sureties approved by the commission, for the use~~
~~1 31 and benefit of the memorial hospital. The reasonable costs of~~
~~1 32 such bonds shall be paid from operating funds of the hospital.~~
1 33 The secretary shall immediately report to the county auditor
1 34 and county treasurer the names of the chairperson, secretary,
1 35 and treasurer of the commission. The commission shall meet ~~at~~



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~~2 1 least once each month as necessary to adequately oversee the
2 2 operation of the hospital. A majority of the commission
2 3 members shall constitute a quorum for the transaction of
2 4 business. The secretary shall keep a complete record of its
2 5 proceedings. The commissioners of a memorial hospital shall
2 6 have all of the powers and duties necessary to manage,
2 7 control, and govern the memorial hospital including but not
2 8 limited to any applicable powers and duties granted boards of
2 9 trustees under other provisions of the Code relating to
2 10 hospitals, nursing homes, assisted or independent living
2 11 services, and other ancillary services irrespective of the
2 12 chapter of the Code under which such institutions are
2 13 established, organized, operated, or maintained, unless such
2 14 provisions conflict with this chapter.~~

2 15 Sec. 3. Section 249J.24, subsection 6, paragraph b, Code
2 16 2009, is amended to read as follows:

2 17 b. The board of trustees of the acute care teaching
2 18 hospital identified in this subsection and the department
2 19 shall execute an agreement under chapter 28E by July 1, 2005,
2 20 and annually by July 1, thereafter, to specify the
2 21 requirements relative to distribution of the proceeds and the
2 22 distribution of moneys to the hospital from the IowaCare
2 23 account. The agreement shall include provisions relating to
2 24 exceptions to the deadline for submission of clean claims as
2 25 required pursuant to section 249J.7 and provisions relating to
2 26 data reporting requirements regarding the expansion
2 27 population. The agreement may also include a provision
2 28 allowing such hospital to limit access to such hospital by
2 29 expansion population members based on residency of the member,
2 30 if such provision reflects the policy of such hospital
2 31 regarding indigent patients existing on April 1, 2005, as
2 32 adopted by its board of hospital trustees pursuant to section
~~2 33 347.14, subsection 4.~~

2 34 Sec. 4. Section 331.321, subsection 1, paragraph p, Code
2 35 2009, is amended to read as follows:



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3 1 p. A temporary board of hospital trustees in accordance
3 2 with sections 347.9, 347.9A, and 347.10 if a proposition to
3 3 establish a county hospital has been approved by the voters.
3 4 Sec. 5. Section 347.7, Code 2009, is amended to read as
3 5 follows:
3 6 347.7 TAX LEVIES.
3 7 1. a. If a county hospital is established, the board of
3 8 supervisors, at the time of levying ordinary taxes, shall levy
3 9 a tax at the rate voted not to exceed fifty-four cents per
3 10 thousand dollars of assessed value in any one year for the
3 11 erection and equipment of the hospital, and also a tax not to
3 12 exceed twenty-seven cents per thousand dollars of value for
3 13 the improvement, maintenance, and replacements of the
3 14 hospital, as certified by the board of hospital trustees.
3 15 However, in counties having a population of two hundred
3 16 twenty-five thousand or over, the levy for taxes payable in
3 17 the fiscal year beginning July 1, 2001, and for subsequent
3 18 fiscal years, for improvements and maintenance of the hospital
3 19 shall not exceed two dollars and five cents per thousand
3 20 dollars of assessed value in any one year.
3 21 b. The proceeds of the taxes constitute the county public
3 22 hospital fund ~~and the~~. The fund is subject to review by the
3 23 board of supervisors in counties having a population of two
3 24 hundred twenty-five thousand or over. However, the board of
3 25 trustees of a county hospital, where funds are available in
3 26 the county public hospital fund of the county which are
3 27 unappropriated, may use the unappropriated funds for erecting
3 28 and equipping hospital buildings and additions to the hospital
3 29 buildings without authority from the voters of the county.
3 30 2. ~~No~~ A levy shall not be made for the improvement,
3 31 maintenance, or replacements of the hospital until the
3 32 hospital has been constructed, staffed, and receiving
3 33 patients. If revenue bonds are issued and outstanding under
3 34 section 331.461, subsection 2, paragraph "d", the board may
3 35 levy a tax to pay operating and maintenance expenses in lieu



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4 1 of the authority otherwise contained in this section not to
4 2 exceed twenty-seven cents per thousand dollars of assessed
4 3 value or not to exceed one dollar and twenty-one and one-half
4 4 cents per thousand dollars of assessed value for improvements
4 5 and maintenance of the hospital in counties having a
4 6 population of two hundred twenty-five thousand or over.
4 7 3. In addition to levies otherwise authorized by this
4 8 section, the board of ~~supervisors~~ hospital trustees may
4 9 certify for levy a tax at the rate, not to exceed twenty-seven
4 10 cents per thousand dollars of assessed value, necessary to
4 11 raise the amount budgeted by the board of hospital trustees
4 12 for support of ambulance service as authorized in section
4 13 347.14, subsection ~~14~~ 8.
4 14 4. a. The tax levy authorized by this section for
4 15 operation and maintenance of the hospital may be available in
4 16 whole or in part to any county with or without a county
4 17 hospital organized under this chapter, to be used to enhance
4 18 rural health services in the county. However, the tax levied
4 19 may be expended for enhancement of rural health care services
4 20 only following a local planning process. The Iowa department
4 21 of public health shall establish guidelines to be followed by
4 22 counties in implementing the local planning process which
4 23 shall require legal notice, public hearings, and a referendum
4 24 in accordance with this ~~section and section 347.30~~ subsection
4 25 prior to the authorization of any new levy or a change in the
4 26 use of a levy. The notice shall describe the new levy or the
4 27 change in the use of the levy, indicate the date and location
4 28 of the hearing, and shall be published as least once each week
4 29 for two consecutive weeks in a newspaper having general
4 30 circulation in the county. The hearing shall not take place
4 31 prior to two weeks after the second publication.
4 32 b. Enhancement of rural health services for which the tax
4 33 ~~levy pursuant to this section~~ may be used includes but is not
4 34 limited to emergency medical services, health care services
4 35 shared with other hospitals, rural health clinics, and support



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5 1 for rural health care practitioners and public health
5 2 services.
5 3 c. When alternative use of funds from the tax levy
5 4 ~~authorized by this section~~ is proposed in a county with a
5 5 county hospital organized under this chapter, use of the funds
5 6 shall be agreed upon by the elected board of trustees of the
5 7 county hospital. When alternative use of funds from the tax
5 8 ~~levy authorized by this section~~ is proposed in a county
5 9 without a county hospital organized under this chapter, use of
5 10 the funds shall be agreed upon by the board of supervisors and
5 11 any publicly elected hospital board of trustees within the
5 12 county prior to submission of the question to the voters.

5 13 d. Moneys raised from a tax levied in accordance with this
5 14 ~~paragraph~~ subsection for the purpose of enhancing rural health
5 15 services in a county without a county hospital shall be
5 16 designated and administered by the board of supervisors in a
5 17 manner consistent with the purposes of the levy.

5 18 Sec. 6. Section 347.9, Code 2009, is amended to read as
5 19 follows:

5 20 347.9 TRUSTEES == APPOINTMENT == TERMS OF OFFICE.

5 21 When it has been determined by the voters of a county to
5 22 establish a county public hospital, the board shall appoint
5 23 seven trustees chosen from among the resident citizens of the
5 24 county with reference to their fitness for office, and not
5 25 more than four of the trustees shall be residents of the city
5 26 at which the hospital is located. The trustees shall hold
5 27 office until the following general election, at which time
5 28 their successors shall be elected, two for a term of two
5 29 years, two for four years, and three for six years, and they
5 30 shall determine by lot their respective terms, and thereafter
5 31 their successors shall be elected for regular terms of six
5 32 years each. ~~A person or spouse of a person with medical or~~
~~5 33 special staff privileges in the county public hospital or who~~
~~5 34 receives direct or indirect compensation in an amount greater~~
~~5 35 than one thousand five hundred dollars in a calendar year from~~



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~~6 1 the county public hospital or direct or indirect compensation
6 2 in an amount greater than one thousand five hundred dollars in
6 3 a calendar year from a person contracting for services with
6 4 the hospital shall not be eligible to serve as a trustee for
6 5 that county public hospital. However, this section does not
6 6 prohibit a licensed health care practitioner from serving as a
6 7 hospital trustee if the practitioner's sole use of the county
6 8 hospital is to provide health care service to an individual
6 9 with mental retardation as defined in section 222.2.~~

6 10 Sec. 7. NEW SECTION. 347.9A TRUSTEE ELIGIBILITY ==
6 11 CONFLICT OF INTEREST.

6 12 1. The following persons shall not be eligible to serve as
6 13 a trustee for a county public hospital:

6 14 a. A person or spouse of a person with medical or special
6 15 staff privileges in the county public hospital.

6 16 b. A person or spouse of a person who receives direct
6 17 compensation in an amount greater than one thousand five
6 18 hundred dollars in a calendar year from the county public
6 19 hospital.

6 20 2. The transactions of a hospital trustee or a hospital
6 21 trustee's spouse shall be limited as follows:

6 22 a. A conflict of interest transaction is a transaction
6 23 with the hospital in which a hospital trustee or a hospital
6 24 trustee's spouse has a direct interest of less than or equal
6 25 to one thousand five hundred dollars or indirect interest in
6 26 any amount. A conflict of interest transaction is not
6 27 voidable on the basis of the conflict of interest if all of
6 28 the following are true:

6 29 (1) The material facts of the transaction and the interest
6 30 of the trustee or the trustee's spouse were disclosed or known
6 31 to the board of hospital trustees.

6 32 (2) The board of hospital trustees authorized, approved,
6 33 or ratified the transaction. A conflict of interest
6 34 transaction is authorized, approved, or ratified if it
6 35 receives the affirmative vote of a majority of the



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7 1 disinterested trustees at a meeting where a quorum is present
7 2 and where three or more trustees are disinterested in the
7 3 conflict of interest transaction.

7 4 (3) The transaction was fair to the hospital at the time
7 5 of the transaction.

7 6 b. For the purposes of this section, a trustee has an
7 7 indirect interest in a transaction if either of the following
7 8 is true:

7 9 (1) Another entity in which the trustee or the trustee's
7 10 spouse has a material interest or in which the trustee or the
7 11 trustee's spouse is a general partner is party to the
7 12 transaction.

7 13 (2) Another entity of which the trustee or the trustee's
7 14 spouse is a director, officer, or trustee is a party to the
7 15 transaction.

7 16 3. This section does not prohibit a licensed health care
7 17 practitioner from serving as a hospital trustee if the
7 18 practitioner's sole use of the county hospital is to provide
7 19 health care service to an individual with mental retardation
7 20 as defined in section 222.2.

7 21 Sec. 8. Section 347.10, Code 2009, is amended to read as
7 22 follows:

7 23 347.10 VACANCIES.

7 24 Vacancies ~~in~~ on the board of trustees may, until the next
7 25 general election, be filled by appointment by the remaining
7 26 members of the board of trustees or, if fewer than four
7 27 trustees remain on the board, by the board of supervisors for
7 28 the period until the vacancies are filled by election. An
7 29 appointment made under this section shall be for the unexpired
7 30 balance of the term of the preceding trustee. If ~~any~~ a board
7 31 member is absent for four consecutive regular board meetings,
7 32 without prior excuse, the member's position shall be declared
7 33 vacant and filled as set out in this section.

7 34 Sec. 9. Section 347.11, Code 2009, is amended by striking
7 35 the section and inserting in lieu thereof the following:



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8 1 347.11 ORGANIZATION == MEETINGS == QUORUM.

8 2 Hospital trustees shall qualify by taking the usual oath of
8 3 office as provided in chapter 63 and organize by the election
8 4 of a chairperson, a secretary, and a treasurer. The secretary
8 5 shall report to the county auditor and county treasurer the
8 6 names of the chairperson, secretary, and treasurer of the
8 7 board of hospital trustees as soon as practicable after the
8 8 qualification of each. A board of hospital trustees shall
8 9 meet as necessary to adequately oversee the operation of the
8 10 hospital. Four trustees shall constitute a quorum necessary
8 11 for actions by the board of hospital trustees. The secretary
8 12 shall maintain a complete record of board meetings,
8 13 proceedings, and actions.

8 14 Sec. 10. Section 347.12, Code 2009, is amended to read as
8 15 follows:

8 16 347.12 ~~OFFICERS' DUTIES == PURCHASING REGULATIONS~~ REVENUE
8 17 COLLECTED == ACCOUNTING PRACTICES.

~~8 18 The treasurer of the county hospital shall receive and
8 19 disburse all funds. Warrants shall be drawn by the secretary
8 20 and countersigned by the chairperson of the board after the
8 21 claim has been certified by the board. However, the board may
8 22 adopt purchasing regulations to govern the purchase of
8 23 specified goods and services without the prior certification
8 24 by the board. The purchasing regulations shall conform to
8 25 generally accepted practices followed by public purchasing
8 26 officers.~~

~~8 27 The treasurer of the county hospital shall keep an accurate
8 28 account of all receipts and disbursements and shall register
8 29 all orders drawn and reported to the treasurer by the
8 30 secretary, showing the number, date, to whom drawn, the fund
8 31 upon which drawn, the purpose and amount.~~

~~8 32 The secretary of the hospital board of trustees shall file
8 33 monthly on or before the thirtieth day of each month with such
8 34 board a complete statement of all receipts and disbursements
8 35 from all funds during the preceding month, and also the~~



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~~9 1 balance remaining on hand in such funds at the close of the
9 2 period covered by said statement.~~

9 3 1. Before the fifteenth day of each month, the county
9 4 treasurer shall give notice to the chairperson of the board of
9 5 hospital trustees or the chairperson's designee of the amount
9 6 of revenue collected for each fund of the hospital to the
9 7 first day of that month and the county treasurer shall pay the
9 8 taxes to the treasurer of the hospital as provided in section
9 9 331.552, subsection 29.

9 10 2. a. The hospital administrator, or the administrator's
9 11 designee, shall ensure that all accounts, funds, reports, and
9 12 financial statements of the county hospital conform to
9 13 generally accepted accounting principles as established by the
9 14 governmental accounting standards board.

9 15 b. The hospital administrator, or the administrator's
9 16 designee, shall file a financial report with the board of
9 17 hospital trustees on or before the date of each regularly
9 18 scheduled board meeting for the period of time since the
9 19 board's previous regularly scheduled meeting.

9 20 Sec. 11. Section 347.13, Code 2009, is amended by striking
9 21 the section and inserting in lieu thereof the following:

9 22 347.13 BOARD OF TRUSTEES == DUTIES.

9 23 A board of hospital trustees' duties shall include all of
9 24 the following:

9 25 1. Engage in all activities necessary to manage, control,
9 26 and govern the hospital unless otherwise prohibited under this
9 27 chapter.

9 28 2. Exercise all the rights and duties of hospital trustees
9 29 including but not limited to authorizing the delivery of any
9 30 health care service, assisted or independent living service,
9 31 or other ancillary service.

9 32 3. Adopt bylaws and rules for its own guidance and for the
9 33 government of the hospital.

9 34 4. Exercise fiduciary duties in accordance with section
9 35 504.831, subsections 1 through 5.



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10 1 5. Employ or contract for an administrator and fix the
10 2 administrator's compensation. The administrator shall have
10 3 authority to oversee the day-to-day operations of the hospital
10 4 and its employees.

10 5 6. Approve the appointment of a qualified medical staff
10 6 and oversee the quality of medical care and services provided
10 7 by the hospital.

10 8 7. Manage and control the hospital's funds in accordance
10 9 with chapter 540A. In addition to investments permitted under
10 10 section 12B.10, county hospital investments may include common
10 11 stocks.

10 12 8. Establish charity care policies for free treatment or
10 13 financial assistance for care provided by the hospital, and
10 14 fix the price to be charged to other patients admitted to the
10 15 hospital for care and treatment.

10 16 9. Procure and pay premiums on any and all insurance
10 17 policies required for the prudent management of the hospital
10 18 including but not limited to public liability, professional
10 19 malpractice liability, workers' compensation, and vehicle
10 20 liability. Said insurance may include as additional insureds
10 21 members of the board of trustees and employees of the
10 22 hospital. This subsection applies to all county hospitals
10 23 whether organized under this chapter, chapter 347A, chapter
10 24 37, or otherwise established by law.

10 25 10. Certify levies for a tax in excess of any tax levy
10 26 limit to meet its obligations to pay the premium costs on tort
10 27 liability insurance, property insurance, workers' compensation
10 28 insurance, and any other insurance that may be necessary for
10 29 the prudent management and operation of the county public
10 30 hospital, the costs of a self-insurance program, the costs of
10 31 a local government risk pool, and amounts payable under any
10 32 insurance agreements to provide or procure such insurance,
10 33 self-insurance program, or local government risk pool.

10 34 11. Publish quarterly in each of the official newspapers
10 35 of the county as selected by the board of supervisors pursuant



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11 1 to section 349.1 the schedule of bills allowed, and publish
11 2 annually in such newspapers the schedule of salaries paid by
11 3 job classification and category, but not by listing names of
11 4 individual employees. The names, business addresses,
11 5 salaries, and job classification of employees paid in whole or
11 6 in part from a tax levy shall be a public record and open to
11 7 inspection at reasonable times as designated by the board of
11 8 trustees.

11 9 12. Fix the amount necessary for the improvement and
11 10 maintenance of the hospital and for support of ambulance
11 11 service during the ensuing fiscal year, and certify the amount
11 12 to the county auditor before March 15 of each year, subject to
11 13 any limitation in section 347.7.

11 14 Sec. 12. Section 347.14, Code 2009, is amended by striking
11 15 the section and inserting in lieu thereof the following:

11 16 347.14 BOARD OF TRUSTEES == POWERS.

11 17 The board of trustees may:

11 18 1. Purchase, condemn, or lease a site for such public
11 19 hospital and provide and equip suitable hospital buildings.

11 20 2. Cause plans and specifications to be made and adopted
11 21 for all hospital buildings, and advertise for bids, as
11 22 required by law for other county buildings, before making a
11 23 contract for the construction of a building.

11 24 3. Accept property by gift, devise, bequest, or otherwise.
11 25 If the board deems it advisable, the board may sell, lease,
11 26 exchange, or otherwise dispose of any hospital property upon a
11 27 concurring vote of a majority of all members of the board of
11 28 hospital trustees. The proceeds of such sale, lease,
11 29 exchange, or other disposition may be applied to any lawful
11 30 purpose, subject to approval of the board.

11 31 4. Borrow moneys to be secured solely by hospital revenues
11 32 for the purposes of improvement, maintenance, or replacement
11 33 of the hospital or for hospital equipment.

11 34 5. Establish and maintain in connection with the hospital
11 35 a training school for nurses or other health professions.



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12 1 6. Establish a fund for depreciation as a separate fund.
12 2 Moneys deposited in the fund shall remain in the fund until
12 3 such time as in the judgment of the board of trustees it is
12 4 deemed advisable to use the funds for hospital purposes.
12 5 Interest earned on moneys in the fund shall be deposited in
12 6 the fund.

12 7 7. Operate a health care facility as defined in section
12 8 135C.1 in conjunction with the hospital.

12 9 8. Purchase, lease, equip, maintain, and operate an
12 10 ambulance or ambulances to provide necessary and sufficient
12 11 ambulance service or to contract for such vehicles, equipment,
12 12 maintenance, or service when such ambulance service is not
12 13 otherwise available.

12 14 9. a. Submit to the voters at an election held on a date
12 15 specified in section 39.2, subsection 4, paragraph "a", a
12 16 proposition to sell or lease a county public hospital for use
12 17 as a private hospital or as a merged area hospital under
12 18 chapter 145A or to sell or lease a county hospital in
12 19 conjunction with the establishment of a merged area hospital.
12 20 The authorization of the board of hospital trustees submitting
12 21 the proposition may, but is not required to, contain
12 22 conditions which provide for maintaining hospital care within
12 23 the county, for the retention of county public hospital
12 24 employees and staff, and for the continuation of the board of
12 25 trustees for the purpose of carrying out provisions of
12 26 contracts. Proceeds from the sale or lease of the county
12 27 hospital or other assets of the board of trustees shall not be
12 28 used for the prepayment of health care services for residents
12 29 of the county with the purchaser or lessee of the county
12 30 hospital or to underwrite the sale or lease of the county
12 31 hospital.

12 32 b. The proposition submitted to the voters of the county
12 33 shall not be set forth at length, but it shall be in
12 34 substantially the following form:
12 35 "Shall the board of hospital trustees of



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13 1 county, state of Iowa, be authorized to (state
13 2 authorization which may exclude the conditions) in accordance
13 3 with the terms of authorization approved at the meeting of
13 4 (cite date) of the board of hospital trustees?"

13 5 c. If the proposition is approved by a majority of the
13 6 total votes cast for and against the proposition at the
13 7 election, the board of hospital trustees shall proceed to
13 8 carry out the authorization granted.

13 9 10. If the board authorizes delivery of additional health
13 10 care services, assisted or independent living services, or
13 11 other ancillary services under section 347.13, subsection 2,
13 12 the board is granted all of the powers and duties necessary
13 13 for the management, control, and government of the
13 14 institutions including but not limited to any applicable
13 15 powers and duties granted boards of trustees under other
13 16 provisions of the Code relating to hospitals, nursing homes,
13 17 assisted or independent living services, and other ancillary
13 18 services irrespective of the chapter of the Code under which
13 19 such an entity is established, organized, operated, or
13 20 maintained, unless such provisions are in conflict with this
13 21 section and section 347.13.

13 22 Sec. 13. Section 347.16, subsection 4, Code 2009, is
13 23 amended by striking the subsection.

13 24 Sec. 14. Section 347.19, Code 2009, is amended to read as
13 25 follows:

13 26 347.19 COMPENSATION == EXPENSES.

13 27 ~~No~~ A trustee shall not receive any compensation for
13 28 services performed under this chapter, but a trustee shall be
13 29 reimbursed for ~~any cash expenditures actually made for~~
~~13 30 personal actual and necessary expenses incurred in the~~
13 31 performance of the trustee's duties. ~~An itemized statement of~~
~~13 32 such expenses, verified by the oath of each such trustee,~~
~~13 33 shall be filed with the secretary, and the same shall only be~~
~~13 34 allowed by an affirmative vote of all trustees present at the~~
~~13 35 meeting of the board.~~



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14 1 Sec. 15. Section 347A.1, Code 2009, is amended to read as
14 2 follows:

14 3 347A.1 REVENUE BONDS == TRUSTEES == ADMINISTRATION.

14 4 1. A county having a population less than one hundred
14 5 fifty thousand may issue revenue bonds for a county hospital
14 6 as provided in section 331.461, subsection 2, paragraph "e".

14 7 2. a. The administration and management of the hospital
14 8 shall be vested in a board of hospital trustees consisting of
14 9 five or seven members. Appointments for a five-member board
14 10 shall be made by the board of supervisors from among the
14 11 resident citizens of the county with reference to their
14 12 fitness for office, and not more than two of the trustees
14 13 shall be residents of the same township. ~~Expansion from a~~
~~14 14 five-member to a seven-member board of trustees shall occur~~
~~14 15 only on approval of a majority of the five-member board of~~
~~14 16 trustees. The five-member board of trustees shall appoint~~
~~14 17 members to the additional vacancies; one appointee shall serve~~
~~14 18 until the succeeding general election and the other appointee~~
~~14 19 shall serve until the second succeeding general election at~~
~~14 20 which times successors shall be elected.~~

14 21 b. The trustees shall hold office until the next
14 22 succeeding election, at which time their successors shall be
14 23 elected, two for a term of two years, two for a term of four
14 24 years and one for a term of six years, and thereafter their
14 25 successors shall be elected for regular terms of six years
14 26 each. Vacancies ~~in~~ on the board of trustees may be filled in
14 27 the same manner as original appointments, to hold office until
14 28 the vacancies are filled pursuant to section 69.12.

14 29 c. The trustees shall qualify by taking the usual oath of
14 30 office as provided in chapter 63, but no bond shall be
14 31 required of them. The trustees shall receive no compensation
14 32 but shall be reimbursed for all expenses incurred by them ~~with~~
~~14 33 the approval of the board of trustees~~ in the performance of
14 34 their duties.

14 35 d. The board first appointed shall organize promptly



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15 1 following its appointment, and shall serve until successors
15 2 are elected and qualified; ~~thereafter.~~ Thereafter, and no
15 3 later than December 1 of each year, the board shall reorganize
15 4 by the appointment of a chairperson, secretary, and treasurer.
15 5 ~~The secretary and treasurer shall each file with the~~
~~15 6 chairperson of the board a surety bond in the amount the board~~
~~15 7 of trustees requires, with sureties to be approved by the~~
~~15 8 board of trustees, for the use and benefit of the county~~
~~15 9 hospital. The reasonable cost of the bonds shall be paid from~~
~~15 10 the operating funds of the hospital. The secretary shall~~
15 11 report to the county auditor and the county treasurer the
15 12 names of the chairperson, secretary, and treasurer of the
15 13 board as soon as practicable after the appointment of each.
15 14 ~~The treasurer of the county hospital shall receive and~~
~~15 15 disburse all funds. Warrants shall be drawn by the secretary~~
~~15 16 and countersigned by the chairperson of the board after the~~
~~15 17 claim has been certified by the board. However, the board may~~
~~15 18 adopt purchasing regulations to govern the purchase of~~
~~15 19 specified goods and services without the prior certification~~
~~15 20 of the board. The purchasing regulations shall conform to~~
~~15 21 generally accepted practices followed by purchasing officers.~~
~~15 22 The treasurer of the county hospital shall keep an accurate~~
~~15 23 account of all receipts and disbursements and shall register~~
~~15 24 all orders drawn and reported by the secretary, showing the~~
~~15 25 number, date, to whom drawn, the fund upon which drawn, the~~
~~15 26 purpose, and amount. The secretary of the board of trustees~~
~~15 27 shall file with the board on or before the tenth day of each~~
~~15 28 month, a complete statement of all receipts and disbursements~~
~~15 29 from all funds during the preceding month, and also the~~
~~15 30 balance remaining on hand in all funds at the close of the~~
~~15 31 period covered by the statement.~~
15 32 e. Expansion from a five-member to a seven-member board of
15 33 trustees shall occur only on approval of a majority of the
15 34 five-member board of trustees. The five-member board of
15 35 trustees shall appoint members to the additional vacancies;



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16 1 one appointee shall serve until the succeeding general
16 2 election, and the other appointee shall serve until the second
16 3 succeeding general election at which times successors shall be
16 4 elected.

16 5 3. a. Before the fifteenth day of each month, the county
16 6 treasurer shall give notice to the chairperson of the board of
16 7 trustees, or the chairperson's designee, of the amount of
16 8 revenue collected for each fund of the hospital to the first
16 9 day of that month and the county treasurer shall pay the taxes
16 10 to the treasurer of the hospital as provided in section
16 11 331.552, subsection 29.

16 12 b. The hospital administrator, or the administrator's
16 13 designee, shall ensure that all accounts, funds, reports, and
16 14 financial statements of the county hospital conform to
16 15 generally accepted accounting principles as established by the
16 16 governmental accounting standards board.

16 17 c. The hospital administrator, or the administrator's
16 18 designee, shall file a financial report with the board of
16 19 hospital trustees on or before the date of each regularly
16 20 scheduled board meeting for the period of time since the
16 21 board's previous regularly scheduled meeting.

16 22 4. a. ~~The board of hospital trustees may employ, fix the~~
~~16 23 compensation of, and remove at pleasure professional,~~
~~16 24 technical, and other employees as it deems necessary for the~~
~~16 25 operation and maintenance of the hospital, and disbursement of~~
~~16 26 funds for operation and maintenance shall be made upon order~~
~~16 27 and approval of the board of hospital trustees. A county~~
~~16 28 hospital may include a nurses home and nurses training school.~~
16 29 The board of trustees shall make all rules and regulations
16 30 governing its meetings and the management, government, and
16 31 operation of the county hospital and shall fix charges for the
16 32 services furnished so that the revenues will be at all times
16 33 sufficient in the aggregate to provide for the payment of the
16 34 interest on and principal of all revenue bonds issued and
16 35 outstanding for the hospital, and for the payment of all



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17 1 operating and maintenance expenses of the hospital.
17 2 ~~The board of hospital trustees may establish a fund for~~
17 3 ~~depreciation as a separate fund. Depreciation fund moneys may~~
17 4 ~~be invested in United States government bonds and the~~
17 5 ~~accumulation of interest on the bonds shall be used for the~~
17 6 ~~purposes of the depreciation fund. The moneys shall remain~~
17 7 ~~invested in the bonds until the board of hospital trustees~~
17 8 ~~determines the moneys shall be used for hospital purposes.~~
17 9 b. The board of trustees shall have all of the powers and
17 10 duties necessary to manage, control, and govern the county
17 11 hospital including but not limited to any applicable powers
17 12 and duties granted boards of trustees under other provisions
17 13 of the Code relating to hospitals, nursing homes, assisted or
17 14 independent living services, and other ancillary services
17 15 irrespective of the chapter of the Code under which such
17 16 institutions are established, organized, operated, or
17 17 maintained, unless such provisions are in conflict with this
17 18 section.

17 19 Sec. 16. Section 392.6, Code 2009, is amended to read as
17 20 follows:

17 21 392.6 HOSPITAL OR HEALTH CARE FACILITY TRUSTEES.

17 22 1. If a hospital or health care facility is established by
17 23 a city, the city shall by ordinance provide for the election,
17 24 at a ~~general, city, or~~ special election held pursuant to
17 25 section 39.2, subsection 4, paragraph "b", of three trustees,
17 26 whose terms of office shall be four years. However, at the
17 27 first election, three shall be elected and hold their office,
17 28 one for four years and two for two years, and they shall by
17 29 lot determine their respective terms. A candidate for
17 30 hospital or health care facility trustee must be a resident of
17 31 the hospital or health care facility service area within the
17 32 boundaries of the state at the time of the election at which
17 33 the person's name appears on the ballot. A board of trustees
17 34 elected pursuant to this section shall serve as the sole and
17 35 only board of trustees for any and all institutions



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18 1 established by a city as provided for in this section.
18 2 ~~2. Cities maintaining an institution as provided for in~~
~~18 3 this section which have a board of trustees consisting of~~
~~18 4 three or five members may by ordinance increase the number of~~
~~18 5 members to five or seven. The ordinance shall provide for the~~
~~18 6 immediate appointment of the additional members necessary to~~
~~18 7 establish a five-member or seven-member board and shall~~
~~18 8 provide that, of the additional members added to the board by~~
~~18 9 appointment, one-half of the additional members added~~ The
18 10 administration and management of an institution as provided
18 11 for in this section is vested in a board of trustees
18 12 consisting of three, five, or seven members. A three-member
18 13 board may be expanded to a five-member board, and a
18 14 five-member board may be expanded to a seven-member board.
18 15 Expansion of the membership of the board shall occur only on
18 16 approval of a majority of the current board of trustees. The
18 17 additional members shall be appointed by the current board of
18 18 trustees. One appointee shall serve until the next succeeding
18 19 general or regular city election, at which time a successor
18 20 shall be elected, and the remaining additional members other
18 21 appointee shall serve until the second succeeding general or
18 22 regular city election, at which time a successor shall be
18 23 elected. The ordinance shall also provide that the
18 24 determination of which election an appointed additional member
18 25 shall be required to seek election shall be determined by lot.
18 26 Thereafter, the terms of office of such additional members
18 27 shall be four years. However, if a city has adopted an
~~18 28 ordinance which increases the number of members of the board~~
~~18 29 of trustees to five or seven members and the terms of office~~
~~18 30 of four of the five members or six of the seven members end in~~
~~18 31 the same year, the date of expiration of the term of one of~~
~~18 32 the four members or two of the six members, to be determined~~
~~18 33 by lot, shall be extended by an additional two years.~~
18 34 3. a. Terms of office of trustees elected pursuant to
18 35 general or regular city elections shall begin at noon on the



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19 1 first day in January which is not a Sunday or legal holiday.
19 2 Terms of office of trustees appointed to fill a vacancy or
19 3 elected pursuant to special elections shall begin at noon on
19 4 the tenth day after appointment or the special election which
19 5 is not a Sunday or legal holiday. The trustees shall begin
19 6 their terms of office by taking the oath of office, and
19 7 organize as a board by the election of one ~~of their number~~
19 8 trustee as chairperson, one trustee as treasurer, and one
19 9 trustee as secretary, but no bond shall be required of them.
19 10 Terms of office of trustees shall extend to noon on the first
19 11 day in January which is not a Sunday or legal holiday or until
19 12 their successors are elected and qualified.
19 13 b. Vacancies on the board of trustees may, until the next
19 14 general or regular city election, be filled by appointment by
~~19 15 the remaining members of the board of trustees, unless within~~
~~19 16 fourteen days after the appointment is made, there is filed~~
~~19 17 with the city clerk a petition which requests a special~~
~~19 18 election to fill the vacancy in the same manner as provided in~~
19 19 section 347.10. Trustees who are appointed to fill a vacancy
~~19 20 or who are elected at special elections shall serve the~~
~~19 21 unexpired terms of office or until their successors are~~
~~19 22 elected and qualified. An appointment made under this~~
19 23 paragraph shall be for the unexpired balance of the term of
19 24 the preceding trustee. If a board member is absent for four
19 25 consecutive regular board meetings, without prior excuse, the
19 26 member's position shall be declared vacant and filled as set
19 27 out in this paragraph.
19 28 ~~The treasurer of the board of trustees shall receive and~~
~~19 29 disburse all funds under the control of the board as ordered~~
~~19 30 by it. The treasurer shall give bond in a form and amount as~~
~~19 31 determined by the board in its discretion.~~
19 32 4. No A trustee shall not receive any compensation for
19 33 services performed under this chapter, but a trustee may
~~19 34 receive reimbursement shall be reimbursed for any cash~~
~~19 35 expenses actually made for personal expenses incurred as~~



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~~20 1 trustee, but an itemized statement of all expenses and moneys
20 2 paid out shall be made under oath by each of the trustees and
20 3 filed with the secretary and allowed only by the affirmative
20 4 vote of the full board actual and necessary expenses incurred
20 5 in performance of the trustee's duties.~~

20 6 5. The board of trustees shall be vested with authority to
20 7 provide for the management, control, and government of the
20 8 city hospital or health care facility established as permitted
20 9 by this section, and shall provide all needed rules for the
20 10 economic conduct thereof and shall annually prepare a
20 11 condensed statement of the total receipts and expenditures for
20 12 the hospital or health care facility and cause the same to be
20 13 published in a newspaper of general circulation in the city in
20 14 which the hospital or health care facility is located. ~~In the
20 15 management of the hospital or health care facility no
20 16 discrimination shall be made against practitioners of any
20 17 school of medicine recognized by the laws of the state.~~

20 18 ~~As a part of the board's authority it may accept property
20 19 by gift, devise, bequest or otherwise; and, if the board deems
20 20 it advisable, may, at public sale, sell or exchange any
20 21 property so accepted upon a concurring vote of a majority of
20 22 all members of the board of trustees, and apply the proceeds
20 23 thereof, or property received in exchange therefor, to any
20 24 legitimate hospital or health care facility purpose.~~

20 25 ~~The trustees may in their discretion establish a fund for
20 26 depreciation as a separate fund. Said funds may be invested
20 27 in United States government bonds and when so invested the
20 28 accumulation of interest on the bonds so purchased shall be
20 29 used for the purposes of the depreciation fund; an investment
20 30 when so made shall remain in United States government bonds
20 31 until such time as in the judgment of the board of trustees it
20 32 is deemed advisable to use the funds for hospital or health
20 33 care facility purposes.~~

20 34 6. Boards of trustees of institutions provided for in this
20 35 section are granted all of the powers and duties necessary for



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21 1 the management, control, and government of the institutions,
21 2 specifically including but not limited to any applicable
21 3 powers and duties granted boards of trustees under other
21 4 provisions of the Code relating to hospitals, nursing homes,
21 5 assisted or independent living services, and ~~eustodial homes~~
21 6 other ancillary services irrespective of the chapter of the
21 7 Code under which such institutions are established, organized,
21 8 operated, or maintained, unless such provisions are in
21 9 conflict with this section.

21 10 Sec. 17. Sections 347.18, 347.28, 347.29, 347.30, and
21 11 347A.5, Code 2009, are repealed.

21 12 EXPLANATION

21 13 This bill makes changes to Code section 37.9 relating to
21 14 memorial hospitals, Code chapters 347 and 347A relating to
21 15 county hospitals, and Code section 392.6 relating to city
21 16 hospitals and health care facilities.

21 17 The bill amends Code section 37.9 relating to memorial
21 18 hospital commissioners by removing the requirement that the
21 19 secretary and the treasurer file a surety bond, modifying the
21 20 memorial hospital commission's meeting requirements, and
21 21 providing that commissioners of a memorial hospital have, in
21 22 addition to the duties and powers necessary to manage the
21 23 hospital, all of the applicable powers and duties under other
21 24 chapters of the Code necessary to provide certain services.

21 25 The bill amends Code section 347.7, relating to county
21 26 hospital property tax levies, to include notice and public
21 27 hearing provisions required before hospital funds may be used
21 28 for enhancement of rural health services. These provisions
21 29 are currently applicable to Code section 347.7 by reference in
21 30 Code section 347.30.

21 31 The bill amends Code section 347.9 by moving the provisions
21 32 relating to conflicts of interest for county hospital trustees
21 33 to new Code section 347.9A. The bill removes trustee
21 34 eligibility restrictions based on indirect compensation
21 35 received from a county hospital or a person contracting for



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22 1 services with the hospital. The conflict of interest
22 2 provisions are also amended to allow a trustee or a trustee's
22 3 spouse to have a direct interest of less than \$1,500 or an
22 4 indirect interest in a transaction with the county hospital if
22 5 the material facts of the transaction are disclosed to the
22 6 board of trustees, the board of trustees authorizes, approves,
22 7 or ratifies the transaction, and the transacting was fair to
22 8 the hospital at the time of the transaction.

22 9 The bill amends Code section 347.10 by specifying that
22 10 appointments made to the board of trustees are for the
22 11 unexpired balance of the term of the preceding trustee.

22 12 The bill amends Code section 347.11 by removing the
22 13 requirement that the secretary and treasurer of the board of
22 14 trustees file a surety bond with the chairperson of the board.

22 15 The bill amends Code section 347.12 by striking provisions
22 16 requiring the treasurer of the county hospital to receive and
22 17 disburse all funds, striking provisions requiring board
22 18 certification on payment of claims, striking the requirement
22 19 that the chairperson sign warrants drawn by the secretary of
22 20 the board, and striking provisions relating to the adoption of
22 21 regulations allowing certain purchases to be made without
22 22 prior certification by the board of trustees. The bill also
22 23 amends requirements related to the financial report submitted
22 24 to the board of trustees. The bill directs the hospital
22 25 administrator, or the administrator's designee, to ensure that
22 26 all accounts, funds, reports, and financial statements of the
22 27 county hospital conform to generally accepted accounting
22 28 principles.

22 29 Current Code sections 347.13 and 347.14 contain provisions
22 30 relating to the powers and duties of the board of hospital
22 31 trustees. The Code sections are stricken and rewritten to
22 32 segment them into one Code section on the duties of the board
22 33 of trustees and one Code section on the powers of the board of
22 34 trustees. Some provisions of these Code sections were deleted
22 35 in their entirety and not rewritten into either of the new



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23 1 Code sections. These include provisions in Code section
23 2 347.13 relating to bidding and contracting requirements
23 3 prescribed by the board of trustees for procurement of
23 4 hospital equipment and supplies, supervisory duties over the
23 5 hospital grounds and buildings, providing rooms for detention
23 6 and examination of certain persons, providing certain annual
23 7 financial statements to the county board of supervisors, the
23 8 requirement of voter approval of a proposition to sell or
23 9 lease certain sites and buildings, and a provision relating to
23 10 the leasing of former tuberculosis sanatorium facilities.

23 11 Code section 347.13 is further amended to add that if a
23 12 board of trustees authorizes additional health care services,
23 13 assisted or independent living services, or other ancillary
23 14 services, the board of trustees is granted all of the powers
23 15 and duties necessary to provide those services, including
23 16 duties and powers of an entity that provides such services
23 17 under other provisions of the Code.

23 18 The bill also amends Code section 347.13 by adding
23 19 provisions that require the trustees to exercise fiduciary
23 20 duties in accordance with the requirements for directors of a
23 21 nonprofit corporation, require trustees to control the
23 22 hospital's funds in accordance with the uniform management of
23 23 institutional funds Act, and limit county hospital investments
23 24 to those investments specified in Code section 12B.10 and
23 25 common stock.

23 26 Provisions deleted in their entirety from Code section
23 27 347.14 and not rewritten into either of the new Code sections
23 28 include provisions relating to establishing facilities for
23 29 isolation and detention of persons subject to quarantine,
23 30 determining which hospital services are available to
23 31 nonresidents, naming the hospital, caring for persons
23 32 afflicted with tuberculosis, and operating a psychiatric
23 33 department in connection with the hospital.

23 34 The bill also amends Code section 347.14 by providing the
23 35 board of trustees authority to, in a manner other than by



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24 1 public sale, sell, lease, exchange, or otherwise dispose of
24 2 hospital property upon a majority vote of the board of
24 3 trustees, and by specifying how the proceeds of such a sale,
24 4 lease, exchange, or other disposition may be used.

24 5 The bill also removes the requirement that the board of
24 6 trustee's depreciation fund be invested in United States
24 7 government bonds.

24 8 By operation of law, Code sections 347.13 and 347.14 apply
24 9 to the board of trustees of an area hospital in Code chapter
24 10 145A.

24 11 The bill amends Code section 347.16 by striking a provision
24 12 relating to the authority of a public hospital to provide care
24 13 and treatment to persons afflicted with tuberculosis.

24 14 The bill repeals Code sections 347.18 and 347A.5. These
24 15 Code sections prohibit discrimination against the
24 16 practitioners of any recognized school of medicine, allow a
24 17 patient to employ at the patient's expense any physician
24 18 selected by the patient, and allow the selected physician to
24 19 have exclusive charge over the treatment of the patient and to
24 20 determine the attending nurses.

24 21 The bill amends Code section 347.19, relating to trustee
24 22 compensation, by striking the requirement that an itemized
24 23 statement of expenses incurred by a trustee must be filed with
24 24 the secretary of the board, and that the statement of expenses
24 25 is subject to approval of the board.

24 26 The bill repeals Code section 347.28 relating to the sale
24 27 or lease of hospital property which is not needed for hospital
24 28 purposes. The bill repeals Code section 347.29 relating to
24 29 the use of property received by gift, devise, or bequest and
24 30 to the use of the proceeds from the sale of such property.

24 31 The bill also repeals Code section 347.30, relating to notice
24 32 and public hearing requirements when selling or leasing
24 33 certain real property.

24 34 By operation of law, the changes made by the bill to Code
24 35 chapter 347 apply to area hospitals organized under Code



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House File 260 - Introduced continued

25 1 chapter 145A and may apply to hospitals or health care
25 2 facilities established under Code section 392.6.
25 3 The bill amends Code section 347A.1 relating to the funding
25 4 and administration of county hospitals. The bill removes the
25 5 requirement that the secretary and treasurer file a surety
25 6 bond and makes changes to the financial accounting and
25 7 reporting requirements so they are similar to the requirements
25 8 under Code section 347.12 as amended in the bill. The bill
25 9 also removes provisions relating to the board of hospital
25 10 trustee's powers to make certain personnel decisions and to
25 11 establish a depreciation fund. However, the bill provides the
25 12 board of trustees additional authority to make rules and
25 13 regulations related to the management and government of the
25 14 hospital and authorizes additional powers and duties relating
25 15 to hospitals, nursing homes, and assisted or independent
25 16 living services.
25 17 The bill amends Code section 392.6 relating to city
25 18 hospitals. The bill makes changes to the provisions relating
25 19 to expanding the membership of the board of trustees, to
25 20 filling vacancies on the board of trustees by appointment and
25 21 to reimbursement of expenses, and makes changes similar to
25 22 those made in the bill for county hospitals.
25 23 LSB 1162HV 83
25 24 md/sc/5



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House File 261 - Introduced

HOUSE FILE
BY PAULSEN

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

A BILL FOR

1 An Act directing the department of economic development to
2 allocate moneys for small business disaster recovery and
3 including a retroactive applicability date.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 1066YH 83
6 tw/rj/14



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House File 261 - Introduced continued

PAG LIN

1 1 Section 1. SMALL BUSINESS DISASTER RECOVERY ASSISTANCE ==
1 2 VALUES FUND ALLOCATION. Of the moneys appropriated to the
1 3 department of economic development for the fiscal year
1 4 beginning July 1, 2008, and ending June 30, 2009, pursuant to
1 5 section 15G.111, subsection 1, paragraph "a", subparagraph
1 6 (1), Code 2009, the department shall allocate fifteen million
1 7 dollars for purposes of small business disaster recovery
1 8 assistance.

1 9 Sec. 2. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY
1 10 PROVISION. This Act, being deemed of immediate importance,
1 11 takes effect upon enactment and applies retroactively to July
1 12 1, 2008.

1 13 EXPLANATION

1 14 This bill relates to the allocation of moneys in the grow
1 15 Iowa values fund by the department of economic development.
1 16 Fifty million dollars is currently appropriated from either
1 17 the general fund of the state or the rebuild Iowa
1 18 infrastructure fund to the grow Iowa values fund each fiscal
1 19 year for the fiscal period beginning July 1, 2005, and ending
1 20 June 30, 2015. For certain fiscal years within that fiscal
1 21 period, the department is directed to allocate a certain
1 22 amount for designated activities and programs the department
1 23 administers. For each fiscal year of the fiscal period
1 24 beginning July 1, 2007, and ending June 30, 2009, the
1 25 department must allocate \$30 million of the moneys in the grow
1 26 Iowa values fund for these programs.

1 27 The bill provides that \$15 million of that \$30 million
1 28 (coming from the rebuild Iowa infrastructure fund) for the
1 29 2008=2009 fiscal year shall be allocated by the department for
1 30 purposes of small business disaster recovery.

1 31 The bill takes effect upon enactment and applies
1 32 retroactively to July 1, 2008.

1 33 LSB 1066YH 83

1 34 tw/rj/14



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House File 262 - Introduced

HOUSE FILE
BY PAULSEN

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

A BILL FOR

1 An Act exempting from the individual and corporate income taxes
2 interest and dividends from certain Iowa municipal securities
3 and including a retroactive applicability date provision.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 1062YH 83
6 tw/sc/8



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House File 262 - Introduced continued

PAG LIN

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

1 3 NEW SUBSECTION. 2A. Subtract, to the extent included,
1 4 interest and dividends from securities issued by an Iowa city
1 5 or county.

1 6 Sec. 2. Section 422.35, Code 2009, is amended by adding
1 7 the following new subsection:

1 8 NEW SUBSECTION. 2A. Subtract, to the extent included,
1 9 interest and dividends from securities issued by an Iowa city
1 10 or county.

1 11 Sec. 3. RETROACTIVE APPLICABILITY DATE. This Act applies
1 12 retroactively to January 1, 2009, for tax years beginning on
1 13 or after that date.

1 14 EXPLANATION

1 15 This bill exempts from the individual and corporate income
1 16 taxes interest and dividends from securities issued by an Iowa
1 17 city or county.

1 18 The bill applies retroactively to January 1, 2009, for tax
1 19 years beginning on or after that date.

1 20 LSB 1062YH 83

1 21 tw/sc/8



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House File 263 - Introduced

HOUSE FILE
BY PAULSEN

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

A BILL FOR

1 An Act relating to disaster recovery by providing individual
2 income tax credits for costs incurred in housing construction
3 and including effective and retroactive applicability date
4 provisions.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
6 TL5B 1033YH 83
7 tw/sc/5



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1 1 Section 1. NEW SECTION. 16.191 DISASTER RECOVERY HOUSING
1 2 CONSTRUCTION PROJECT TAX CREDIT.

1 3 1. a. A tax credit shall be allowed against the taxes
1 4 imposed in chapter 422, division II, for a portion of a
1 5 taxpayer's payment of construction costs incurred in the
1 6 construction of a disaster recovery housing construction
1 7 project. To qualify as a disaster recovery housing
1 8 construction project, a property, and the activities affecting
1 9 the property, shall meet all of the following conditions:

1 10 (1) The property is owned by a taxpayer who is an
1 11 individual or business subject to taxation under chapter 422,
1 12 division II.

1 13 (2) At least one housing unit constructed between July 1,
1 14 2008, and June 30, 2009, is located on the property.

1 15 (3) The cost of each housing unit constructed on the
1 16 property is not more than one hundred twenty thousand dollars.

1 17 (4) The property is located in an area declared a disaster
1 18 area by the governor or by a federal official.

1 19 b. An individual may claim a tax credit under this
1 20 subsection of a partnership, limited liability company, S
1 21 corporation, estate, or trust electing to have income taxed
1 22 directly to the individual. The amount claimed by the
1 23 individual shall be based upon the pro rata share of the
1 24 individual's earnings from the partnership, limited liability
1 25 company, S corporation, estate, or trust.

1 26 c. Any tax credit in excess of the taxpayer's liability
1 27 for the tax year is not refundable, but the taxpayer may elect
1 28 to have the excess credited to the tax liability for the
1 29 following five years or until depleted, whichever is earlier.
1 30 A tax credit shall not be carried back to a tax year prior to
1 31 the tax year in which the taxpayer first receives the tax
1 32 credit.

1 33 2. a. To claim a disaster recovery housing construction
1 34 tax credit under this section, a taxpayer must attach one or
1 35 more tax credit certificates to the taxpayer's tax return.



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2 1 The tax credit certificate or certificates attached to the
2 2 taxpayer's tax return shall be issued in the taxpayer's name,
2 3 expire on or after the last day of the taxable year for which
2 4 the taxpayer is claiming the tax credit, and show a tax credit
2 5 amount equal to or greater than the tax credit claimed on the
2 6 taxpayer's tax return.

2 7 b. After verifying the eligibility of a taxpayer for a tax
2 8 credit pursuant to this section, the authority shall issue a
2 9 disaster recovery housing construction tax credit certificate
2 10 to be attached to the taxpayer's tax return. The tax credit
2 11 certificate shall contain the taxpayer's name, address, tax
2 12 identification number, the amount of the credit, and any other
2 13 information required by the department of revenue.

2 14 c. The tax credit certificate, unless otherwise void,
2 15 shall be accepted by the department of revenue as payment for
2 16 taxes imposed pursuant to chapter 422, division II, subject to
2 17 any conditions or restrictions placed by the authority upon
2 18 the face of the tax credit certificate and subject to the
2 19 limitations of this section.

2 20 d. Tax credit certificates issued under this section are
2 21 not transferable to any person or entity.

2 22 3. The tax credit shall be in an amount equal to the costs
2 23 incurred by the taxpayer which are directly related to a
2 24 disaster recovery housing construction project. However, the
2 25 amount of the tax credit shall not exceed two thousand
2 26 dollars.

2 27 4. For purposes of the individual income tax, the increase
2 28 in the basis of the property that would otherwise result from
2 29 the disaster recovery housing construction costs shall be
2 30 reduced by the amount of the tax credit allowed under this
2 31 part.

2 32 5. The maximum amount of tax credits issued by the
2 33 authority shall not exceed twenty million dollars.

2 34 6. A payment shall be deemed to have been made on the date
2 35 the disaster recovery housing construction project is



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3 1 completed. A payment made prior to July 1, 2008, or after
3 2 June 30, 2009, shall not qualify for a tax credit under this
3 3 part.

3 4 Sec. 2. NEW SECTION. 16.192 APPROVAL == REQUIREMENTS ==
3 5 REPAYMENT.

3 6 1. A taxpayer seeking to claim a tax credit pursuant to
3 7 section 16.191 shall apply to the authority which shall have
3 8 the power to approve the amount of tax credit available for
3 9 each disaster recovery housing construction project.

3 10 2. A taxpayer applying for a tax credit shall provide the
3 11 authority with all of the following:

3 12 a. Information showing the total costs incurred in the
3 13 disaster recovery housing construction project.

3 14 b. Information about the financing sources that are
3 15 directly related to the disaster recovery project for which
3 16 the taxpayer is seeking approval for the tax credit.

3 17 3. If a taxpayer receives a tax credit pursuant to section
3 18 16.191, but fails to comply with any of the requirements in
3 19 this section or section 16.191, or fails to comply with local
3 20 zoning or construction ordinances, the tax credit is void, and
3 21 the department of revenue shall seek recovery of the value of
3 22 the credit received.

3 23 Sec. 3. NEW SECTION. 422.11X DISASTER RECOVERY HOUSING
3 24 CONSTRUCTION PROJECT TAX CREDIT.

3 25 The taxes imposed under this division, less the credits
3 26 allowed under section 422.12, shall be reduced by a disaster
3 27 recovery housing construction tax credit allowed under section
3 28 16.191.

3 29 Sec. 4. EFFECTIVE AND RETROACTIVE APPLICABILITY DATES.
3 30 This Act, being deemed of immediate importance, takes effect
3 31 upon enactment and applies retroactively to January 1, 2008,
3 32 for tax years beginning on or after that date.

3 33 EXPLANATION

3 34 This bill relates to disaster recovery by providing
3 35 individual income tax credits for qualified housing



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4 1 construction projects.
4 2 The bill allows a qualifying taxpayer to claim a tax credit
4 3 for the costs incurred in the construction of new housing in
4 4 disaster areas. In order to claim the credit, the taxpayer
4 5 must make an investment in a qualifying disaster recovery
4 6 housing construction project. A qualifying disaster recovery
4 7 housing construction project is activity affecting a property
4 8 meeting all of the following conditions: (1) At least one
4 9 housing unit constructed between July 1, 2008, and June 30,
4 10 2009, is located on the property; (2) the property is owned by
4 11 a qualifying taxpayer; (3) the cost of each housing unit
4 12 constructed on the property is not more than \$120,000; and (4)
4 13 the property is located in an area declared a disaster area by
4 14 the governor or by a federal official.
4 15 The tax credit is allowed against the individual income tax
4 16 in an amount not to exceed \$2,000. The tax credit is not
4 17 refundable, but may be credited to subsequent tax liability
4 18 for five years or until depleted. The tax credits are not
4 19 transferable. The maximum amount of tax credits is limited to
4 20 \$20 million. Any increase in a property's basis is reduced by
4 21 the amount of tax credits received. Investments are deemed to
4 22 have been made on the date the disaster recovery project is
4 23 completed. Investments made prior to July 1, 2008, or after
4 24 June 30, 2009, do not qualify for the tax credit.
4 25 The Iowa finance authority approves the tax credits and
4 26 issues tax credit certificates to qualifying taxpayers. A
4 27 taxpayer that does not comply with the requirements loses any
4 28 right to the credit and the department of revenue shall seek
4 29 recovery of the value of the credit received.
4 30 The bill takes effect upon enactment and applies
4 31 retroactively to January 1, 2008, for tax years beginning on
4 32 or after that date.
4 33 LSB 1033YH 83
4 34 tw/sc/5



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HOUSE FILE
BY KAUFMANN, WILLEMS, and
JACOBY

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

Passed Senate, Date _____
Vote: Ayes _____ Nays _____

A BILL FOR

- 1 An Act requiring the department of natural resources to conduct a
- 2 study regarding the prohibition of the use of lead wheel
- 3 weights.
- 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 5 TLSB 1734YH 83
- 6 tm/nh/8



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1 1 Section 1. LEAD WHEEL WEIGHTS STUDY. The department of
1 2 natural resources shall conduct a study regarding the
1 3 environmental benefits and cost=effectiveness of prohibiting
1 4 the use of lead wheel weights in the state. By January 1,
1 5 2010, the department shall submit a written report to the
1 6 governor and the general assembly providing the findings of
1 7 the study and making recommendations.

1 8 EXPLANATION

1 9 This bill requires the department of natural resources to
1 10 conduct a study regarding the environmental benefits and
1 11 cost=effectiveness of prohibiting the use of lead wheel
1 12 weights in the state. By January 1, 2010, the department is
1 13 required to submit a written report to the governor and the
1 14 general assembly providing the findings of the study and
1 15 making recommendations.

1 16 LSB 1734YH 83

1 17 tm/nh/8



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House File 265 - Introduced

HOUSE FILE
BY FORD

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

Passed Senate, Date _____
Vote: Ayes _____ Nays _____

A BILL FOR

- 1 An Act providing for the establishment of a task force to study a
- 2 renewed effort to reorganize school districts.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4 TLSB 2071YH 83
- 5 kh/rj/5



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1 1 Section 1. DEPARTMENT OF EDUCATION == SCHOOL
1 2 REORGANIZATION TASK FORCE.
1 3 1. The department of education shall convene a task force
1 4 to study the advisability and practicability of a renewed
1 5 effort to reorganize school districts to improve student
1 6 opportunity and achievement and attain efficiencies in
1 7 administration and operations.
1 8 2. a. The director of the department of education shall
1 9 appoint members to the task force which shall include
1 10 education practitioners and stakeholders, including but not
1 11 limited to educational technology and school transportation
1 12 specialists, school business officials, and persons who
1 13 represent rural, urban, and suburban school districts
1 14 throughout Iowa; a professional with experience or expertise
1 15 in state and local taxation matters; and other stakeholders as
1 16 appropriate.
1 17 b. The task force shall select a chairperson from its
1 18 membership. A majority of the members of the task force shall
1 19 constitute a quorum.
1 20 3. The study shall include but shall not be limited to the
1 21 following:
1 22 a. A review of incentives intended to encourage school
1 23 districts to initiate sharing agreements with other districts,
1 24 utilize area education agency administrative and operations
1 25 services, and move toward reorganization.
1 26 b. Determination of the costs and methods for implementing
1 27 the incentives identified.
1 28 c. A review of reorganization efforts since 1979.
1 29 d. A review of the barriers to school district
1 30 consolidation, including transportation distances and costs,
1 31 athletic and community identification, and infrastructure
1 32 deficits.
1 33 e. An analysis of the optimal school and school district
1 34 size, with consideration given to student transportation times
1 35 and costs, and where the boundaries of such optimally sized



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2 1 school districts would be established on a proposed statewide
2 2 reorganization map.
2 3 f. An evaluation of the effect technology may have on
2 4 reorganization efforts.
2 5 g. An analysis of the trends that will affect the need for
2 6 and advisability of consolidation and sharing efforts over the
2 7 next five-year and ten-year time periods.
2 8 h. An analysis of the effect of reorganization on the
2 9 status of and federal funding to schools and school districts
2 10 under the federal No Child Left Behind Act of 2001, Pub. L.
2 11 No. 107=110.
2 12 i. Identification of actions that may be taken by the
2 13 state, the department of education, area education agencies,
2 14 and stakeholders that have proven to assist school district
2 15 reorganization and sharing efforts.
2 16 4. The task force shall report its findings and
2 17 recommendations, including any recommendations for statutory
2 18 changes, to the state board of education and the general
2 19 assembly by January 15, 2010.

2 20 EXPLANATION

2 21 This bill directs the department of education to convene to
2 22 study the advisability and practicability of a renewed effort
2 23 to consolidate school districts to improve student opportunity
2 24 and achievement and attain efficiencies in administration and
2 25 operations.
2 26 The director of the department is directed to appoint
2 27 members to the task force which shall include education
2 28 practitioners and stakeholders, including but not limited to
2 29 educational technology and school transportation specialists,
2 30 school business officials, and persons who represent rural,
2 31 urban, and suburban school districts throughout Iowa; a
2 32 professional with experience or expertise in state and local
2 33 taxation matters; and other stakeholders as appropriate.
2 34 The task force must submit its findings and recommendations
2 35 in a report to the state board of education and the general



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3 1 assembly by January 15, 2010.
3 2 LSB 2071YH 83
3 3 kh/rj/5



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House File 266 - Introduced

HOUSE FILE
BY KAUFMANN and SWAIM

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

A BILL FOR

- 1 An Act relating to recording proceedings before a magistrate.
- 2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 3 TLSB 1377YH 83
- 4 jm/rj/24



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1 1 Section 1. Section 602.6405, Code 2009, is amended by
1 2 adding the following new subsection:

1 3 NEW SUBSECTION. 4. A magistrate shall cause all trials
1 4 before the magistrate which are not reported by a certified
1 5 court reporter to be electronically recorded.

1 6 Sec. 2. Section 631.11, subsection 3, Code 2009, is
1 7 amended to read as follows:

1 8 3. RECORD. Upon the trial, the judicial magistrate shall
1 9 make detailed minutes of the testimony of each witness and
1 10 append the exhibits or copies thereof to the record. The
1 11 proceedings upon trial shall not be reported by a certified
1 12 court reporter, unless the party provides the reporter at such
1 13 party's expense. ~~The If the proceedings are not reported by a~~
1 14 ~~certified court reporter, the magistrate, in the magistrate's~~
~~1 15 discretion, may shall~~ cause the proceedings upon trial to be
1 16 ~~reported recorded~~ electronically. ~~If the proceedings are~~
~~1 17 being electronically recorded and~~ both parties shall be
1 18 notified in advance of that recording. If the proceedings
1 19 have been ~~reported recorded~~ electronically the recording shall
1 20 be retained under the jurisdiction of the magistrate unless
1 21 appealed, and upon appeal shall be transcribed only by a
1 22 person designated by the court under the supervision of the
1 23 magistrate.

1 24 EXPLANATION

1 25 This bill provides that all trials before a magistrate,
1 26 which are not reported by a certified court reporter at a
1 27 party's expense, shall be electronically recorded.

1 28 LSB 1377YH 83

1 29 jm/rj/24.1



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House Study Bill 167

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 making changes to the sex offender registry and to duties
- 2 and requirements related to persons who commit sex offenses,
- 3 making fees applicable, and providing penalties.
- 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 5 TLSB 1358DP 83
- 6 jm/rj/8



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House Study Bill 167 continued

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1 1 DIVISION I
1 2 SEX OFFENDER REGISTRY
1 3 Section 1. NEW SECTION. 692A.101 DEFINITIONS.
1 4 As used in this chapter and unless the context otherwise
1 5 requires:
1 6 1. "Aggravated offense" means a conviction for any of the
1 7 following offenses:
1 8 a. Sexual abuse in the first degree in violation of
1 9 section 709.2.
1 10 b. Sexual abuse in the second degree in violation of
1 11 section 709.3.
1 12 c. Sexual abuse in the third degree in violation of
1 13 section 709.4, subsection 1.
1 14 d. Lascivious acts with a child in violation of section
1 15 709.8, subsection 1.
1 16 e. Assault with intent to commit sexual abuse in violation
1 17 of section 709.11.
1 18 f. Burglary in the first degree in violation of section
1 19 713.3, subsection 1, paragraph "d".
1 20 g. Kidnapping in violation of section 710.2, 710.3, or
1 21 710.4, if sexual abuse as defined in section 709.1 is
1 22 committed during the commission of the offense.
1 23 h. Murder in violation of section 707.2 or 707.3, if
1 24 sexual abuse as defined in section 709.1 is committed during
1 25 the offense.
1 26 i. Criminal transmission of human immunodeficiency virus
1 27 in violation of section 709C.1, subsection 1, paragraph "a".
1 28 2. "Appearance" means to appear in person at a sheriff's
1 29 office.
1 30 3. "Business day" means every day except Saturday, Sunday,
1 31 or any paid holiday as defined in section 1C.2, subsection 1.
1 32 4. "Change" means to add, begin, or terminate.
1 33 5. "Child care facility" means as defined in section
1 34 237A.1.
1 35 6. "Convicted" means found guilty of, pleads guilty to, or



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2 1 is sentenced or adjudicated delinquent for an act which is an
2 2 indictable offense in this state or in another jurisdiction,
2 3 including but not limited to a juvenile who has been
2 4 adjudicated delinquent, but whose juvenile court records have
2 5 been sealed under section 232.150, and a person who has
2 6 received a deferred sentence or a deferred judgment or has
2 7 been acquitted by reason of insanity. "Convicted" also
2 8 includes a conviction for an attempt or conspiracy to commit
2 9 an offense. "Convicted" does not mean a plea, sentence,
2 10 adjudication, deferred sentence, or deferred judgment which
2 11 has been reversed or otherwise set aside.

2 12 7. "Criminal or juvenile justice agency" means an agency
2 13 or department of any level of government or an entity wholly
2 14 owned, financed, or controlled by one or more such agencies or
2 15 departments which performs as its principal function the
2 16 apprehension, prosecution, adjudication, incarceration, or
2 17 rehabilitation of criminal or juvenile offenders.

2 18 8. "Department" means the department of public safety.

2 19 9. "Employment" means acting as an employee.

2 20 10. "Foreign court" means a court of a foreign nation that
2 21 is recognized by the United States department of state as a
2 22 court that enforces the right to a fair trial during the
2 23 period in which a conviction occurred.

2 24 11. "Incarcerated" means to be placed in a jail, prison,
2 25 penitentiary, juvenile facility, or other correctional
2 26 institution or facility or a place or condition of confinement
2 27 or forcible restraint.

2 28 12. "Internet identifier" means an electronic mail
2 29 address, instant message address or identifier, or any other
2 30 designation or moniker used for self=identification during
2 31 internet communication or posting, including all designations
2 32 used for the purpose of routing or self=identification in
2 33 internet communications or postings.

2 34 13. "Jurisdiction" means any state of the United States,
2 35 the District of Columbia, the Commonwealth of Puerto Rico,



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3 1 Guam, American Samoa, the Northern Mariana Islands, the United
3 2 States Virgin Islands, or a federally recognized Indian tribe.

3 3 14. "Loiter" means remaining in a place or circulating
3 4 around a place under circumstances that would warrant a
3 5 reasonable person to believe that the purpose or effect of the
3 6 behavior is to enable a sex offender to become familiar with a
3 7 location where a potential victim may be found, or to satisfy
3 8 an unlawful sexual desire, or to locate, lure, or harass a
3 9 potential victim.

3 10 15. "Military offense" means a sex offense specified by
3 11 the secretary of defense under 10 U.S.C. } 951.

3 12 16. "Minor" means a person under eighteen years of age.

3 13 17. "Principal residence" for a sex offender means:

3 14 a. The residence of the offender, if the offender has only
3 15 one residence in this state.

3 16 b. The residence at which the offender resides, sleeps, or
3 17 habitually lives for more days per year than another residence
3 18 in this state, if the offender has more than one residence in
3 19 this state.

3 20 c. The place of employment or attendance as a student, or
3 21 both, if the sex offender does not have a residence in this
3 22 state.

3 23 18. "Professional licensing information" means the name or
3 24 other description, number, if applicable, and issuing
3 25 authority or agency of any license, certification, or
3 26 registration required by law to engage in a profession or
3 27 occupation held by a sex offender who is required at the time
3 28 of the initial requirement to register under this chapter, or
3 29 any such license, certification, or registration that was
3 30 issued to an offender within the five-year period prior to
3 31 conviction for a sex offense that requires registration under
3 32 this chapter, or any such license, certification, or
3 33 registration that is issued to an offender at any time during
3 34 the duration of the registration requirement.

3 35 19. "Relevant information" means with respect to an



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- 4 1 individual the following:
- 4 2 a. Criminal history, including warrants and articles.
- 4 3 b. Date of birth.
- 4 4 c. Passport and immigration documents.
- 4 5 d. Government issued driver's license or identification
- 4 6 card.
- 4 7 e. DNA sample.
- 4 8 f. Educational institutions attended as a student,
- 4 9 including the name and address of such institutions.
- 4 10 g. Employment information including name and address of
- 4 11 employer.
- 4 12 h. Fingerprints.
- 4 13 i. Internet identifiers.
- 4 14 j. Names, nicknames, aliases, or ethnic or tribal names,
- 4 15 and if applicable, the real names of an offender protected
- 4 16 under 18 U.S.C. } 3521.
- 4 17 k. Palm prints.
- 4 18 l. Photographs.
- 4 19 m. Physical description, including scars, marks, or
- 4 20 tattoos.
- 4 21 n. Professional licensing information.
- 4 22 o. Residence.
- 4 23 p. Social security number.
- 4 24 q. Telephone numbers, including any landline or wireless
- 4 25 numbers.
- 4 26 r. Temporary lodging information, including dates when
- 4 27 residing in temporary lodging.
- 4 28 s. Statutory citation and text of offense committed that
- 4 29 requires registration under this chapter.
- 4 30 t. Vehicle information including license plate number,
- 4 31 registration number, or other identifying number, vehicle
- 4 32 description, and the place where the vehicle is parked,
- 4 33 docked, or otherwise kept.
- 4 34 u. Other information defined as relevant by the department
- 4 35 by rule.



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5 1 20. "Residence" means each dwelling or other place where a
5 2 sex offender resides, sleeps, or habitually lives, or will
5 3 reside, sleep, or habitually live, including a shelter or
5 4 group home. If a sex offender does not reside, sleep, or
5 5 habitually live in a fixed place, "residence" means a
5 6 description of the locations where the offender is stationed
5 7 regularly, including any mobile or transitory living quarters.
5 8 "Residence" shall be construed to refer to the places where a
5 9 sex offender resides, sleeps, habitually lives, or is
5 10 stationed with regularity, regardless of whether the offender
5 11 declares or characterizes such place as the residence of the
5 12 offender.

5 13 21. "Sex offender" means a person convicted of a sex
5 14 offense that requires registration under this chapter.

5 15 22. "Sex offense" means an indictable offense that has an
5 16 element involving a sexual act, sexual contact, or sexual
5 17 conduct, and which is enumerated in section 692A.102, and
5 18 means any comparable offense under prior law, any comparable
5 19 offense committed in another jurisdiction, or any comparable
5 20 offense that may be prosecuted in a federal, military, tribal,
5 21 or foreign court.

5 22 23. "Sex offense against a minor" means a conviction of
5 23 any sex offense classified as a tier I, tier II, or tier III
5 24 offense under this chapter if such offense was committed
5 25 against a minor, or otherwise involves a minor.

5 26 24. "Sexual exploitation" means sexual exploitation by a
5 27 counselor, therapist, or school employee in violation of
5 28 section 709.15.

5 29 25. "Sexually violent offense" means any of the following
5 30 indictable offenses:

5 31 a. Sexual abuse as defined under section 709.1.

5 32 b. Assault with intent to commit sexual abuse in violation
5 33 of section 709.11.

5 34 c. Sexual misconduct with offenders and juveniles in
5 35 violation of section 709.16.



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6 1 d. Any of the following offenses, if the offense involves
6 2 sexual abuse or assault with intent to commit sexual abuse:
6 3 murder, attempted murder, kidnapping, burglary, or
6 4 manslaughter.

6 5 e. A criminal offense committed in another jurisdiction
6 6 which would constitute an indictable offense under paragraphs
6 7 "a" through "d" if committed in this state.

6 8 26. "Sexually violent predator" means a sex offender who
6 9 has been convicted of an offense under the laws of this state
6 10 or of another state which would qualify the offender as a
6 11 sexually violent predator under the federal Violent Crime
6 12 Control and Law Enforcement Act of 1994, 42 U.S.C. }
6 13 14071(a)(3)(B), (C), (D), and (E).

6 14 27. "Student" means a sex offender who enrolls in or
6 15 otherwise receives instruction at an educational institution,
6 16 including a public or private elementary school, secondary
6 17 school, trade or professional school, or institution of higher
6 18 education. "Student" does not mean a sex offender who enrolls
6 19 in or attends an educational institution as a correspondence
6 20 student, distance learning student, or any other form of
6 21 learning that occurs without physical presence on the real
6 22 property of an educational institution.

6 23 28. "Superintendent" means the superintendent or
6 24 superintendent's designee of a public school or the
6 25 authorities in charge of a nonpublic school.

6 26 29. "Vehicle" means a vehicle owned by an offender,
6 27 including a watercraft or aircraft, that is subject to
6 28 registration requirements under chapter 321, 328, or 462A.

6 29 Sec. 2. NEW SECTION. 692A.102 SEX OFFENSE
6 30 CLASSIFICATIONS.

6 31 1. For purposes of this chapter, sex offenses are
6 32 classified into the following tiers:

6 33 a. Tier I offenses include a conviction for the following
6 34 sex offenses:

6 35 (1) Sexual abuse in the second degree in violation of



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- 7 1 section 709.3, subsection 2, if committed by a person under
7 2 the age of fourteen.
- 7 3 (2) Sexual abuse in the third degree in violation of
7 4 section 709.4, subsection 1, 3, or 4, if committed by a person
7 5 under the age of fourteen.
- 7 6 (3) Sexual abuse in the third degree in violation of
7 7 section 709.4, subsection 2, paragraph "a" or "b", if
7 8 committed by a person under the age of fourteen.
- 7 9 (4) Sexual abuse in the third degree in violation of
7 10 section 709.4, subsection 2, paragraph "c".
- 7 11 (5) Indecent exposure in violation of section 709.9.
- 7 12 (6) Harassment in violation of section 708.7, subsection
7 13 1, 2, or 3, if the violation involves sexual conduct or sexual
7 14 contact.
- 7 15 (7) (a) Dissemination or exhibition of obscene material
7 16 to minors in violation of section 728.2 or telephone
7 17 dissemination of obscene material to minors in violation of
7 18 728.15.
- 7 19 (b) Rental or sale of hard-core pornography, if delivery
7 20 is to a minor, in violation of section 728.4.
- 7 21 (8) Admitting minors to premises where obscene material is
7 22 exhibited in violation of section 728.3.
- 7 23 (9) Receipt or possession of child pornography in
7 24 violation of 18 U.S.C. } 2252.
- 7 25 (10) Material containing child pornography in violation of
7 26 18 U.S.C. } 2252A.
- 7 27 (11) Misleading domain names on the internet in violation
7 28 of 18 U.S.C. } 2252B.
- 7 29 (12) Misleading words or digital images on the internet in
7 30 violation of section 18 U.S.C. } 2252C.
- 7 31 (13) Failure to file a factual statement about an alien
7 32 individual in violation of 18 U.S.C. } 2424.
- 7 33 (14) Transmitting information about a minor to further
7 34 criminal sexual conduct in violation of 18 U.S.C. } 2425.
- 7 35 (15) Any sex offense specified in the laws of another



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8 1 jurisdiction or any sex offense that may be prosecuted in
8 2 federal, military, or foreign court, that is comparable to an
8 3 offense listed in subparagraphs (1) through (14).
8 4 (16) Any sex offense under the prior laws of this state or
8 5 another jurisdiction, or any sex offense under prior law that
8 6 was prosecuted in a federal, military, or foreign court, that
8 7 is comparable to an offense listed in subparagraphs (1)
8 8 through (14).
8 9 b. Tier II offenses include a conviction for the following
8 10 sex offenses:
8 11 (1) Detention in brothel in violation of section 709.7.
8 12 (2) Lascivious acts with a child in violation of section
8 13 709.8, subsection 3 or 4.
8 14 (3) Solicitation of a minor to engage in an illegal sex
8 15 act in violation of section 705.1.
8 16 (4) Solicitation of a minor to engage an illegal act under
8 17 section 709.8, subsection 3, in violation of section 705.1.
8 18 (5) Solicitation of a minor to engage in an illegal act
8 19 under section 709.12, in violation of section 705.1.
8 20 (6) False imprisonment of a minor in violation of section
8 21 710.7, except if committed by a parent.
8 22 (7) Assault with intent to commit sexual abuse if no
8 23 injury results in violation of section 709.11.
8 24 (8) Invasion of privacy=nudity in violation of section
8 25 709.21.
8 26 (9) Stalking in violation of section 708.11, subsection 3,
8 27 paragraph "b", subparagraph (3), if the fact finder determines
8 28 by clear and convincing evidence that the offense was sexually
8 29 motivated.
8 30 (10) Child stealing in violation of section 710.5.
8 31 (11) Enticing away a minor in violation of section 710.10,
8 32 if the violation includes the intent to commit sexual abuse,
8 33 sexual exploitation, sexual contact, or sexual conduct
8 34 directed towards a minor.
8 35 (12) Indecent contact with a child in violation of section



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- 9 1 709.12.
- 9 2 (13) Lascivious conduct with a minor in violation of
- 9 3 section 709.14.
- 9 4 (14) Sexual exploitation by a counselor, therapist, or
- 9 5 school employee in violation of section 709.15.
- 9 6 (15) Sexual misconduct with offenders and juveniles in
- 9 7 violation of section 709.16.
- 9 8 (16) Solicitation of a minor to engage in an illegal act
- 9 9 under section 725.3, subsection 2, in violation of section
- 9 10 705.1.
- 9 11 (17) Incest committed against a dependant adult as defined
- 9 12 in section 235B.2 in violation of section 726.2.
- 9 13 (18) Incest committed against a minor in violation of
- 9 14 section 726.2.
- 9 15 (19) Sexual exploitation of a minor in violation of
- 9 16 section 728.12.
- 9 17 (20) Material involving the sexual exploitation of a minor
- 9 18 in violation of 18 U.S.C. } 2252, except receipt or possession
- 9 19 of child pornography.
- 9 20 (21) Production of sexually explicit depictions of a minor
- 9 21 for import into the United States in violation of 18 U.S.C. }
- 9 22 2260.
- 9 23 (22) Transportation of a minor for illegal sexual activity
- 9 24 in violation of 18 U.S.C. } 2421.
- 9 25 (23) Coercion and enticement of a minor for illegal sexual
- 9 26 activity in violation of 18 U.S.C. } 2422(a) or (b).
- 9 27 (24) Transportation of minors for illegal sexual activity
- 9 28 in violation of 18 U.S.C. } 2423.
- 9 29 (25) Travel with the intent to engage in illegal sexual
- 9 30 conduct with a minor in violation of 18 U.S.C. } 2423.
- 9 31 (26) Engaging in illicit sexual conduct in foreign places
- 9 32 in violation of 18 U.S.C. } 2423.
- 9 33 (27) Video voyeurism of a minor in violation of 18 U.S.C.
- 9 34 } 1801.
- 9 35 (28) Any sex offense specified in the laws of another



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10 1 jurisdiction or any offense that may be prosecuted in a
10 2 federal, military, or foreign court, that is comparable to an
10 3 offense listed in subparagraphs (1) through (27).
10 4 (29) Any sex offense under the prior laws of this state or
10 5 another jurisdiction, or any sex offense under prior law that
10 6 was prosecuted in a federal, military, or foreign court, that
10 7 is comparable to a sex offense listed in subparagraphs (1)
10 8 through (27).
10 9 c. Tier III offenses include a conviction for the
10 10 following sex offenses:
10 11 (1) Sexual abuse in the first degree in violation of
10 12 section 709.2.
10 13 (2) Sexual abuse in the second degree in violation of
10 14 section 709.3, subsection 2, if committed by a person fourteen
10 15 years of age or older.
10 16 (3) Sexual abuse in the third degree in violation of
10 17 section 709.4, subsection 1, 3, or 4, if committed by a person
10 18 fourteen years of age or older.
10 19 (4) Sexual abuse in the third degree in violation of
10 20 section 709.4, subsection 2, paragraph "a" or "b", if
10 21 committed by a person fourteen years of age or older.
10 22 (5) Lascivious acts with a child in violation of section
10 23 709.8, subsection 1 or 2.
10 24 (6) Kidnapping in violation of section 710.2 if sexual
10 25 abuse as defined in section 709.1 is committed during the
10 26 commission of the offense.
10 27 (7) Kidnapping of a minor in violation of section 710.2,
10 28 710.3, or 710.4, except kidnapping in the third degree
10 29 committed by a parent.
10 30 (8) Assault with intent to commit sexual abuse resulting
10 31 in serious or bodily injury in violation of section 709.11.
10 32 (9) Burglary in the first degree in violation of section
10 33 713.3, subsection 1, paragraph "d".
10 34 (10) Murder in violation of section 707.2 or 707.3 if
10 35 sexual abuse as defined in section 709.1 is committed during



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11 1 the commission of the offense.
11 2 (11) Criminal transmission of human immunodeficiency virus
11 3 in violation of section 709C.1, subsection 1, paragraph "a".
11 4 (12) Human trafficking in violation of section 710A.2 if
11 5 sexual abuse or assault with intent to commit sexual abuse is
11 6 committed or sexual conduct or sexual contact is an element of
11 7 the offense.
11 8 (13) Purchase or sale of an individual in violation of
11 9 section 710.11.
11 10 (14) Sex trafficking of children in violation of 18 U.S.C.
11 11 } 1591.
11 12 (15) Aggravated sexual abuse in violation of 18 U.S.C. }
11 13 2241.
11 14 (16) Sexual abuse in violation of 18 U.S.C. } 2242.
11 15 (17) Sexual abuse of a minor or ward in violation of 18
11 16 U.S.C. } 2243.
11 17 (18) Abusive sexual contact in violation of 18 U.S.C. }
11 18 2244.
11 19 (19) Offenses resulting in death in violation of 18 U.S.C.
11 20 } 2245.
11 21 (20) Sexual exploitation of children in violation of 18
11 22 U.S.C. } 2251.
11 23 (21) Selling or buying of children in violation of 18
11 24 U.S.C. } 2251A.
11 25 (22) Any sex offense specified in the laws of another
11 26 jurisdiction or any sex offense that may be prosecuted in
11 27 federal, military, or foreign court, that is comparable to an
11 28 offense listed in subparagraphs (1) through (21).
11 29 (23) Any sex offense under the prior laws of this state or
11 30 another jurisdiction, or any sex offense under prior law that
11 31 was prosecuted in federal, military, or foreign court, that is
11 32 comparable to a sex offense listed in subparagraphs (1)
11 33 through (21).
11 34 2. A sex offense classified as a tier I offense shall be
11 35 reclassified as a tier II offense, if the sex offender



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12 1 convicted of the tier I offense was required at the time of
12 2 the commission of the tier I offense to register due to a
12 3 conviction for a prior tier I offense.

12 4 3. A sex offense classified as a tier I or tier II offense
12 5 shall be reclassified as a tier III offense, if the sex
12 6 offender convicted of the tier I or II offense was required to
12 7 register at the time of the commission of the tier I offense
12 8 due to a conviction for a prior tier II or tier III offense.

12 9 4. Notwithstanding the classifications of sex offenses in
12 10 subsection 1, any sex offense which would qualify a sex
12 11 offender as a sexually violent predator, shall be classified
12 12 as a tier III offense.

12 13 5. An offense classified as a tier II offense if committed
12 14 against a person under thirteen years of age, shall be
12 15 reclassified as a tier III offense.

12 16 6. Convictions of more than one sex offense which require
12 17 registration under this chapter but which are prosecuted
12 18 within a single indictment shall be considered as a single
12 19 offense for purposes of registration.

12 20 Sec. 3. NEW SECTION. 692A.103 OFFENDERS REQUIRED TO
12 21 REGISTER.

12 22 1. A person who has been convicted of any sex offense
12 23 classified as a tier I, tier II, or tier III offense, or a sex
12 24 offense in a federal, military, tribal, or foreign court, or
12 25 an offender required to register in another jurisdiction under
12 26 the other jurisdiction's sex offender registry, shall register
12 27 as a sex offender as provided in this chapter. A sex offender
12 28 shall, upon a first conviction, register in compliance with
12 29 the procedures specified in this chapter, for the duration of
12 30 time specified in this chapter, commencing upon the first day
12 31 of any of the following:

- 12 32 a. From the date of placement on probation.
- 12 33 b. From the date of release on parole or work release.
- 12 34 c. From the date of release from incarceration.
- 12 35 d. Except as otherwise provided in this section, from the



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13 1 date an adjudicated delinquent is released from placement in a
13 2 juvenile facility ordered by a court pursuant to section
13 3 232.52.

13 4 e. Except as otherwise provided in this section, from the
13 5 date an adjudicated delinquent commences attendance as a
13 6 student at a public or private educational institution, other
13 7 than an educational institution located on the real property
13 8 of a juvenile facility if the juvenile has been ordered placed
13 9 at such facility pursuant to section 232.52.

13 10 f. From the date of conviction for a sex offense requiring
13 11 registration if probation, incarceration, or placement ordered
13 12 pursuant to section 232.52 in a juvenile facility is not
13 13 included in the sentencing, order, or decree of the court,
13 14 except as otherwise provided in this section for juvenile
13 15 cases.

13 16 2. A sex offender is not required to register while
13 17 incarcerated. However, the running of the period of
13 18 registration is tolled pursuant to section 692A.107 if a sex
13 19 offender is incarcerated.

13 20 3. a. A delinquent adjudicated for an offense that
13 21 requires registration shall be required to register as
13 22 required in this chapter unless the juvenile court waives the
13 23 requirement and finds that the person should not be required
13 24 to register under this chapter.

13 25 b. Notwithstanding paragraph "a", a juvenile fourteen
13 26 years of age or older at the time the offense was committed
13 27 shall be required to register if the adjudication was for an
13 28 offense committed by force or the threat of serious violence,
13 29 by rendering the victim unconscious, or by involuntary
13 30 drugging of the victim.

13 31 4. If a juvenile is required to register pursuant to
13 32 subsection 3, the juvenile court may, upon motion of the
13 33 juvenile, and after reasonable notice to the parties and
13 34 hearing, modify or suspend the registration requirements if
13 35 good cause is shown.



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14 1 a. The motion to modify or suspend shall be made and the
14 2 hearing shall occur prior to the discharge of the juvenile
14 3 from the jurisdiction of the juvenile court for the sex
14 4 offense that requires registration.

14 5 b. If at the time of the hearing the juvenile is
14 6 participating in an appropriate outpatient treatment program
14 7 for juvenile sex offenders, the juvenile court may enter
14 8 orders temporarily suspending the requirement that the
14 9 juvenile register and may defer entry of a final order on the
14 10 matter until such time that the juvenile has completed or been
14 11 discharged from the outpatient treatment program.

14 12 c. Final orders shall then be entered within thirty days
14 13 from the date of the juvenile's completion or discharge from
14 14 outpatient treatment.

14 15 d. Any order entered pursuant to this subsection that
14 16 modifies or suspends the requirement to register shall include
14 17 written findings stating the reason for the modification or
14 18 suspension, and shall include appropriate restrictions upon
14 19 the juvenile to protect the public during any period of time
14 20 the registry requirements are modified or suspended. Upon
14 21 entry of an order modifying or suspending the requirement to
14 22 register, the juvenile court shall notify the superintendent
14 23 or the superintendent's designee where the juvenile is
14 24 enrolled of the decision.

14 25 e. This subsection does not apply to a juvenile fourteen
14 26 years of age or older at the time the offense was committed if
14 27 the adjudication was for a sex offense committed by force or
14 28 the threat of serious violence, by rendering the victim
14 29 unconscious, or by involuntary drugging of the victim.

14 30 5. If a juvenile is required to register and the court
14 31 later modifies or suspends the order regarding the requirement
14 32 to register, the court shall notify the department within
14 33 three days of the decision.

14 34 Sec. 4. NEW SECTION. 692A.104 REGISTRATION PROCESS.

14 35 1. A person required to register under this chapter shall



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15 1 appear in person to register with the sheriff of each county
15 2 of residence, employment, and attendance as a student, within
15 3 three business days of being required to register under
15 4 section 692A.103. A sheriff shall accept the registration of
15 5 any person who is required to register in the county pursuant
15 6 to the provisions of this chapter.

15 7 2. A sex offender shall, within three business days of
15 8 changing a residence, employment, or attendance as a student,
15 9 appear in person to notify the sheriff of each county where a
15 10 change has occurred.

15 11 3. A sex offender shall, within three business days of a
15 12 change in relevant information other than relevant evidence
15 13 enumerated in subsection 2, appear in person to notify the
15 14 sheriff of the county where the principal residence of the
15 15 offender is maintained about the change to the relevant
15 16 information.

15 17 4. A sex offender shall, within three business days of the
15 18 establishment of a residence, employment, or attendance as a
15 19 student in another jurisdiction, appear in person to notify
15 20 the sheriff of the county where the principal residence of the
15 21 offender is maintained, about the establishment of a
15 22 residence, employment, or attendance in another jurisdiction.

15 23 A sex offender shall, upon establishing a new residence,
15 24 employment, or attendance as a student in another
15 25 jurisdiction, register with the registering agency of the
15 26 other jurisdiction, if the offender is required to register
15 27 under the laws of the other jurisdiction. The department
15 28 shall notify the registering agency in the other jurisdiction
15 29 of the sex offender's new residence, employment, or attendance
15 30 as a student in the other jurisdiction.

15 31 5. A sex offender, who has multiple residences in this
15 32 state, shall notify the sheriff of each county where a
15 33 residence is maintained, of the dates the offender will reside
15 34 at each residence including the date when the offender will
15 35 move from one residence to another residence.



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16 1 6. Except as provided in subsection 7, the initial
16 2 registration and any notifications required in subsections 1
16 3 through 5 shall be by appearance at the sheriff's office and
16 4 completion of the initial registration or notification shall
16 5 be on a printed form, which shall be signed and dated by the
16 6 sex offender. If the sheriff uses an electronic form to
16 7 complete the initial registration or notification, the
16 8 electronic form shall be printed upon completion and signed
16 9 and dated by the sex offender. The sheriff shall transmit the
16 10 registration or notification form completed by the sex
16 11 offender within three business days by paper copy, or
16 12 electronically, using procedures established by the department
16 13 by rule.

16 14 7. The collection of relevant information by a court or
16 15 releasing agency under section 692A.109 shall serve as the sex
16 16 offender's initial registration for purposes of this section.
16 17 The court or releasing agency shall forward a copy of the
16 18 registration to the department within three business days of
16 19 completion of registration using procedures established by the
16 20 department by rule.

16 21 Sec. 5. NEW SECTION. 692A.105 ADDITIONAL REGISTRATION
16 22 REQUIREMENTS == TEMPORARY LODGING AND EMPLOYMENT NOT AT A
16 23 FIXED LOCATION.

16 24 1. In addition to the registration provisions specified in
16 25 section 692A.104, a sex offender shall also notify the sheriff
16 26 of the county of principal residence, of any location in which
16 27 the offender is staying when away from the principal residence
16 28 of the offender for more than three days, by identifying the
16 29 location and the period of time the offender is staying in
16 30 such location.

16 31 2. In addition to the registration provisions specified in
16 32 section 692A.104, a sex offender shall also notify the sheriff
16 33 of the county of principal residence, of the location where
16 34 the offender acts as an employee in any form of employment
16 35 that does not occur predominantly at a fixed location. The



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17 1 description of the location of such employment shall include
17 2 but is not be limited to normal travel routes for such
17 3 employment, a description of sites or places where work is
17 4 regularly performed, a description of physical locations in
17 5 which the sex offender has contact with clients, customers, or
17 6 coworkers, or any other description that a reasonable person
17 7 would consider to be the location in which a person acts as an
17 8 employee.

17 9 Sec. 6. NEW SECTION. 692A.106 DURATION OF REGISTRATION.

17 10 1. Except as otherwise provided in this section, the
17 11 duration of registration required under this chapter shall be
17 12 as follows:

17 13 a. For a sex offense classified as a tier I offense,
17 14 fifteen years.

17 15 b. For a sex offense classified as a tier II offense,
17 16 twenty=five years.

17 17 c. For a sex offense classified as a tier III offense, the
17 18 lifetime of the registrant.

17 19 2. A sex offender who has been sentenced to a special
17 20 sentence under section 903B.1 or 903B.2, shall be required to
17 21 register for a period equal to the term of the special
17 22 sentence, but in no case not less than the period specified in
17 23 subsection 1.

17 24 3. A sex offender who is convicted of violating any of the
17 25 requirements of this chapter shall register for an additional
17 26 ten years, commencing from the date the offender's
17 27 registration would have expired under subsection 1 or, in the
17 28 case of an offender who has been sentenced to a special
17 29 sentence under section 903B.1 or 903B.2, commencing from the
17 30 date the offender's registration would have expired under
17 31 subsection 2.

17 32 4. A juvenile who has been adjudicated delinquent for an
17 33 offense that requires registration under this chapter, unless
17 34 the registration requirement is waived or the registration
17 35 requirement is modified or suspended pursuant to section



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18 1 692A.103, shall:

18 2 a. Register for a period of ten years, if the juvenile was
18 3 fourteen years of age or older at the time of the offense, and
18 4 the offense was not committed by use of force or threat of
18 5 serious violence, by rendering the victim unconscious, or by
18 6 involuntarily drugging the victim.

18 7 b. Register for the period of time specified in subsection
18 8 1, if the juvenile was fourteen years of age or older at the
18 9 time of the offense, and the offense was committed by use of
18 10 force or threat of serious violence, by rendering the victim
18 11 unconscious, or by involuntarily drugging the victim.

18 12 5. Notwithstanding subsection 4, a juvenile who has been
18 13 adjudicated for a sex offense classified as a tier III offense
18 14 shall no longer be required to register as a sex offender
18 15 twenty-five years after the registration requirement commenced
18 16 if:

18 17 a. After adjudication for the offense requiring
18 18 registration, the juvenile has not been convicted of any
18 19 indictable offense under the laws of this state, another
18 20 jurisdiction, or a federal, military, or foreign court.

18 21 b. The juvenile completes any required period of
18 22 supervised release, probation, or parole without revocation.

18 23 c. The juvenile successfully completes an appropriate sex
18 24 offender treatment program certified by a jurisdiction or by
18 25 the United States attorney general.

18 26 6. A sex offender who has been convicted of an offense
18 27 under the laws of this state or of another jurisdiction, or in
18 28 federal, military, or foreign court, which would qualify the
18 29 offender as a sexually violent predator shall register as
18 30 provided in this chapter for life.

18 31 7. If a sex offender ceases to maintain a residence,
18 32 employment, or attendance as a student in this state, the
18 33 offender shall no longer be required to register, and shall be
18 34 removed from the registry, after the department verifies that
18 35 the offender has complied with the registration requirements



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19 1 in another jurisdiction. If the sex offender subsequently
19 2 reestablishes residence, employment, or attendance as a
19 3 student in this state, the registration requirement under this
19 4 chapter shall apply.

19 5 Sec. 7. NEW SECTION. 692A.107 TOLLING OF REGISTRATION
19 6 PERIOD.

19 7 1. If a sex offender is incarcerated during a period of
19 8 registration, the running of the period of registration is
19 9 tolled until the offender is released from incarceration for
19 10 that crime.

19 11 2. If a sex offender violates any provision of this
19 12 chapter, in addition to any criminal penalty prescribed for
19 13 such violation, the period of registration is tolled until the
19 14 offender complies with the registration provisions of this
19 15 chapter.

19 16 Sec. 8. NEW SECTION. 692A.108 VERIFICATION OF RELEVANT
19 17 INFORMATION.

19 18 1. A sex offender shall appear in person in the county of
19 19 principal residence, to verify residence, employment, and
19 20 attendance as a student, to allow the sheriff to photograph
19 21 the offender, and to verify other relevant information during
19 22 the following time periods:

19 23 a. For a sex offender who is required to register for a
19 24 sex offense classified as a tier I offense, every year.

19 25 b. For a sex offender who is required to register for a
19 26 sex offense classified as a tier II offense, every six months.

19 27 c. For a sex offender who is required to register for a
19 28 sex offense classified as a tier III offense, every three
19 29 months.

19 30 2. A sheriff may require a sex offender to appear in
19 31 person more frequently than provided in subsection 1 to verify
19 32 relevant information if good cause is shown. The
19 33 circumstances under which more frequent appearances are
19 34 required include but are not limited to the sex offender's
19 35 lack of a principal residence, provided that any such



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20 1 requirement is reasonable, documented by the sheriff, and
20 2 provided to the offender and the department in writing. Any
20 3 modification to such requirement shall also be provided to the
20 4 sex offender and the department in writing.

20 5 3. a. At least thirty days prior to an appearance for the
20 6 verification of relevant information as required by this
20 7 section, the department shall mail notification of the
20 8 required appearance to each reported residence of the sex
20 9 offender. The department shall not be required to mail
20 10 notification to any sex offender if the residence described or
20 11 listed in the sex offender's relevant information is
20 12 insufficient for the delivery of mail.

20 13 b. The notice shall state that the sex offender shall
20 14 appear in person in the county of principal residence on or
20 15 before a date specified in the notice to verify and update
20 16 relevant information. The notice shall not be forwarded to
20 17 another address and shall be returned to the department if the
20 18 sex offender no longer resides at the address.

20 19 4. A photograph of the sex offender shall be updated, at a
20 20 minimum, annually. The sheriff shall send the updated
20 21 photograph to the department using procedures established by
20 22 the department by rule within three business days of the
20 23 photograph being taken and the department shall post the
20 24 updated photograph on the sex offender registry's internet
20 25 site. The sheriff may require the sex offender to submit to
20 26 being photographed, fingerprinted, or palm printed, more than
20 27 once per year during any required appearance to verify
20 28 relevant information.

20 29 5. The sheriff may make a reasonable modification to the
20 30 date requiring a sex offender to make an appearance based on
20 31 exigent circumstances. The sheriff shall notify the
20 32 department of any modification using procedures established by
20 33 department by rule.

20 34 Sec. 9. NEW SECTION. 692A.109 DUTY TO FACILITATE
20 35 REGISTRATION.



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21 1 1. When a sex offender is released from incarceration from
21 2 a jail, prison, juvenile facility, or other correctional
21 3 institution or facility, or when the offender is convicted but
21 4 not incarcerated, the sheriff, warden, or superintendent of a
21 5 facility or, in the case of release from foster care or
21 6 residential treatment or conviction without incarceration, the
21 7 court shall do the following prior to release or sentencing of
21 8 the convicted offender:

21 9 a. Obtain all relevant information from the sex offender.
21 10 Additional information for a sex offender required to register
21 11 as a sexually violent predator shall include but not be
21 12 limited to other identifying factors, anticipated future
21 13 places of residence, offense history, and documentation of any
21 14 treatment received by the person for a mental abnormality or
21 15 personality disorder.

21 16 b. Inform the sex offender of the duty to register and
21 17 ensure registration forms are completed and signed.

21 18 c. Inform the sex offender that, within three business
21 19 days of changing a residence, employment, or attendance as a
21 20 student, an appearance is required before the sheriff in the
21 21 county of principal residence and in the county where change
21 22 occurred.

21 23 d. Inform the sex offender that if the offender
21 24 establishes residence in another jurisdiction, or becomes
21 25 employed, or becomes a student in another jurisdiction, the
21 26 offender must report the offender's new residence, employment,
21 27 or attendance as a student, to the sheriff's office in the
21 28 county of the offender's principal residence within three
21 29 business days, and that, if the other jurisdiction has a
21 30 registration requirement, the offender may also be required to
21 31 register in such jurisdiction.

21 32 e. Require the sex offender to read and sign a form
21 33 stating that the duty of the offender to register under this
21 34 chapter has been explained. If the sex offender cannot read,
21 35 is unable to write, or refuses to cooperate, the duty and the



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22 1 form shall be explained orally and a written record maintained
22 2 by the offender explaining the duty and the form.

22 3 f. Inform the sex offender who was convicted of a sex
22 4 offense against a minor of the prohibitions established under
22 5 section 692A.114 by providing the offender with a written copy
22 6 of section 692A.114 and relevant definitions of section
22 7 692A.101.

22 8 g. Inform the sex offender that the offender must submit
22 9 to being photographed by the sheriff of any county in which
22 10 the offender is required to register upon initial registration
22 11 and during any appearance to verify relevant information
22 12 required under this chapter.

22 13 h. Inform the sex offender that any violation of this
22 14 chapter may result in state or federal prosecution.

22 15 2. a. When a sex offender is released from incarceration
22 16 from a jail, prison, juvenile facility, or other correctional
22 17 institution or facility, or when the offender is convicted but
22 18 not incarcerated, the sheriff, warden, superintendent, or
22 19 court shall verify that the person has completed initial
22 20 registration forms, and accept the forms on behalf of the
22 21 sheriff of the county of registration. The sheriff, warden,
22 22 superintendent, or the court shall send the initial
22 23 registration information to the department within three
22 24 business days of completion of the registration. Probation,
22 25 parole, work release, or any other form of release after
22 26 conviction shall not be granted unless the offender has
22 27 registered as required under this chapter.

22 28 b. If the sex offender refuses to register, the sheriff,
22 29 warden, or superintendent shall notify within three business
22 30 days the county attorney in the county in which the offender
22 31 was convicted or, if the offender no longer resides in that
22 32 county, in the county in which the offender resides of the
22 33 refusal to register. The county attorney shall bring a
22 34 contempt of court action against the sex offender in the
22 35 county in which the offender was convicted or, if the offender



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23 1 no longer resides in that county, in the county in which the
23 2 offender resides. A sex offender who refuses to register
23 3 shall be held in contempt and may be incarcerated pursuant to
23 4 the provisions of chapter 665 following the entry of judgment
23 5 by the court on the contempt action until the offender
23 6 complies with the registration requirements.

23 7 3. The sheriff, warden, or superintendent, or if the sex
23 8 offender is placed on probation, the court shall forward one
23 9 copy of the registration information to the department and to
23 10 the sheriff of the county in which the principal residence is
23 11 established within three business days after completion of the
23 12 registration.

23 13 4. The court may order an appropriate law enforcement
23 14 agency or the county attorney to assist the court in
23 15 performing the requirements of subsection 1 or 2.

23 16 Sec. 10. NEW SECTION. 692A.110 REGISTRATION FEES AND
23 17 CIVIL PENALTY FOR OFFENDERS.

23 18 1. At the time of filing a registration statement, or a
23 19 change of registration, with the sheriff of the county of
23 20 residence, a sex offender shall pay a fee of ten dollars to
23 21 the sheriff. If, at the time of registration, the sex
23 22 offender is unable to pay the fee, the sheriff may allow the
23 23 offender time to pay the fee, permit the payment of the fee in
23 24 installments, or may waive payment of the fee. Fees paid to
23 25 the sheriff shall be used to defray the costs of duties
23 26 related to the registration of sex offenders under this
23 27 chapter.

23 28 2. In addition to any other penalty, at the time of
23 29 conviction for a public offense committed on or after July 1,
23 30 1995, which requires a sex offender to register under this
23 31 chapter, the offender shall be assessed a civil penalty of two
23 32 hundred dollars, to be payable to the clerk of the district
23 33 court as provided in section 602.8105 and distributed as
23 34 provided in section 602.8108.

23 35 3. The fee and penalty required by this section shall not



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24 1 be assessed against a person who has been acquitted by reason
24 2 of insanity of the offense which requires registration under
24 3 this chapter.

24 4 Sec. 11. NEW SECTION. 692A.111 FAILURE TO COMPLY ==
24 5 PENALTY.

24 6 1. A sex offender who violates any requirements of section
24 7 692A.104, 692A.105, 692A.108, 692A.112, 692A.113, or 692A.114
24 8 commits an aggravated misdemeanor for a first offense and a
24 9 class "D" felony for a second or subsequent offense. However,
24 10 a sex offender convicted of a sex offense against a minor,
24 11 sexual exploitation, or a sexually violent offense committed
24 12 while in violation of any of the requirements specified in
24 13 this chapter is guilty of a class "C" felony, in addition to
24 14 any other penalty provided by law. Any fine imposed for a
24 15 second or subsequent violation shall not be suspended.
24 16 Notwithstanding section 907.3, the court shall not defer
24 17 judgment or sentence for any violation of any requirements
24 18 specified in this chapter. A violation by a sex offender, who
24 19 is on probation, parole, work release, or any other form of
24 20 release, of any of the requirements specified in this chapter
24 21 shall result in the automatic revocation of the offender's
24 22 probation, parole, or work or other release. For purposes of
24 23 this subsection, a violation occurs when a sex offender knows
24 24 or reasonably should know of the duty to fulfill a requirement
24 25 specified in this chapter as referenced in the offense
24 26 charged.

24 27 2. Violations in any other jurisdiction under sex offender
24 28 registry provisions that are substantially similar to those
24 29 contained in this section shall be counted as previous
24 30 offenses. The court shall judicially notice the statutes of
24 31 other states which are substantially similar to this section.

24 32 3. A sex offender who violates any provision of this
24 33 chapter may be prosecuted in any county where registration is
24 34 required by the provisions of this chapter.

24 35 4. When the department has a reasonable basis to believe



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25 1 that a sex offender has changed residence to an unknown
25 2 location, has become a fugitive from justice, or who has
25 3 otherwise taken flight, the department shall make a reasonable
25 4 effort to ascertain the whereabouts of the offender, and if
25 5 such effort fails to identify the location of the offender, an
25 6 appropriate notice shall be made on the sex offender registry
25 7 internet site of this state and shall be transmitted to the
25 8 national sex offender registry. The department shall notify
25 9 other law enforcement agencies as deemed appropriate,
25 10 including the United States marshals service.

25 11 Sec. 12. NEW SECTION. 692A.112 KNOWINGLY PROVIDING FALSE
25 12 INFORMATION == PENALTY.

25 13 A sex offender shall not knowingly provide false
25 14 information upon registration or during an appearance to
25 15 verify relevant information.

25 16 Sec. 13. NEW SECTION. 692A.113 MINOR AT RESIDENCE ==
25 17 REPORTING.

25 18 1. As used in this section, "person having custody or
25 19 control over a child or minor" means the same as in section
25 20 726.6.

25 21 2. A sex offender shall report the name, gender, date of
25 22 birth, and social security number of any person under the age
25 23 of eighteen that is residing in the same residence as the
25 24 offender. The report shall be made in person to the sheriff
25 25 of the county where the residence is located.

25 26 3. This section does not apply to the following:

25 27 a. If the sex offender is a parent, guardian, or person
25 28 having custody or control over a child or minor.

25 29 b. If the sex offender is married to and living with a
25 30 person that is a parent, guardian, or person having custody or
25 31 control over a child or minor.

25 32 Sec. 14. NEW SECTION. 692A.114 EXCLUSION ZONES AND
25 33 PROHIBITION OF CERTAIN EMPLOYMENT-RELATED ACTIVITIES.

25 34 1. A sex offender who has been convicted of a sex offense
25 35 against a minor shall not do any of the following:



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26 1 a. Be present upon the real property of a public or
26 2 nonpublic elementary or secondary school without the written
26 3 permission of the school administrator, unless enrolled as a
26 4 student at the school.

26 5 b. Loiter within three hundred feet of the real property
26 6 boundary of a public or nonpublic elementary or secondary
26 7 school, unless enrolled as a student at the school.

26 8 c. Be present on or in any vehicle or other conveyance
26 9 owned, leased, or contracted by a public or nonpublic
26 10 elementary or secondary school without the written permission
26 11 of the school administrator when the vehicle is in use to
26 12 transport students to or from a school or school-related
26 13 activities, unless enrolled as a student at the school or
26 14 unless the vehicle is simultaneously made available to the
26 15 public as a form of public transportation.

26 16 d. Be present upon the real property of a child care
26 17 facility without the written permission of the child care
26 18 facility administrator.

26 19 e. Loiter within three hundred feet of the real property
26 20 boundary of a child care facility.

26 21 f. Loiter on or within three hundred feet of the premises
26 22 of any place intended primarily for the use of minors
26 23 including but not limited to a playground available to the
26 24 public, a children's play area available to the public,
26 25 recreational or sport-related activity area when in use by a
26 26 minor, a swimming or wading pool available to the public when
26 27 in use by a minor, or a beach available to the public when in
26 28 use by a minor.

26 29 2. A sex offender who has been convicted of a sex offense
26 30 against a minor:

26 31 a. Who resides in a dwelling located within three hundred
26 32 feet of the real property boundary of public or nonpublic
26 33 elementary or secondary school, child care facility, or place
26 34 intended primarily for the use of minors as specified in
26 35 subsection 1, paragraph "f", shall not be in violation of



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27 1 subsection 1 for having an established residence within the
27 2 exclusion zone.
27 3 b. Who is the parent or legal guardian of a minor shall
27 4 not be in violation of subsection 1 solely during the period
27 5 of time reasonably necessary to transport the offender's own
27 6 minor child or ward to or from a place specified in subsection
27 7 1.
27 8 c. Who is legally entitled to vote shall not be in
27 9 violation of subsection 1 solely for the period of time
27 10 reasonably necessary to exercise the right to vote in a public
27 11 election if the polling location of the offender is located in
27 12 a place specified in subsection 1.
27 13 3. A sex offender who has been convicted of a sex offense
27 14 against a minor, shall not do any of the following:
27 15 a. Operate, manage, be employed by, or act as a contractor
27 16 or volunteer at any municipal, county, or state fair or
27 17 carnival when a minor is present.
27 18 b. Operate, manage, be employed by, or act as a contractor
27 19 or volunteer on the premises of any children's arcade, an
27 20 amusement center having coin or token operated devices for
27 21 entertainment, or facilities providing programs or services
27 22 intended primarily for minors, when a minor is present.
27 23 c. Operate, manage, be employed by, or act as a contractor
27 24 or volunteer at a public or nonpublic elementary or secondary
27 25 school, child care facility, or recreational or sporting
27 26 league that involves minors as participants.
27 27 Sec. 15. NEW SECTION. 692A.115 DETERMINATION OF
27 28 REQUIREMENT TO REGISTER.
27 29 1. An offender may request that the department determine
27 30 whether the offense for which the offender has been convicted
27 31 requires the offender to register under this chapter or
27 32 whether the period of time during which the offender is
27 33 required to register under this chapter has expired.
27 34 2. Application for determination shall be made on forms
27 35 provided by the department and accompanied by copies of



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28 1 sentencing or adjudicatory orders with respect to each offense
28 2 for which the offender asks that a determination be made.

28 3 3. The department shall, after receipt of all
28 4 documentation or information requested by the department,
28 5 within ninety days of the filing of the request, determine
28 6 whether the offender is required to register under this
28 7 chapter.

28 8 Sec. 16. NEW SECTION. 692A.116 REGISTRATION FORMS AND
28 9 ELECTRONIC REGISTRATION SYSTEM.

28 10 1. Registration forms and an electronic registration
28 11 system shall be made available by the department. Such forms
28 12 and system shall include fields necessary to record all
28 13 relevant information.

28 14 2. Copies of blank forms shall be available upon request
28 15 to any person.

28 16 Sec. 17. NEW SECTION. 692A.117 DEPARTMENT DUTIES ==
28 17 REGISTRY.

28 18 The department shall perform all of the following duties:

28 19 1. Develop an electronic system and standard forms for use
28 20 in the registration of, verifying addresses of, and verifying
28 21 understanding of registration requirements by sex offenders.
28 22 Forms used to verify addresses of sex offenders shall contain
28 23 a warning against forwarding a form to another address and of
28 24 the requirement to return the form if the offender to whom the
28 25 form is directed no longer resides at the address listed on
28 26 the form or the mailing.

28 27 2. Maintain a central registry of information collected
28 28 from sex offenders, which shall be known as the sex offender
28 29 registry.

28 30 3. In consultation with the attorney general, adopt rules
28 31 under chapter 17A which list specific offenses under present
28 32 and former law which constitute sex offenses or sex offenses
28 33 against a minor under this chapter.

28 34 4. Adopt rules under chapter 17A, as necessary, to ensure
28 35 compliance with registration and verification requirements of



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29 1 this chapter, to provide guidelines for persons required to
29 2 assist in obtaining registry information, and to provide a
29 3 procedure for the dissemination of information contained in
29 4 the registry. The procedure for the dissemination of
29 5 information shall include but not be limited to practical
29 6 guidelines for use by criminal or juvenile justice agencies in
29 7 determining when public release of information contained in
29 8 the registry is appropriate and a requirement that if a member
29 9 of the general public requests information regarding a
29 10 specific individual in the manner provided in section
29 11 692A.120, the information shall be released. The department,
29 12 in developing the procedure, shall consult with associations
29 13 which represent the interests of law enforcement officers.
29 14 Rules adopted shall also include a procedure for removal of
29 15 information from the registry upon the reversal or setting
29 16 aside of a conviction of an offender.

29 17 5. Submit sex offender registry data to the federal bureau
29 18 of investigation for entry of the data into the national sex
29 19 offender registry.

29 20 6. Perform the requirements under this chapter and under
29 21 federal law in cooperation with the office of sex offender
29 22 sentencing, monitoring, apprehending, registering, and
29 23 tracking of the office of justice programs of the United
29 24 States department of justice.

29 25 7. Enter and maintain fingerprints and palm prints of sex
29 26 offenders in an automated fingerprint identification system
29 27 maintained by the department and made accessible to law
29 28 enforcement agencies in this state, of the federal government,
29 29 or in another jurisdiction. The department or any law
29 30 enforcement agency may use such prints for criminal
29 31 investigative purposes, to include comparison against finger
29 32 and palm prints identified or recovered as evidence in a
29 33 criminal investigation.

29 34 8. Notify all jurisdictions where a sex offender maintains
29 35 or will maintain a residence, employment, or attendance as a



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30 1 student, when updated information concerning the registrant is
30 2 received and verified, and notify the United States marshals
30 3 service and update national sex offender registry information,
30 4 when the department is notified that the offender intends to
30 5 maintain a residence, employment, or attendance as a student,
30 6 outside of the United States. If the department receives
30 7 notification that a sex offender has or intends to maintain a
30 8 residence, employment, or attendance as a student, in this
30 9 state, but the offender fails to register as required under
30 10 this chapter, the department shall notify the jurisdiction
30 11 that provided such information.

30 12 Sec. 18. NEW SECTION. 692A.118 SEX OFFENDER REGISTRY
30 13 FUND.

30 14 A sex offender registry fund is established as a separate
30 15 fund within the state treasury under the control of the
30 16 department. The fund shall consist of moneys received as a
30 17 result of the imposition of the penalty imposed under section
30 18 692A.110 and other funds allocated for purposes of
30 19 establishing and maintaining the sex offender registry,
30 20 conducting research and analysis related to sex crimes and
30 21 offenders, and to perform other duties required under this
30 22 chapter. Notwithstanding section 8.33, unencumbered or
30 23 unobligated moneys and any interest remaining in the fund on
30 24 June 30 of any fiscal year shall not revert to the general
30 25 fund of the state, but shall remain available for expenditure
30 26 in subsequent fiscal years.

30 27 Sec. 19. NEW SECTION. 692A.119 DUTIES OF THE SHERIFF.

30 28 The sheriff of each county shall comply with the
30 29 requirements of this chapter and rules adopted by the
30 30 department pursuant to this chapter. The sheriff of each
30 31 county shall provide information and notices as provided in
30 32 section 282.9.

30 33 Sec. 20. NEW SECTION. 692A.120 AVAILABILITY OF RECORDS.

30 34 1. The department shall provide relevant information from
30 35 the sex offender registry to the following:



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31 1 a. A criminal or juvenile justice agency, an agency of the
31 2 state, a sex offender registry of another jurisdiction, or the
31 3 federal government.

31 4 b. The general public through the sex offender registry
31 5 internet site or, at the discretion of the department, through
31 6 other electronic, oral, or written means, except that relevant
31 7 information about a sex offender who was under twenty years of
31 8 age at the time the offender committed a violation of section
31 9 709.4, subsection 2, paragraph "c", subparagraph (4), shall
31 10 not be disclosed on the internet site.

31 11 c. The single contact repository established pursuant to
31 12 section 135C.33, in accordance with the rules adopted by the
31 13 department.

31 14 d. A political subdivision in which an offender
31 15 establishes or terminates a residence, employment, or
31 16 attendance as student.

31 17 e. A probation or parole agency.

31 18 f. A school or public housing agency.

31 19 g. An agency responsible for conducting employment-related
31 20 background checks under section 3 of the National Child
31 21 Protection Act of 1993, 42 U.S.C. } 5119a.

31 22 h. A known volunteer organization in which contact with
31 23 minors or other vulnerable individuals might occur.

31 24 i. An organization, company, or individual requesting
31 25 notification pursuant to established procedures.

31 26 2. A criminal or juvenile justice agency may provide
31 27 relevant information from the sex offender registry to the
31 28 following:

31 29 a. A criminal or juvenile justice agency, an agency of the
31 30 state, or a sex offender registry of another jurisdiction, or
31 31 the federal government.

31 32 b. The general public, including public and private
31 33 agencies, organizations, public places, child care facilities,
31 34 religious and youth organizations, neighbors, neighborhood
31 35 associations, community meetings, and employers. Registry



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32 1 information may be distributed to the public through printed
32 2 materials, visual or audio press releases, radio
32 3 communications, or through a criminal or juvenile justice
32 4 agency's internet site.
32 5 3. When a sex offender moves into a school district or
32 6 moves within a school district, the county sheriff of the
32 7 county of the offender's new residence shall provide relevant
32 8 information from the sex offender registry to the
32 9 administrative office of the school district in which the
32 10 person required to register resides, and shall also provide
32 11 relevant information to any nonpublic school near the
32 12 offender's residence.
32 13 4. A member of the public may contact a county sheriff's
32 14 office or police department to request relevant information
32 15 from the registry regarding a specific sex offender. A person
32 16 making a request for relevant information may make the request
32 17 by telephone, in writing, or in person, and the request shall
32 18 include the name of the person and at least one of the
32 19 following identifiers pertaining to the sex offender about
32 20 whom the information is sought:
32 21 a. The date of birth of the person.
32 22 b. The social security number of the person.
32 23 c. The address of the person.
32 24 A county sheriff or police department shall not charge a
32 25 fee relating to a request for relevant information.
32 26 5. A county sheriff shall also provide to a person upon
32 27 request access to a list of all registrants in that county.
32 28 However, records of a person protected under 18 U.S.C. } 3521
32 29 shall not be disclosed.
32 30 6. Relevant information provided to the general public may
32 31 include the sex offender's name, address, a photograph,
32 32 locations frequented by the offender, relevant criminal
32 33 history information from the registry, and any other relevant
32 34 information. Relevant information provided to the public
32 35 shall not include the identity of any victim, the registrant's



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33 1 social security number, arrests not resulting in convictions,
33 2 travel and immigration document numbers, the name of an
33 3 employer where a person required to register is employed, the
33 4 name of an educational institution where a person required to
33 5 register is a student, telephone numbers, or internet
33 6 identifier. For purposes of inclusion in the sex offender
33 7 registry's internet site or dissemination to the general
33 8 public, a conviction for incest shall be disclosed as either a
33 9 violation of section 709.4 or 709.8.

33 10 7. Notwithstanding sections 232.147 through 232.151,
33 11 records concerning convictions which are committed by a minor
33 12 may be released in the same manner as records of convictions
33 13 of adults.

33 14 8. A person may contact the department to verify if a
33 15 particular internet identifier is one that has been included
33 16 in a registration by a sex offender.

33 17 9. The department shall include links to sex offender
33 18 safety information, educational resources pertaining to the
33 19 prevention of sexual assaults, and the national sex offender
33 20 registry.

33 21 10. The department shall include on the sex offender
33 22 registry internet site instructions and any applicable forms
33 23 necessary for a person seeking correction of information that
33 24 the person contends is erroneous.

33 25 11. When the department receives and approves registration
33 26 data, such data shall be made available on the sex offender
33 27 registry internet site within three business days.

33 28 12. The department shall maintain an automated electronic
33 29 mail notification system, which shall be available by free
33 30 subscription to any person, to provide notice of addition,
33 31 deletion, or changes to any sex offender registration within a
33 32 postal zip code or, if selected by a subscriber, a geographic
33 33 radius.

33 34 13. Sex offender registry records are confidential records
33 35 not subject to examination and copying by a member of the



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34 1 public and shall only be released as provided in this section.

34 2 Sec. 21. NEW SECTION. 692A.121 COOPERATION WITH

34 3 REGISTRATION.

34 4 An agency of state and local government that possesses
34 5 information relevant to requirements that an offender register
34 6 under this chapter shall provide that information to the court
34 7 or the department upon request. All confidential records
34 8 provided under this section shall remain confidential, unless
34 9 otherwise ordered by a court, by the lawful custodian of the
34 10 records, or by another person duly authorized to release such
34 11 information.

34 12 Sec. 22. NEW SECTION. 692A.122 IMMUNITY FOR GOOD FAITH
34 13 CONDUCT.

34 14 Criminal or juvenile justice agencies and employees of
34 15 criminal or juvenile justice agencies and state agencies and
34 16 their employees shall be immune from liability for acts or
34 17 omissions arising from a good faith effort to comply with this
34 18 chapter.

34 19 Sec. 23. NEW SECTION. 692A.123 ELECTRONIC MONITORING.

34 20 A sex offender who is placed on probation, parole, work
34 21 release, special sentence, or any other type of conditional
34 22 release, may be supervised by an electronic tracking and
34 23 monitoring system in addition to any other conditions of
34 24 supervision. However, if the sex offender committed a sex
34 25 offense against a minor, an aggravated offense, or a sexually
34 26 violent offense, the offender shall be supervised for a period
34 27 of at least five years by an electronic tracking and
34 28 monitoring system in addition to any other conditions of
34 29 release.

34 30 Sec. 24. NEW SECTION. 692A.124 APPLICABILITY OF CHAPTER
34 31 AND RETROACTIVITY.

34 32 1. The registration requirements of this chapter shall
34 33 apply to sex offenders convicted on or after the effective
34 34 date of this Act of a sex offense classified under section
34 35 692A.102.



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35 1 2. The registration requirements of this chapter shall
35 2 apply to a sex offender convicted, except as specified in
35 3 subsection 3, of a sex offense or a comparable offense under
35 4 prior law prior to the effective date of this Act under the
35 5 following circumstances:

35 6 a. The sex offender is required to be on the sex offender
35 7 registry as of June 30, 2009.

35 8 b. The sex offender is incarcerated, or on probation or
35 9 parole, on or after the effective date of this Act, for
35 10 conviction of an indictable offense, if the offender has a
35 11 previous sex offense conviction at any time in the offender's
35 12 lifetime.

35 13 c. The sex offender is convicted of an indictable offense
35 14 on or after the effective date of this Act, if the offender
35 15 has a previous sex offense conviction at any time in the
35 16 offender's lifetime.

35 17 3. The registration requirement of this chapter shall
35 18 apply to a sex offender who was adjudicated for a sex offense
35 19 requiring registration prior to the effective date of this Act
35 20 if all of the following apply:

35 21 a. The sex offender was at least fourteen years of age at
35 22 the time the offense was committed.

35 23 b. The adjudication was the result of the commission of,
35 24 an attempt to commit, or having conspired to commit, a sex
35 25 offense involving use of force, threat of serious violence, or
35 26 engaging in a sexual act with another by rendering the victim
35 27 unconscious or involuntarily drugging the victim.

35 28 c. The sex offender is convicted of an indictable offense
35 29 on or after the effective date of this Act.

35 30 4. For a sex offender required to register pursuant to
35 31 subsections 1, 2, or 3, each conviction or adjudication for a
35 32 sex offense requiring registration, regardless of whether such
35 33 conviction or adjudication occurred prior to, on, or after the
35 34 effective date of this Act, shall be included in determining
35 35 the duration of registration required pursuant to section



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36 1 692A.106.

36 2 5. For a person who is not on the registry as of June 30,
36 3 2009, but who subsequently is required to be on the registry
36 4 on or after July 1, 2009, as the result of a conviction for an
36 5 indictable offense that is not a sex offense, the department
36 6 shall determine the duration of registration under section
36 7 692A.106 based upon the conviction date of the previous sex
36 8 offense of the person.

36 9 6. An offender required to be on the sex offender registry
36 10 as of June 30, 2009, and who is required to be on the registry
36 11 on or after July 1, 2009, shall be credited for any time on
36 12 the registry prior to July 1, 2009.

36 13 Sec. 25. Sections 692A.1 through 692A.16, Code 2009, are
36 14 repealed.

36 15

DIVISION II

36 16

SEX OFFENDER REGISTRY RELATED CHANGES

36 17 Sec. 26. Section 13.2, subsection 1, paragraph d, Code
36 18 2009, is amended by striking the paragraph.

36 19 Sec. 27. Section 22.7, subsection 48, Code 2009, is
36 20 amended to read as follows:

36 21 48. Sex offender registry records under chapter 692A,
36 22 except as provided in section ~~692A.13~~ 692A.120.

36 23 Sec. 28. Section 232.116, subsection 1, paragraph o, Code
36 24 2009, is amended to read as follows:

36 25 o. The parent has been convicted of a felony offense that
36 26 is a ~~criminal sex~~ offense against a minor as defined in
36 27 section ~~692A.1~~ 692A.101, the parent is divorced from or was
36 28 never married to the minor's other parent, and the parent is
36 29 serving a minimum sentence of confinement of at least five
36 30 years for that offense.

36 31 Sec. 29. Section 272.2, subsection 17, Code 2009, is
36 32 amended to read as follows:

36 33 17. Adopt rules to require that a background investigation
36 34 be conducted by the division of criminal investigation of the
36 35 department of public safety on all initial applicants for



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37 1 licensure. The board shall also require all initial
37 2 applicants to submit a completed fingerprint packet and shall
37 3 use the packet to facilitate a national criminal history
37 4 background check. The board shall have access to, and shall
37 5 review the sex offender registry information under section
37 6 ~~692A.13~~ 692A.120, the central registry for child abuse
37 7 information established under chapter 235A, and the dependent
37 8 adult abuse records maintained under chapter 235B for
37 9 information regarding applicants for license renewal.

37 10 Sec. 30. Section 279.13, subsection 1, paragraph b,
37 11 subparagraph (1), Code 2009, is amended to read as follows:

37 12 (1) Prior to entering into an initial contract with a
37 13 teacher who holds a license other than an initial license
37 14 issued by the board of educational examiners under chapter
37 15 272, the school district shall initiate a state criminal
37 16 history record check of the applicant through the division of
37 17 criminal investigation of the department of public safety,
37 18 submit the applicant's fingerprints to the division for
37 19 submission to the federal bureau of investigation for a
37 20 national criminal history record check, and review the sex
37 21 offender registry information under section ~~692A.13~~ 692A.120,
37 22 the central registry for child abuse information established
37 23 under section 235A.14, and the central registry for dependent
37 24 adult abuse information established under section 235B.5 for
37 25 information regarding applicants for employment as a teacher.

37 26 Sec. 31. Section 282.9, subsection 2, Code 2009, is
37 27 amended to read as follows:

37 28 2. Notwithstanding section ~~692A.13~~ 692A.129, or any other
37 29 provision of law to the contrary, the county sheriff shall
37 30 provide to the boards of directors of the school districts
37 31 located within the county the name of any individual under the
37 32 age of twenty-one who is required to register as a sex
37 33 offender under chapter 692A.

37 34 Sec. 32. Section 598.41A, Code 2009, is amended to read as
37 35 follows:



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38 1 598.41A VISITATION == HISTORY OF CRIMES AGAINST A MINOR.
38 2 Notwithstanding section 598.41, the court shall consider in
38 3 the award of visitation rights to a parent of a child, the
38 4 criminal history of the parent if the parent has been
38 5 convicted of a ~~criminal~~ sex offense against a minor, a
38 6 sexually violent offense against a minor, or sexual
38 7 exploitation of a minor. As used in this section, "~~criminal~~
38 8 sex offense against a minor", "sexually violent offense", and
38 9 "sexual exploitation" mean as defined in section 692A.1.
38 10 Sec. 33. Section 600A.8, subsection 10, Code 2009, is
38 11 amended to read as follows:
38 12 10. The parent has been convicted of a felony offense that
38 13 is a ~~criminal~~ sex offense against a minor as defined in
38 14 section 692A.1, the parent is divorced from or was never
38 15 married to the minor's other parent, and the parent is serving
38 16 a minimum sentence of confinement of at least five years for
38 17 that offense.
38 18 Sec. 34. Section 602.8105, subsection 2, Code 2009, is
38 19 amended by adding the following new paragraph:
38 20 NEW PARAGRAPH. gg. The sex offender civil penalty, two
38 21 hundred dollars.
38 22 Sec. 35. Section 602.8107, subsection 4, paragraph a, Code
38 23 2009, is amended to read as follows:
38 24 a. This subsection does not apply to amounts collected for
38 25 victim restitution, the victim compensation fund, the criminal
38 26 penalty surcharge, sex offender civil penalty, drug abuse
38 27 resistance education surcharge, the law enforcement initiative
38 28 surcharge, county enforcement surcharge, amounts collected as
38 29 a result of procedures initiated under subsection 5 or under
38 30 section 8A.504, or fees charged pursuant to section 356.7.
38 31 Sec. 36. Section 602.8108, subsection 2, Code 2009, is
38 32 amended to read as follows:
38 33 2. Except as otherwise provided, the clerk of the district
38 34 court shall report and submit to the state court
38 35 administrator, not later than the fifteenth day of each month,



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39 1 the fines and fees received during the preceding calendar
39 2 month. Except as provided in subsections 3, 4, 5, 7, 8, and
39 3 9, and 10, the state court administrator shall deposit the
39 4 amounts received with the treasurer of state for deposit in
39 5 the general fund of the state. The state court administrator
39 6 shall report to the legislative services agency within thirty
39 7 days of the beginning of each fiscal quarter the amount
39 8 received during the previous quarter in the account
39 9 established under this section.

39 10 Sec. 37. Section 602.8108, Code 2009, is amended by adding
39 11 the following new subsection:

39 12 NEW SUBSECTION. 10. The clerk of the district court shall
39 13 remit to the treasurer of state, not later than the fifteenth
39 14 day of each month, all moneys collected from the sex offender
39 15 civil penalty provided in section 692A.110 during the
39 16 preceding calendar month. Of the amount received from the
39 17 clerk, the treasurer of state shall allocate ten percent to be
39 18 deposited in the court technology and modernization fund
39 19 established in subsection 7. The treasurer of state shall
39 20 deposit the remainder into the sex offender registry fund
39 21 established in section 692A.118.

39 22 Sec. 38. Section 907.3, subsection 1, Code 2009, is
39 23 amended by adding the following new paragraph:

39 24 NEW PARAGRAPH. m. The offense is a violation of chapter
39 25 692A.

39 26 Sec. 39. Section 907.3, subsection 2, Code 2009, is
39 27 amended by adding the following new paragraph:

39 28 NEW PARAGRAPH. g. The offense is a violation of chapter
39 29 692A.

39 30 Sec. 40. Section 907.3, subsection 3, Code 2009, is
39 31 amended by adding the following new paragraph:

39 32 NEW PARAGRAPH. g. The offense is a violation of chapter
39 33 692A.

39 34

DIVISION III

39 35

COHABITATION WITH A SEX OFFENDER



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40 1 Sec. 41. Section 232.68, subsection 2, paragraph i, Code
40 2 2009, is amended to read as follows:
40 3 i. ~~Cohabitation with a~~ Knowingly allowing a person custody
40 4 or control of, or unsupervised access to a child or minor, if
40 5 the person is on the sex offender registry under chapter 692A
40 6 in violation of section 726.6.

40 7 Sec. 42. Section 726.6, subsection 1, paragraph h, Code
40 8 2009, is amended to read as follows:
40 9 h. ~~Cohabits with a person~~ Knowingly allows a person
40 10 custody or control of, or unsupervised access to a child or a
40 11 minor after knowing the person is required to register or is
40 12 on the sex offender registry as a sex offender under chapter
40 13 692A. However, this paragraph does not apply to a person who
40 14 is a parent, or guardian, or a person having custody or
40 15 control over of a child or a minor, who is required to
40 16 register as a sex offender, or to a person who is married to
40 17 and living with a person required to register as a sex
40 18 offender.

40 19 EXPLANATION

40 20 This bill makes changes to the sex offender registry
40 21 provisions and to duties and requirements related to persons
40 22 who commit sex offenses.

40 23 DIVISION I. The sex offender registry changes in the
40 24 division relate to the federal Adam Walsh Child Protection
40 25 Safety Act of 2006.

40 26 The division repeals Code sections 692A.1 through 692A.16
40 27 including provisions relating to residency restrictions and
40 28 assessments of risk and replaces these sections with new Code
40 29 sections 692A.101 through 692A.124.

40 30 The amendment to new Code section 692A.101 relates to the
40 31 definitions within Code chapter 692A. The division adds
40 32 definitions for appearance, business day, change, employee,
40 33 employment, foreign court, incarceration, indictable offense,
40 34 internet identifiers, jurisdiction, loiter, military offense,
40 35 minor, principal residence, professional licensing



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41 1 information, relevant information, sex offender, sex offense,
41 2 sex offense against a minor, student, and vehicle. The
41 3 division modifies or strikes the definitions for conviction,
41 4 criminal offense against a minor, other relevant offense, and
41 5 residence. The division does not modify the definitions for
41 6 aggravated offenses, child care facility, criminal or juvenile
41 7 justice agency, department, sexually violent offense, sexual
41 8 exploitation, and sexually violent predator.

41 9 The amendment to new Code section 692A.102 classifies sex
41 10 offenses into tiers. The division classifies the tiers in
41 11 ascending order of severity with the least serious offenses
41 12 classified as tier I offenses, the next serious sex offenses
41 13 classified as tier II offenses, and the most serious sex
41 14 offenses classified as tier III offenses.

41 15 Current law groups sex offenses as either aggravated
41 16 offenses, criminal offenses against a minor, sexually violent
41 17 offenses, and other relevant offenses.

41 18 The division provides that a sex offense classified as a
41 19 tier I offense shall be reclassified as a tier II offense, if
41 20 the person convicted for the sex offense is currently required
41 21 to register for a prior tier II offense. The division
41 22 provides that a sex offense classified as a tier I or tier II
41 23 offense shall be reclassified as a tier III offense, if the
41 24 person convicted for the sex offense is currently required to
41 25 register for a conviction for a prior tier II or tier III
41 26 offense.

41 27 New Code section 692A.103 provides that an offender
41 28 convicted of a tier I, tier II, or tier III sex offense, or a
41 29 sex offense in a federal, military, tribal, or foreign court,
41 30 or an offender residing in this state who was required to
41 31 register under another jurisdiction's sex offender registry,
41 32 shall register as a sex offender in this state.

41 33 The division provides that an offender shall register from
41 34 the date of placement on probation, release on parole or work
41 35 release, release from incarceration or placement, the date of



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42 1 attendance at school, or from the date of conviction under
42 2 other circumstances.

42 3 The division provides that an offender is not required to
42 4 register if incarcerated, but the running of the registration
42 5 period is tolled while the offender is incarcerated.

42 6 Under the division, a juvenile offender adjudicated for a
42 7 sex offense that requires registration shall register as a sex
42 8 offender unless the court waives the requirement to register.
42 9 If the juvenile offender is 14 years of age or older, and the
42 10 sex offense was committed by force, or the threat of serious
42 11 injury, or involved the victim being rendered unconscious or
42 12 drugged, the juvenile court shall not waive the registration
42 13 requirement. Currently, the juvenile court may waive the
42 14 requirement to register for any juvenile adjudicated for an
42 15 offense that requires registration.

42 16 The division also allows the juvenile court to waive or
42 17 modify the registration requirement for a juvenile adjudicated
42 18 for a sex offense that requires registration. Under the
42 19 division, the juvenile court, may upon motion of a juvenile
42 20 required to register, modify or suspend the registration
42 21 requirements if good cause is shown. If the juvenile court
42 22 decides to modify or suspend the registration requirements for
42 23 a juvenile, the juvenile court shall notify the superintendent
42 24 of the school where the juvenile is enrolled. If the juvenile
42 25 is enrolled in a nonpublic school, the authorities of such
42 26 school shall be notified of the decision. The division
42 27 prohibits the juvenile court from modifying or suspending the
42 28 registration requirement, if the juvenile offender is 14 years
42 29 of age or older, and the sex offense was committed by force,
42 30 or the threat of serious injury, or involved the victim being
42 31 rendered unconscious or drugged.

42 32 The division requires an offender who has been convicted of
42 33 a sex offense which qualifies the person as a sexually violent
42 34 predator to register for life.

42 35 New Code section 692A.104 requires that an offender shall



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43 1 appear in person to register with the sheriff of each county
43 2 of residence, employment, or attendance as a student, within
43 3 three business days of being required to register.

43 4 The division requires the offender to appear in person
43 5 within three business days of changing residence, employment,
43 6 or attendance as a student, to notify the sheriff of each
43 7 county where a change has occurred.

43 8 The division requires the offender to appear in person,
43 9 within three business days of relevant information changing,
43 10 to notify the sheriff of the county where the offender's
43 11 principal residence is located that certain relevant
43 12 information has changed.

43 13 The division requires the offender to appear in person,
43 14 within three business days of establishing a residence,
43 15 employment, or attendance as a student outside the state, to
43 16 notify the sheriff of the county where the offender's
43 17 principal residence is located that the offender has
43 18 established a residence, employment, or attendance as a
43 19 student outside the state.

43 20 New Code section 692A.105 requires the offender to appear
43 21 in person, within three business days of the information
43 22 changing, to notify the sheriff of the county where the
43 23 offender's principal residence is located, about information
43 24 relating to the location where the offender is staying when
43 25 away from the principal residence for more than three days, or
43 26 a description of the location of employment, including travel
43 27 routes, if the employment is not at a fixed location.

43 28 New Code section 692A.106 establishes the duration of
43 29 registration for each tier sex offense. An offender who is
43 30 convicted of a tier I offense shall register for a period of
43 31 15 years. An offender who is convicted of a tier II offense
43 32 shall register for a period of 25 years. An offender who is
43 33 convicted of a tier III offense shall register for life. An
43 34 offender convicted of a special sentence in violation of Code
43 35 section 903B.1 or 903B.2, shall register for a period equal to



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44 1 the term of the special sentence, but not less than the term
44 2 specified for the applicable tier offense.
44 3 A juvenile offender adjudicated for an offense that
44 4 requires registration shall register for a period of 10 years,
44 5 unless the juvenile is 14 years of age or older at the time of
44 6 the commission of the sex offense, and the sex offense was
44 7 committed by force, or the threat of serious injury, or
44 8 involved the victim being rendered unconscious or drugged. In
44 9 such cases where the juvenile is 14 years of age or older and
44 10 uses force, threat of injury, or the victim is rendered
44 11 unconscious or drugged, the juvenile shall register for a
44 12 period determined by the particular tier classification.
44 13 The division provides that a juvenile who has been
44 14 adjudicated of a tier III offense, shall register for a period
44 15 of 25 years. Under the division, an offender convicted of a
44 16 tier III offense who is not a juvenile registers for life.
44 17 New Code section 692A.107 provides that the time period for
44 18 registration is tolled when an offender is incarcerated or if
44 19 the offender is not compliant with the requirements of
44 20 registration.
44 21 New Code section 692A.108 establishes the intervals for
44 22 verification of offender information at the sheriff's office.
44 23 The division requires a tier I offender to appear in person to
44 24 verify information with the sheriff every year. The division
44 25 requires a tier II offender to verify information in person
44 26 every six months. The division requires a tier III offender
44 27 to appear in person to verify information every three months.
44 28 The division also requires a photograph of the offender to
44 29 be updated on at least an annual basis.
44 30 New Code section 692A.109 requires authorities at a jail,
44 31 juvenile facility, correctional institution or facility, or
44 32 the court, to obtain all relevant information from an offender
44 33 for the registry prior to release or sentencing. The division
44 34 also requires the sex offender to be informed about the
44 35 registry requirements prior to release or sentencing.



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45 1 The division provides that if an offender refuses to
45 2 register as a sex offender, the offender shall be held in
45 3 contempt pursuant to the provisions of Code chapter 665.
45 4 The division makes no changes to the assessment of a \$10
45 5 registration fee and \$200 civil penalty in Code section 692A.6
45 6 and designates the provision as new Code section 692A.110.
45 7 New Code section 692A.111 creates criminal penalties for
45 8 violating requirements under new Code section 692A.104
45 9 (registration process), 692A.105 (additional registration
45 10 requirements), 692A.108 (verification of relevant
45 11 information), 692A.112 (knowingly providing false
45 12 information), 692A.113 (minor at residence), or 692A.114
45 13 (exclusion zones). An offender commits an aggravated
45 14 misdemeanor for a first offense and a class "D" felony for a
45 15 second or subsequent offense. In addition, if an offender
45 16 violates any of the requirements and is convicted of a sex
45 17 offense against a minor, sexual exploitation, or a sexually
45 18 violent offense committed while in violation of any
45 19 requirement is guilty of a class "C" felony, in addition to
45 20 any other penalty provided by law.
45 21 New Code section 692A.112 prohibits an offender from
45 22 providing false information upon registration or during an
45 23 appearance at a sheriff's office to verify relevant
45 24 information. The penalty provisions for this Code section are
45 25 in new Code section 692A.111.
45 26 New Code section 692A.113 requires an offender to report
45 27 the name, gender, date of birth, and social security number of
45 28 a minor that is residing in the same residence as the
45 29 offender. The report shall be made in person to the sheriff
45 30 of the county where the residence is located. The division
45 31 does not apply to an offender who is the parent of the minor
45 32 or the offender is married to and living with a person who is
45 33 the parent of the minor. The penalty provisions for this
45 34 section are in new Code section 692A.111.
45 35 New Code section 692A.114 creates exclusion zones and



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46 1 prohibits certain employment activities for offenders who have
46 2 committed a sex offense against a minor. The penalty
46 3 provisions for this section are in new Code section 692A.111.

46 4 Under the division, an offender shall not be present upon
46 5 the real property of a public or nonpublic elementary or
46 6 secondary school without the written permission of the school
46 7 authority, unless the offender is enrolled at the school.

46 8 The division prohibits an offender from loitering within
46 9 300 feet of the real property boundary of a public or
46 10 nonpublic elementary or secondary school, unless enrolled in
46 11 the school.

46 12 The division prohibits an offender from being present on or
46 13 in any vehicle owned or leased by a public or nonpublic
46 14 elementary or secondary school without the written permission
46 15 of the school authority, unless the offender is a student at
46 16 the school or the vehicle is made available to the public as a
46 17 form of public transportation.

46 18 The division prohibits an offender to be present upon the
46 19 real property of a child care facility without the written
46 20 permission of the child care facility administrator.

46 21 The division prohibits an offender from loitering within
46 22 300 feet of the real property boundary of a child care
46 23 facility.

46 24 The division also prohibits an offender from loitering
46 25 within 300 feet of other locations intended primarily for use
46 26 by minors.

46 27 Under the division, an offender does not violate the
46 28 exclusion zones or loitering provisions of the division, by
46 29 the establishment of a residence within the exclusion zone but
46 30 may be prosecuted for loitering if the actions of the offender
46 31 constitute loitering.

46 32 The division permits an offender to enter into an exclusion
46 33 zone to transport a child or ward to or from a school, child
46 34 care facility, or other locations intended primarily for use
46 35 by minors, or to vote.



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47 1 The division prohibits an offender from working or
47 2 volunteering at a fair or carnival when a minor is present.
47 3 The division prohibits an offender from working or
47 4 volunteering at an arcade or other entertainment center
47 5 intended primarily for use by minors, when a minor is present.
47 6 The division prohibits an offender from working or
47 7 volunteering at a public or nonpublic elementary or secondary
47 8 school, child care facility, or recreational or sporting
47 9 league that involves participation by minors.
47 10 New Code section 692A.115 permits an offender to request
47 11 the department of public safety to determine whether the
47 12 offense for which the offender was convicted requires the
47 13 offender to register under the division or whether the time
47 14 period in which to register has expired.
47 15 New Code section 692A.116 requires the department of public
47 16 safety to make available registration forms and the electronic
47 17 registration system.
47 18 New Code section 692A.117 lists the duties of the
47 19 department of public safety relating to the sex offender
47 20 registry.
47 21 The division makes no changes to the sex offender registry
47 22 fund in Code section 692A.11 and designates the provision as
47 23 new Code section 692A.118.
47 24 New Code section 692A.119 requires the sheriff to provide
47 25 information and prepare notices when an offender enrolls in a
47 26 school as provided in Code section 282.9.
47 27 New Code section 692A.120 enlarges the number of eligible
47 28 agencies and organizations that receive relevant information
47 29 about sex offenders.
47 30 The division makes no changes to cooperation requirements
47 31 among agencies in Code section 692A.14 and designates the
47 32 provision as new Code section 692A.121.
47 33 The division makes no changes to the immunity provisions in
47 34 Code section 692A.15 and designates the provision as new Code
47 35 section 692A.122.



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48 1 New Code section 692A.123 requires an offender who commits
48 2 a sex offense against a minor, or an aggravated offense, or
48 3 sexually violent offense, to be supervised for a period of at
48 4 least five years by an electronic tracking and monitoring
48 5 system. Currently, an offender who commits a criminal offense
48 6 against a minor, or an aggravated offense, sexually violent
48 7 offense, or other relevant offense that involved a minor,
48 8 shall be supervised for a period of at least five years by an
48 9 electronic tracking and monitoring system.

48 10 New Code section 692A.124 specifies the applicability and
48 11 retroactivity of the new sex offender requirements enumerated
48 12 in the division. In addition to any offender convicted for a
48 13 sex offense on or after the effective date of the division of
48 14 the bill, the division specifies that any offender required to
48 15 register as of June 30, 2009, shall register under the new sex
48 16 offender registry provisions enumerated in the division.

48 17 For an offender who is currently not on the registry, the
48 18 division requires an offender to register under the new sex
48 19 offender registry provisions if the offender is incarcerated,
48 20 or on probation or parole, on or after the effective date of
48 21 the division of the bill, for conviction of any indictable
48 22 offense, if the person has a previous sex offense conviction
48 23 in the offender's lifetime.

48 24 For an offender who is currently not on the registry, the
48 25 division requires an offender to register under the new sex
48 26 offender registry provisions if the offender is convicted of
48 27 any indictable offense on or after the effective date of the
48 28 division of the bill, if the person has a previous sex offense
48 29 conviction in the offender's lifetime.

48 30 An offender adjudicated of a sex offense in juvenile court
48 31 requiring registration prior to the effective date of this
48 32 division of the bill shall be required to register under the
48 33 new sex offender provisions if all of the following apply:
48 34 the offender was at least 14 years of age at the time the
48 35 offense was committed; the adjudication was the result of the



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49 1 commission of a sex offense involving use of force, threat of
49 2 serious violence, or engaging in a sexual act with another by
49 3 rendering the victim unconscious or involuntarily drugging the
49 4 victim; and the offender is convicted of an indictable offense
49 5 on or after the effective date of the division of the bill.

49 6 For an offender who is not on the registry as of June 30,
49 7 2009, but who subsequently is required to be on the registry
49 8 on or after the effective date of the division of the bill as
49 9 the result of a conviction for an indictable offense that is
49 10 not a sex offense, the department of public safety shall
49 11 determine the duration of registration pursuant to new Code
49 12 section 692A.106 based upon the conviction date of the
49 13 previous sex offense.

49 14 An offender required to be on the sex offender registry as
49 15 of June 30, 2009, and who is subject to the new registration
49 16 provisions on or after the effective date of the division of
49 17 the bill, shall be credited for any time on the registry prior
49 18 to the effective date of the division of the bill.

49 19 DIVISION II. The division makes related Code changes due
49 20 to the changes made to Code chapter 692A in division I.

49 21 DIVISION III. The division makes changes to the criminal
49 22 offense of cohabitating with a sex offender in Code section
49 23 726.6. The division provides that a person commits child
49 24 endangerment if a person knowingly allows a person custody or
49 25 control of, or unsupervised access to a child or a minor after
49 26 knowing the person is a registered sex offender. Current law
49 27 prohibits a person from cohabitating with a known sex
49 28 offender.

49 29 LSB 1358DP 83

49 30 jm/rj/8



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House Study Bill 168

HOUSE FILE
BY (PROPOSED COMMITTEE ON
ENVIRONMENTAL PROTECTION
BILL BY CHAIRPERSON OLSON)

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

A BILL FOR

- 1 An Act providing for public comment regarding an application to
- 2 construct a confinement feeding operation structure.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4 TLSB 2168HC 83
- 5 da/nh/14



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House Study Bill 168 continued

PAG LIN

1 1 Section 1. Section 459.304, subsection 2, unnumbered
1 2 paragraph 1, Code 2009, is amended to read as follows:
1 3 Regardless of whether the county board of supervisors has
1 4 adopted a construction evaluation resolution, the county ~~may~~
1 5 shall provide comment to the department on a construction
1 6 permit application for a confinement feeding operation
1 7 structure.

1 8 Sec. 2. Section 459.304, subsection 2, paragraph b,
1 9 unnumbered paragraph 1, Code 2009, is amended to read as
1 10 follows:

1 11 The county board ~~may~~ of supervisors shall hold a public
1 12 hearing to receive public comments regarding the application.
1 13 The county board of supervisors may submit comments by the
1 14 board and shall submit comments presented at the public
1 15 hearing to the department as provided in this section,
1 16 including but not limited to all of the following:

1 17 EXPLANATION

1 18 This bill amends Code section 459.304 which allows a county
1 19 board of supervisors to review an application to construct a
1 20 confinement feeding operation structure (a confinement
1 21 building or manure storage structure) and comment upon it to
1 22 the department of natural resources before the department
1 23 determines whether to issue the applicant a construction
1 24 permit. As part of the review process, the board may hold a
1 25 public hearing concerning the application. The bill requires
1 26 the board to conduct the public hearing and submit comments
1 27 presented there to the department.

1 28 The types of comments presented at a public hearing may
1 29 include but are not limited to the existence of an object or
1 30 location that are in proximity to the construction site, the
1 31 suitability of soils and the hydrology of the construction
1 32 site, the availability of land for manure application, and
1 33 whether construction will impede drainage systems.

1 34 LSB 2168HC 83

1 35 da/nh/14



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Senate File 138 - Introduced

SENATE FILE
BY JOHNSON and HANCOCK

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

A BILL FOR

1 An Act requiring the use of child restraint systems or seat belts
2 by motor vehicle passengers under eighteen years of age and
3 making a penalty applicable.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 1992SS 83
6 dea/nh/14



Iowa General Assembly
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Senate File 138 - Introduced continued

PAG LIN

1 1 Section 1. Section 321.445, subsection 2, Code 2009, is
1 2 amended to read as follows:
1 3 2. a. The driver and front seat occupants of a type of
1 4 motor vehicle that is subject to registration in Iowa, except
1 5 a motorcycle or a motorized bicycle, shall each wear a
1 6 properly adjusted and fastened safety belt or safety harness
1 7 any time the vehicle is in forward motion on a street or
1 8 highway in this state except that a child under ~~eleven~~
1 9 eighteen years of age shall be secured as required under
1 10 section 321.446.
1 11 b. This subsection does not apply to:
1 12 ~~a.~~ (1) The driver or front seat occupants of a motor
1 13 vehicle which is not required to be equipped with safety belts
1 14 or safety harnesses.
1 15 ~~b.~~ (2) The driver and front seat occupants of a motor
1 16 vehicle who are actively engaged in work which requires them
1 17 to alight from and reenter the vehicle at frequent intervals,
1 18 providing the vehicle does not exceed twenty-five miles per
1 19 hour between stops.
1 20 ~~c.~~ (3) The driver of a motor vehicle while performing
1 21 duties as a rural letter carrier for the United States postal
1 22 service. This exemption applies only between the first
1 23 delivery point after leaving the post office and the last
1 24 delivery point before returning to the post office.
1 25 ~~d.~~ (4) Passengers on a bus.
1 26 ~~e.~~ (5) A person possessing a written certification from a
1 27 health care provider licensed under chapter 148 or 151 on a
1 28 form provided by the department that the person is unable to
1 29 wear a safety belt or safety harness due to physical or
1 30 medical reasons. The certification shall specify the time
1 31 period for which the exemption applies. The time period shall
1 32 not exceed twelve months, at which time a new certification
1 33 may be issued unless the certifying health care provider is
1 34 from a United States military facility, in which case the
1 35 certificate may specify a longer period of time or a permanent



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2 1 exemption.

2 2 ~~f.~~ (6) Front seat occupants of an authorized emergency
2 3 vehicle while they are being transported in an emergency.

2 4 However, this exemption does not apply to the driver of the
2 5 authorized emergency vehicle.

2 6 c. The department, in cooperation with the department of
2 7 public safety and the department of education, shall establish
2 8 educational programs to foster compliance with the safety belt
2 9 and safety harness usage requirements of this subsection.

2 10 Sec. 2. Section 321.446, subsections 2 and 3, Code 2009,
2 11 are amended to read as follows:

2 12 2. A child at least six years of age but under ~~eleven~~
2 13 eighteen years of age who is being transported in a motor
2 14 vehicle subject to registration, except a school bus or
2 15 motorcycle, shall be secured during transit by a child
2 16 restraint system that is used in accordance with the
2 17 manufacturer's instructions or by a safety belt or safety
2 18 harness of a type approved under section 321.445.

2 19 3. This section does not apply to ~~peace~~ the following:

2 20 a. Peace officers acting on official duty. ~~This section~~
~~2 21 also does not apply to the~~

2 22 b. The transportation of children in 1965 model year or
2 23 older vehicles, authorized emergency vehicles, buses, or motor
2 24 homes, except when a child is transported in a motor home's
2 25 passenger seat situated directly to the driver's right. ~~This~~
~~2 26 section does not apply to the~~

2 27 c. The transportation of a child who has been certified by
2 28 a physician licensed under chapter 148 as having a medical,
2 29 physical, or mental condition that prevents or makes
2 30 inadvisable securing the child in a child restraint system,
2 31 safety belt, or safety harness.

2 32 d. A back seat occupant of a motor vehicle for whom no
2 33 safety belt is available because all safety belts are being
2 34 used by other occupants or cannot be used due to the use of a
2 35 child restraint system in the seating position for which a



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Senate File 138 - Introduced continued

3 1 belt is provided.

3 2 EXPLANATION

3 3 This bill requires that all persons under 18 years of age
3 4 who are being transported in a motor vehicle, other than a
3 5 school bus or motorcycle, be secured by an approved child
3 6 restraint system or a seat belt regardless of seating
3 7 position.

3 8 The bill provides an exemption from child restraint
3 9 requirements in situations where a child occupying a back seat
3 10 is not restrained because all safety belts in the vehicle are
3 11 in use or cannot be used because a child restraint system is
3 12 occupying the seating position for which a belt is provided.

3 13 Pursuant to existing law, a motor vehicle operator who
3 14 violates child restraint requirements commits a simple
3 15 misdemeanor subject to a scheduled fine of \$25. However, such
3 16 offenses are not considered for purposes of determining a
3 17 habitual offender of motor vehicle laws.

3 18 LSB 1992SS 83

3 19 dea/nh/14



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Senate File 139 - Introduced

SENATE FILE
BY BARTZ

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

A BILL FOR

- 1 An Act providing for a residual biomass tax credit, and including
- 2 effective and applicability dates.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4 TLSB 2009XS 83
- 5 da/rj/5



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Senate File 139 - Introduced continued

PAG LIN

1 1 Section 1. NEW SECTION. 422.11X RESIDUAL BIOMASS TAX
 1 2 CREDIT.
 1 3 1. The taxes imposed under this division, less the credits
 1 4 allowed under section 422.12, shall be reduced by a residual
 1 5 biomass tax credit as allowed under section 469.41.
 1 6 2. This section is repealed December 31, 2016.
 1 7 Sec. 2. Section 422.33, Code 2009, is amended by adding
 1 8 the following new subsection:
 1 9 NEW SUBSECTION. 11D. a. The taxes imposed under this
 1 10 division shall be reduced by a residual biomass tax credit as
 1 11 allowed under section 469.41.
 1 12 b. This subsection is repealed December 31, 2016.
 1 13 Sec. 3. Section 469.31, Code 2009, is amended by adding
 1 14 the following new subsections:
 1 15 NEW SUBSECTION. 4A. "Biofuel" means a combustible liquid
 1 16 or gas derived from a biomass that alone or in combination
 1 17 with other compounds is capable of fueling an engine or being
 1 18 burned to produce steam for industrial heating. "Biofuel"
 1 19 includes but is not limited to ethanol or biodiesel as defined
 1 20 in section 214A.1.
 1 21 NEW SUBSECTION. 4B. "Biofuel manufacturer" means a
 1 22 biobased materials industry organized as a business
 1 23 association in this state that produces biofuel.
 1 24 NEW SUBSECTION. 11. "Residual cellulosic biomass" means
 1 25 that type of cellulosic biomass that does not have nutritional
 1 26 or caloric value when fed to agricultural animals, including
 1 27 but not limited to wheat and rice straw, corn stalks and cobs,
 1 28 seed husks and hulls, and manure.
 1 29 Sec. 4. Section 469.31, subsection 7, Code 2009, is
 1 30 amended to read as follows:
 1 31 7. "Cellulosic ~~biomass renewable fuel~~ biomass" means
 1 32 ~~renewable fuel derived from a lignocellulosic or~~
 1 33 ~~hemicellulosic lignocellulosic matter that contains any~~
 1 34 combination of lignin, cellulose, or hemicellulose that
 1 35 comprises at least sixty-five percent of the material and dry



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2 1 matter basis. "Cellulosic biomass" includes matter ~~that is~~
2 2 deriving from nonfood or animal feed sources and available on
2 3 a renewable or recurring basis, including dedicated energy
2 4 crops and trees, wood and wood residues, plants, grasses,
2 5 agricultural residues, fiber, animal wastes and other waste
2 6 materials, refuse-derived fuel, and municipal solid waste.
2 7 7A. "Cellulosic biomass renewable fuel" means a renewable
2 8 fuel derived from cellulosic biomass.

2 9 Sec. 5. NEW SECTION. 469.41 RESIDUAL BIOMASS TAX CREDIT.

2 10 A residual biomass tax credit is allowed under this
2 11 section. The tax credit is allowed against the taxes imposed
2 12 in chapter 422, division II, as provided in section 422.11X,
2 13 and in chapter 422, division III, as provided in section
2 14 422.33.

2 15 1. The purpose of the tax credit is to stimulate the
2 16 increased use of residual cellulosic biomass as an input in
2 17 the manufacture of a biofuel or other forms of renewable
2 18 energy.

2 19 2. The tax credit equals ten dollars for each usable ton
2 20 of residual cellulosic biomass as measured on a dry matter
2 21 basis harvested, stored, and delivered to a biofuel
2 22 manufacturer. An assay will be performed by the purchaser of
2 23 biomass to determine the usable content and unusable portions
2 24 shall be discounted proportionately. A taxpayer shall not
2 25 claim a tax credit in excess of thirty-five thousand dollars
2 26 in any tax year.

2 27 3. A taxpayer's tax return shall include all of the
2 28 following:

2 29 a. A tax credit certificate issued by the office attached
2 30 to the taxpayer's tax return for the tax year for which the
2 31 tax credit is claimed.

2 32 (1) The office must review and approve an application for
2 33 a tax credit as provided by rules adopted by the office. The
2 34 office may approve the application and issue a certificate
2 35 only if it determines that the taxpayer and the biofuel



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3 1 manufacturer are qualified for the tax credit.
3 2 (2) A tax credit certificate shall contain the taxpayer's
3 3 name, address, and tax identification number, and any other
3 4 information required by the office. The tax credit
3 5 certificate shall only list one type of tax to which the tax
3 6 credit may be applied. The tax credit may only be claimed
3 7 against the type of tax reflected on the certificate.
3 8 b. Receipts or assay reports provided by the biofuel
3 9 manufacturer attached to the taxpayer's tax return as required
3 10 by the office.
3 11 4. An individual may claim the tax credit allowed a
3 12 partnership, limited liability company, S corporation, estate,
3 13 or trust electing to have income taxed directly to the
3 14 individual. The amount claimed by the individual shall be
3 15 based upon the pro rata share of the individual's earnings
3 16 from the partnership, limited liability company, S
3 17 corporation, estate, or trust.
3 18 5. A tax credit in excess of the taxpayer's liability for
3 19 the tax year may be credited to the tax liability for the
3 20 following five years or until depleted, whichever is earlier.
3 21 A tax credit shall not be carried back to a tax year prior to
3 22 the tax year in which the taxpayer redeems the tax credit. A
3 23 tax credit shall not be transferable to any other person other
3 24 than the taxpayer's estate or trust upon the taxpayer's death.
3 25 6. This section is repealed December 31, 2016.
3 26 Sec. 6. EFFECTIVE AND APPLICABILITY DATE. This Act takes
3 27 effect January 1, 2011, and applies to tax years beginning on
3 28 or after that date.

3 29 EXPLANATION

3 30 This bill provides a residual biomass tax credit allowed
3 31 against income taxes for individuals under Code chapter 422,
3 32 division II, and businesses under Code chapter 422, division
3 33 III. The purpose of the tax credit is to stimulate the
3 34 increased use of residual cellulosic biomass as an input in
3 35 the manufacture of a biofuel (a combustible liquid or gas



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4 1 derived from a biomass that alone or in combination with other
4 2 compounds is capable of fueling an engine or the production of
4 3 steam for industrial heating).

4 4 The amount of the tax credit is \$10 for each usable ton of
4 5 residual cellulosic biomass containing less than 65 percent
4 6 lignin, cellulose, or hemicellulose that is to be purchased by
4 7 a biofuel manufacturer. The tax credit cannot exceed \$35,000
4 8 per tax year.

4 9 The bill imposes certain conditions upon a taxpayer who
4 10 must provide or arrange for the harvesting, storage, and
4 11 delivery to a biofuel manufacturer of residual cellulosic
4 12 biomass.

4 13 The bill provides that the taxpayer's tax return must
4 14 include documentation including a tax credit certificate
4 15 issued by the office of energy independence. The office must
4 16 review and approve an application for a tax credit certificate
4 17 according to its rules, and the taxpayer may be required to
4 18 submit additional information with its tax return. The bill
4 19 provides for how persons may claim a tax credit who are equity
4 20 holders in a business. The bill also provides for the
4 21 issuance of a tax credit certificate, and for tax credit to be
4 22 carried forward.

4 23 This tax credit is eliminated on December 31, 2016.

4 24 The bill takes effect January 1, 2011, and applies to tax
4 25 years beginning on or after that date.

4 26 LSB 2009XS 83

4 27 da/rj/5



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Senate File 140 - Introduced

SENATE FILE
BY BARTZ

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

A BILL FOR

- 1 An Act providing a sales tax exemption from the sale or
- 2 furnishing of metered water service and providing an effective
- 3 date.
- 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 5 TLSB 1782XS 83
- 6 ak/mg:sc/8



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Senate File 140 - Introduced continued

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1 1 Section 1. Section 15.331A, subsections 1 and 2, Code
1 2 2009, are amended to read as follows:
1 3 1. The eligible business shall be entitled to a refund of
1 4 the sales and use taxes paid under chapter 423 for gas,
1 5 electricity, ~~water~~, or sewer utility services, goods, wares,
1 6 or merchandise, or on services rendered, furnished, or
1 7 performed to or for a contractor or subcontractor and used in
1 8 the fulfillment of a written contract relating to the
1 9 construction or equipping of a facility of the eligible
1 10 business. Taxes attributable to intangible property and
1 11 furniture and furnishings shall not be refunded. However, an
1 12 eligible business shall be entitled to a refund for taxes
1 13 attributable to racks, shelving, and conveyor equipment to be
1 14 used in a warehouse or distribution center subject to section
1 15 15.331C.
1 16 2. To receive the refund, a claim shall be filed by the
1 17 eligible business with the department of revenue as follows:
1 18 a. The contractor or subcontractor shall state under oath,
1 19 on forms provided by the department, the amount of the sales
1 20 of goods, wares, or merchandise or services rendered,
1 21 furnished, or performed including ~~water~~, sewer, gas, and
1 22 electric utility services upon which sales or use tax has been
1 23 paid prior to the project completion, and shall file the forms
1 24 with the eligible business before final settlement is made.
1 25 b. The eligible business shall, not more than one year
1 26 after project completion, make application to the department
1 27 for any refund of the amount of the sales and use taxes paid
1 28 pursuant to chapter 423 upon any goods, wares, or merchandise,
1 29 or services rendered, furnished, or performed, including
1 30 ~~water~~, sewer, gas, and electric utility services. The
1 31 application shall be made in the manner and upon forms to be
1 32 provided by the department, and the department shall audit the
1 33 claim and, if approved, issue a warrant to the eligible
1 34 business in the amount of the sales or use tax which has been
1 35 paid to the state of Iowa under a contract. A claim filed by



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2 1 the eligible business in accordance with this section shall
2 2 not be denied by reason of a limitation provision set forth in
2 3 chapter 421 or 423.

2 4 Sec. 2. Section 15.331C, Code 2009, is amended to read as
2 5 follows:

2 6 15.331C CORPORATE TAX CREDIT FOR CERTAIN SALES TAXES PAID
2 7 BY THIRD=PARTY DEVELOPER.

2 8 1. An eligible business may claim a corporate tax credit
2 9 in an amount equal to the sales and use taxes paid by a
2 10 third=party developer under chapter 423 for gas, electricity,
2 11 ~~water~~, or sewer utility services, goods, wares, or
2 12 merchandise, or on services rendered, furnished, or performed
2 13 to or for a contractor or subcontractor and used in the
2 14 fulfillment of a written contract relating to the construction
2 15 or equipping of a facility of the eligible business. Taxes
2 16 attributable to intangible property and furniture and
2 17 furnishings shall not be included, but taxes attributable to
2 18 racks, shelving, and conveyor equipment to be used in a
2 19 warehouse or distribution center shall be included. Any
2 20 credit in excess of the tax liability for the tax year may be
2 21 credited to the tax liability for the following seven years or
2 22 until depleted, whichever occurs earlier. An eligible
2 23 business may elect to receive a refund of all or a portion of
2 24 an unused tax credit.

2 25 2. A third=party developer shall state under oath, on
2 26 forms provided by the department of economic development, the
2 27 amount of taxes paid as described in subsection 1 and shall
2 28 submit such forms to the department. The taxes paid shall be
2 29 itemized to allow identification of the taxes attributable to
2 30 racks, shelving, and conveyor equipment to be used in a
2 31 warehouse or distribution center. After receiving the form
2 32 from the third=party developer, the department shall issue a
2 33 tax credit certificate to the eligible business equal to the
2 34 sales and use taxes paid by a third=party developer under
2 35 chapter 423 for gas, electricity, ~~water~~, or sewer utility



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3 1 services, goods, wares, or merchandise, or on services
3 2 rendered, furnished, or performed to or for a contractor or
3 3 subcontractor and used in the fulfillment of a written
3 4 contract relating to the construction or equipping of a
3 5 facility. The department shall also issue a tax credit
3 6 certificate to the eligible business equal to the taxes paid
3 7 and attributable to racks, shelving, and conveyor equipment to
3 8 be used in a warehouse or distribution center. The aggregate
3 9 combined total amount of tax refunds under section 15.331A for
3 10 taxes attributable to racks, shelving, and conveyor equipment
3 11 to be used in a warehouse or distribution center and of tax
3 12 credit certificates issued by the department for the taxes
3 13 paid and attributable to racks, shelving, and conveyor
3 14 equipment to be used in a warehouse or distribution center
3 15 shall not exceed five hundred thousand dollars in a fiscal
3 16 year. If an applicant for a tax credit certificate does not
3 17 receive a certificate for the taxes paid and attributable to
3 18 racks, shelving, and conveyor equipment to be used in a
3 19 warehouse or distribution center, the application shall be
3 20 considered in succeeding fiscal years. The eligible business
3 21 shall not claim a tax credit under this section unless a tax
3 22 credit certificate issued by the department of economic
3 23 development is attached to the taxpayer's tax return for the
3 24 tax year for which the tax credit is claimed. A tax credit
3 25 certificate shall contain the eligible business's name,
3 26 address, tax identification number, the amount of the tax
3 27 credit, and other information required by the department of
3 28 revenue.

3 29 Sec. 3. Section 15A.9, subsections 6 and 7, Code 2009, are
3 30 amended to read as follows:

3 31 6. SALES, SERVICES, AND USE TAX REFUND. Taxes paid
3 32 pursuant to chapter 423 on the sales price or rental price of
3 33 property purchased or rented by the primary business or a
3 34 supporting business for use by the primary business or a
3 35 supporting business within the zone or on gas, electricity,



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4 1 ~~water~~, and sewer utility services prior to project completion
4 2 shall be refunded to the primary business or supporting
4 3 business if the item was purchased or the service was
4 4 performed or received prior to project completion. Claims
4 5 under this section shall be submitted on forms provided by the
4 6 department of revenue not later than six months after project
4 7 completion. The refund in this subsection shall not apply to
4 8 furniture or furnishings, or intangible property.

4 9 7. SALES, SERVICES, AND USE TAX REFUND == CONTRACTOR OR
4 10 SUBCONTRACTOR.

4 11 a. The primary business or a supporting business shall be
4 12 entitled to a refund of the sales and use taxes paid under
4 13 chapter 423 for gas, electricity, ~~water~~, or sewer utility
4 14 services, goods, wares, or merchandise, or on services
4 15 rendered, furnished, or performed to or for a contractor or
4 16 subcontractor and used in the fulfillment of a written
4 17 contract relating to the construction or equipping of a
4 18 facility within the zone of the primary business or a
4 19 supporting business. Taxes attributable to intangible
4 20 property and furniture and furnishings shall not be refunded.

4 21 b. To receive the refund, a claim shall be filed by the
4 22 primary business or a supporting business with the department
4 23 of revenue as follows:

4 24 (1) The contractor or subcontractor shall state under
4 25 oath, on forms provided by the department, the amount of the
4 26 sales of goods, wares, or merchandise or services rendered,
4 27 furnished, or performed including ~~water~~, sewer, gas, and
4 28 electric utility services for use in the zone upon which sales
4 29 or use tax has been paid prior to the project completion, and
4 30 shall file the forms with the primary business or supporting
4 31 business before final settlement is made.

4 32 (2) The primary business or a supporting business shall,
4 33 not more than six months after project completion, make
4 34 application to the department for any refund of the amount of
4 35 the sales and use taxes paid pursuant to chapter 423 upon any



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5 1 goods, wares, or merchandise, or services rendered, furnished,
5 2 or performed, including ~~water~~, sewer, gas, and electric
5 3 utility services. The application shall be made in the manner
5 4 and upon forms to be provided by the department, and the
5 5 department shall audit the claim and, if approved, issue a
5 6 warrant to the primary business or supporting business in the
5 7 amount of the sales or use tax which has been paid to the
5 8 state of Iowa under a contract. A claim filed by the primary
5 9 business or a supporting business in accordance with this
5 10 subsection shall not be denied by reason of a limitation
5 11 provision set forth in chapter 421, 422, or 423.

5 12 c. A contractor or subcontractor who willfully makes a
5 13 false report of tax paid under the provisions of this
5 14 subsection is guilty of a simple misdemeanor and in addition
5 15 is liable for the payment of the tax and any applicable
5 16 penalty and interest.

5 17 Sec. 4. Section 423.2, subsection 2, Code 2009, is amended
5 18 to read as follows:

5 19 2. A tax of six percent is imposed upon the sales price of
5 20 the sale or furnishing of gas, electricity, ~~water~~, heat, pay
5 21 television service, and communication service, including the
5 22 sales price from such sales by any municipal corporation or
5 23 joint water utility furnishing gas, electricity, ~~water~~, heat,
5 24 pay television service, and communication service to the
5 25 public in its proprietary capacity, except as otherwise
5 26 provided in this subchapter, when sold at retail in the state
5 27 to consumers or users.

5 28 Sec. 5. Section 423.3, subsection 32, paragraph a, Code
5 29 2009, is amended to read as follows:

5 30 a. The tax specifically imposed under section 423.2 on the
5 31 sales price from sales or furnishing of gas, electricity,
5 32 ~~water~~, heat, pay television service, or communication service
5 33 to the public by a municipal corporation in its proprietary
5 34 capacity.

5 35 Sec. 6. Section 423.3, Code 2009, is amended by adding the



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6 1 following new subsection:

6 2 NEW SUBSECTION. 32A. The sales price from sales or
6 3 furnishing of metered water service to the public.

6 4 Sec. 7. Section 423.36, subsection 8, paragraph b,
6 5 subparagraph (1), Code 2009, is amended to read as follows:

6 6 (1) Taxes imposed on the sales, furnishing, or service of
6 7 gas, electricity, ~~water~~, heat, pay television service, and
6 8 communication service.

6 9 Sec. 8. Section 423.40, subsection 2, Code 2009, is
6 10 amended to read as follows:

6 11 2. a. Any person who knowingly sells tangible personal
6 12 property, tickets or admissions to places of amusement and
6 13 athletic events, or gas, ~~water~~, electricity, or communication
6 14 service at retail, or engages in the furnishing of services
6 15 enumerated in section 423.2, in this state without procuring a
6 16 permit to collect tax, as provided in section 423.36, or who
6 17 violates section 423.24 and the officers of any corporation
6 18 who so act are guilty of a serious misdemeanor.

6 19 b. A person who knowingly sells tangible personal
6 20 property, tickets or admissions to places of amusement and
6 21 athletic events, or gas, ~~water~~, electricity, or communication
6 22 service at retail, or engages in the furnishing of services
6 23 enumerated in section 423.2, in this state after the person's
6 24 sales tax permit has been revoked and before it has been
6 25 restored as provided in section 423.36, subsection 5, and the
6 26 officers of any corporation who so act are guilty of an
6 27 aggravated misdemeanor.

6 28 Sec. 9. EFFECTIVE DATE. This Act takes effect January 1,
6 29 2010. Entities described in sections 15.331A, 15.331C, and
6 30 15A.9, subsection 7, that qualify for a sales tax refund due
6 31 to the sale or furnishing of water prior to January 1, 2010,
6 32 shall be entitled to recover the full refund due.

6 33 EXPLANATION

6 34 This bill provides a sales tax exemption for the sale or
6 35 furnishing of metered water service to the public. The



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7 1 exemption discontinues refunds for sales tax paid for water
7 2 for corporations and businesses under Code chapters 15 and 15A
7 3 but allows the entities to recover the full sales tax refund
7 4 due after the bill becomes effective if sales tax was paid
7 5 prior to the bill's effective date. The bill eliminates the
7 6 need for a permit to collect tax for selling water and the
7 7 penalty for not having the permit. The bill takes effect
7 8 January 1, 2010.
7 9 LSB 1782XS 83
7 10 ak/mg:sc/8



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Senate File 141 - Introduced

SENATE FILE
BY WARNSTADT

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

Passed House, Date _____
Vote: Ayes _____ Nays _____

A BILL FOR

1 An Act providing for the suspension or revocation of an alcoholic
2 beverage license or permit for failure to pay sales taxes and
3 making penalties applicable.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 1204XS 83
6 ec/rj/14



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1 1 Section 1. Section 123.39, subsection 1, paragraph b, Code
1 2 2009, is amended by adding the following new subparagraph:
1 3 NEW SUBPARAGRAPH. (7) The failure or refusal on the part
1 4 of any licensee or permittee to remit any sales or use taxes
1 5 for a continuous period of at least one year.

1 6 EXPLANATION

1 7 This bill provides that the administrator of the alcoholic
1 8 beverages division or the applicable local authority may
1 9 suspend or revoke an alcoholic beverage license or permit, or
1 10 a civil penalty may be imposed, if the licensee or permittee
1 11 fails or refuses to remit any sales or use taxes for a
1 12 continuous period of at least one year.

1 13 LSB 1204XS 83

1 14 ec/rj/14



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Senate File 142 - Introduced

SENATE FILE
BY COMMITTEE ON ECONOMIC
GROWTH

(SUCCESSOR TO SSB 1125)

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

Passed House, Date _____
Vote: Ayes _____ Nays _____

A BILL FOR

1 An Act relating to economic development by providing for an
2 innovation and commercialization development fund, making the
3 department of revenue responsible for approving certain tax
4 credits for third-party developers, making appropriations, and
5 providing an effective date.

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

7 TLSB 1231SV 83

8 tw/mg:sc/5



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Senate File 142 - Introduced continued

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1 1 DIVISION I
1 2 INNOVATION AND COMMERCIALIZATION DEVELOPMENT FUND
1 3 Section 1. Section 15.411, subsections 1 and 9, Code 2009,
1 4 are amended to read as follows:
1 5 1. As used in this ~~section~~ part, unless the context
1 6 otherwise requires:
1 7 a. "Internship" means temporary employment of a student
1 8 that focuses on providing the student with work experience in
1 9 the student's field of study.
1 10 b. "Targeted industries" means the industries of advanced
1 11 manufacturing, biosciences, and information technology.
1 12 9. In each fiscal year, the department may ~~expend~~ transfer
1 13 additional moneys that become available to the department from
1 14 sources such as loan repayments or recaptures of awards from
1 15 federal economic stimulus funds to the innovation and
1 16 commercialization development fund created in section 15.412
1 17 provided the department spends those moneys for the
1 18 implementation of the recommendations included in the separate
1 19 consultant reports on bioscience, advanced manufacturing,
1 20 information technology, and entrepreneurship submitted to the
1 21 department in calendar years 2004, 2005, and 2006.
1 22 Sec. 2. NEW SECTION. 15.412 INNOVATION AND
1 23 COMMERCIALIZATION DEVELOPMENT FUND.
1 24 1. a. An innovation and commercialization development
1 25 fund is created in the state treasury under the control of the
1 26 department. The fund shall consist of moneys appropriated to
1 27 the department and any other moneys available to, obtained, or
1 28 accepted by the department for placement in the fund.
1 29 b. Payments of interest, repayments of moneys loaned
1 30 pursuant to this section, and recaptures of financial
1 31 assistance shall be credited to the fund. Moneys in the fund
1 32 are not subject to section 8.33. Notwithstanding section
1 33 12C.7, interest or earnings on moneys in the fund shall be
1 34 credited to the fund.
1 35 2. Moneys in the fund are appropriated to the department



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2 1 and, with the approval of the board, shall be used to
2 2 facilitate agreements, enhance commercialization in the
2 3 targeted industries, and increase the availability of skilled
2 4 workers within the targeted industries.
2 5 3. Moneys in the fund, with the approval of the board, may
2 6 also be used for the following purposes:
2 7 a. For assistance to entities providing student internship
2 8 opportunities.
2 9 b. For increasing career awareness training.
2 10 c. For recruiting management talent.
2 11 d. For assistance to entities engaged in prototype and
2 12 concept development activities.
2 13 e. For developing a statewide commercialization network.
2 14 f. For deploying and maintaining an Iowa entrepreneur
2 15 website.
2 16 g. For funding asset mapping and supply chain initiatives,
2 17 including for identifying methods of supporting lean
2 18 manufacturing practices or processes.
2 19 h. For information technology training.
2 20 i. For networking events to facilitate the transfer of
2 21 technology among researchers and industries.
2 22 j. For funding student competition programs.
2 23 k. For the purchase of advanced equipment and software at
2 24 Iowa community colleges in order to support training and
2 25 coursework related to the targeted industries.
2 26 Sec. 3. Section 15G.111, subsection 8, Code 2009, is
2 27 amended to read as follows:
2 28 8. a. For the fiscal period beginning July 1, 2007, and
2 29 ending June 30, ~~2015~~ 2009, there is appropriated for each
2 30 fiscal year from the grow Iowa values fund created in section
2 31 15G.108 to the department of economic development three
2 32 million dollars for the purpose of providing the
2 33 commercialization services described in section 15.411,
2 34 subsections 2 and 3.
2 35 b. For the fiscal period beginning July 1, 2009, and



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3 1 ending June 30, 2015, there is appropriated each fiscal year
3 2 from the grow Iowa values fund created in section 15G.108 to
3 3 the department of economic development three million dollars
3 4 for transfer to the innovation and commercialization
3 5 development fund created in section 15.412.

3 6

DIVISION II

3 7

TAX CREDITS FOR THIRD-PARTY DEVELOPERS

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Sec. 4. Section 15.331C, subsection 2, Code 2009, is amended to read as follows:
2. A third-party developer shall state under oath, on forms provided by the department of ~~economic development~~ revenue, the amount of taxes paid as described in subsection 1 and shall submit such forms to the department of revenue. The taxes paid shall be itemized to allow identification of the taxes attributable to racks, shelving, and conveyor equipment to be used in a warehouse or distribution center. After receiving the form from the third-party developer, the department of revenue shall issue a tax credit certificate to the eligible business equal to the sales and use taxes paid by a third-party developer under chapter 423 for gas, electricity, water, or sewer utility services, goods, wares, or merchandise, or on services rendered, furnished, or performed to or for a contractor or subcontractor and used in the fulfillment of a written contract relating to the construction or equipping of a facility. The department of revenue shall also issue a tax credit certificate to the eligible business equal to the taxes paid and attributable to racks, shelving, and conveyor equipment to be used in a warehouse or distribution center. The aggregate combined total amount of tax refunds under section 15.331A for taxes attributable to racks, shelving, and conveyor equipment to be used in a warehouse or distribution center and of tax credit certificates issued by the department of revenue for the taxes paid and attributable to racks, shelving, and conveyor equipment to be used in a warehouse or distribution center



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4 1 shall not exceed five hundred thousand dollars in a fiscal
4 2 year. If an applicant for a tax credit certificate does not
4 3 receive a certificate for the taxes paid and attributable to
4 4 racks, shelving, and conveyor equipment to be used in a
4 5 warehouse or distribution center, the application shall be
4 6 considered in succeeding fiscal years. The eligible business
4 7 shall not claim a tax credit under this section unless a tax
4 8 credit certificate issued by the department of ~~economic~~
~~4 9 development~~ revenue is attached to the taxpayer's tax return
4 10 for the tax year for which the tax credit is claimed. A tax
4 11 credit certificate shall contain the eligible business's name,
4 12 address, tax identification number, the amount of the tax
4 13 credit, and other information ~~required~~ deemed necessary by the
4 14 department of revenue.

4 15 DIVISION III
4 16 APPROPRIATIONS

4 17 Sec. 5. 2008 Iowa Acts, chapter 1190, section 4,
4 18 subsection 1, is amended by adding the following new
4 19 paragraph:

4 20 NEW PARAGRAPH. c. Notwithstanding section 8.33, moneys
4 21 appropriated in this subsection that remain unencumbered or
4 22 unobligated at the close of the fiscal year shall not revert
4 23 but shall remain available for expenditure for the purposes
4 24 designated until the close of the succeeding fiscal year.

4 25 Sec. 6. 2008 Iowa Acts, chapter 1190, section 26, is
4 26 amended to read as follows:

4 27 SEC. 26. 2007 Iowa Acts, chapter 207, section 13,
4 28 subsection 3, is amended to read as follows:

4 29 3. Notwithstanding section 8.33, moneys appropriated in
4 30 this section that remain unencumbered or unobligated at the
4 31 close of the fiscal year shall not revert but shall remain
4 32 available for expenditure for the purposes designated ~~until~~
~~4 33 the close of the fiscal year beginning July 1, 2008 for~~
4 34 succeeding fiscal years until expended.

4 35 Sec. 7. 2008 Iowa Acts, chapter 1190, section 27, is



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5 1 amended to read as follows:

5 2 SEC. 27. 2007 Iowa Acts, chapter 207, section 14,
5 3 unnumbered paragraph 3, is amended to read as follows:

5 4 Notwithstanding section 8.33, moneys appropriated in this
5 5 section that remain unencumbered or unobligated at the close
5 6 of the fiscal year shall not revert but shall remain available
5 7 for expenditure for the purposes designated ~~until the close of~~
~~5 8 the fiscal year beginning July 1, 2008~~ for succeeding fiscal
5 9 years until expended.

5 10 Sec. 8. 2008 Iowa Acts, chapter 1190, section 28, is
5 11 amended to read as follows:

5 12 SEC. 28. 2007 Iowa Acts, chapter 207, section 15,
5 13 subsection 4, is amended to read as follows:

5 14 4. Notwithstanding section 8.33, moneys appropriated in
5 15 this section that remain unencumbered or unobligated at the
5 16 close of the fiscal year shall not revert but shall remain
5 17 available for expenditure for the purposes designated ~~until~~
~~5 18 the close of the fiscal year beginning July 1, 2008~~ for
5 19 succeeding fiscal years until expended.

5 20 Sec. 9. 2008 Iowa Acts, chapter 1190, section 29, is
5 21 amended to read as follows:

5 22 SEC. 29. 2007 Iowa Acts, chapter 207, section 16,
5 23 unnumbered paragraph 4, is amended to read as follows:

5 24 Notwithstanding section 8.33, moneys appropriated in this
5 25 section that remain unencumbered or unobligated at the close
5 26 of the fiscal year shall not revert but shall remain available
5 27 for expenditure for the purposes designated ~~until the close of~~
~~5 28 the fiscal year beginning July 1, 2008~~ for succeeding fiscal
5 29 years until expended.

5 30 Sec. 10. EFFECTIVE DATE. This division of this Act
5 31 amending 2008 Iowa Acts, chapter 1190, being deemed of
5 32 immediate importance, takes effect upon enactment.

5 33 DIVISION IV
5 34 STRATEGIC PLAN

5 35 Sec. 11. Section 15.104, subsection 2, Code 2009, is



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6 1 amended by striking the subsection.

6 2 Sec. 12. Section 15.106, subsection 8, Code 2009, is

6 3 amended by striking the subsection.

6 4 Sec. 13. Section 15.318, subsection 11, unnumbered

6 5 paragraph 1, Code 2009, is amended to read as follows:

6 6 The impact to the state of the proposed project. In

6 7 measuring the economic impact, the department shall award more

6 8 points for projects which ~~have greater consistency with the~~

~~6 9 state strategic plan* than other projects. Greater~~

~~6 10 consistency may include any or all of can demonstrate the~~

~~6 11 existence of one or more of the following conditions:~~

6 12 Sec. 14. Section 15.329, subsection 5, paragraph c,

6 13 unnumbered paragraph 1, Code 2009, is amended to read as

6 14 follows:

6 15 The impact to the state of the proposed project. In

6 16 measuring the economic impact, the department shall place

6 17 greater emphasis on projects which ~~have greater consistency~~

~~6 18 with the state strategic plan* than other projects. Greater~~

~~6 19 consistency may include any or all of can demonstrate the~~

~~6 20 existence of one or more of the following conditions:~~

6 21 Sec. 15. Section 28H.2, subsection 2, Code 2009, is

6 22 amended by striking the subsection.

6 23 Sec. 16. Section 315.11, subsection 2, paragraph a, Code

6 24 2009, is amended by striking the paragraph.

6 25 EXPLANATION

6 26 This bill makes changes relating to economic development.

6 27 Division I of the bill creates an innovation and

6 28 commercialization development fund in the state treasury under

6 29 the control of the department of economic development,

6 30 consisting of moneys appropriated to the department and of any

6 31 other moneys the department is authorized to place in the

6 32 fund. The department is authorized to use the moneys in the

6 33 fund for purposes of facilitating agreements and enhancing

6 34 commercialization in the targeted industries, for increasing

6 35 the availability of skilled workers within those targeted



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7 1 industries, and other purposes specified in the bill. The
7 2 targeted industries are advanced manufacturing, biosciences,
7 3 and information technology.

7 4 Currently, the department is appropriated \$3 million from
7 5 the grow Iowa values fund for purposes of providing
7 6 commercialization services. The bill authorizes the
7 7 department to transfer that \$3 million to the innovation and
7 8 commercialization development fund.

7 9 Division II of the bill makes the department of revenue
7 10 responsible for issuing certain corporate tax credits for
7 11 sales and use taxes paid by third-party developers.
7 12 Currently, these tax credits are issued by the department of
7 13 economic development.

7 14 Division III of the bill provides for the nonreversion to
7 15 the general fund of certain moneys appropriated to the
7 16 department of economic development for purposes of general
7 17 administration and administration of the targeted small
7 18 business program for the fiscal year beginning July 1, 2008.
7 19 The moneys appropriated for general purposes are currently
7 20 being used by the department to fund the jumpstart disaster
7 21 assistance program, and providing for the nonreversion of the
7 22 moneys allows the department to continue funding the jumpstart
7 23 disaster assistance program during the fiscal year beginning
7 24 July 1, 2009. This nonreversion provision takes effect upon
7 25 enactment.

7 26 Division IV of the bill makes changes in conformance with
7 27 2008 Iowa Acts, chapter 1122, which struck a requirement that
7 28 the department prepare a three-year comprehensive, or state,
7 29 strategic plan. The bill strikes and amends a number of Code
7 30 provisions referencing the stricken plan.

7 31 LSB 1231SV 83

7 32 tw/mg:sc/5



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SENATE FILE
BY BLACK

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

Passed House, Date _____
Vote: Ayes _____ Nays _____

A BILL FOR

1 An Act requiring the department of public safety to conduct a
2 study relating to the sale, possession, and use of novelty
3 lighters.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 1084XS 83
6 rn/nh/5



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1 1 Section 1. NOVELTY LIGHTER SALES == IMPACT ASSESSMENT.
1 2 1. The department of public safety shall conduct a study
1 3 relating to novelty lighters. The study shall include
1 4 determination of a definition for the term novelty lighter, as
1 5 distinguished from standard lighters; identification of
1 6 options for reasonable restrictions on the sale, possession,
1 7 or use of novelty lighters; and options for enforcement of any
1 8 such restrictions. To the extent practicable, the study shall
1 9 assess the degree to which the sale, possession, or use of
1 10 novelty lighters may increase the likelihood of accidental
1 11 fire and related property damage, injury, or death, and any
1 12 other identifiable risk of property damage, injury, or death
1 13 posed by novelty lighters, and the extent to which novelty
1 14 lighters may pose special risks to children and youth.
1 15 2. The department shall prepare a report based on the
1 16 study, which shall include any recommendations the department
1 17 determines appropriate, and shall submit the report to the
1 18 general assembly by January 1, 2010.

1 19 EXPLANATION

1 20 This bill requires the department of public safety to
1 21 conduct a study relating to the sale, possession, and use of
1 22 novelty lighters. The study shall include determination of a
1 23 definition for the term novelty lighter; identification of
1 24 options for reasonable restrictions on the sale, possession,
1 25 or use of novelty lighters; and options for enforcement of any
1 26 such restrictions. The bill states that to the extent
1 27 practicable, the study shall assess the degree to which the
1 28 sale, possession, or use of novelty lighters may increase the
1 29 likelihood of property damage or human injury or death, and
1 30 the extent to which novelty lighters may pose special risks to
1 31 children and youth.

1 32 The department is directed to submit a report including
1 33 recommendations to the general assembly by January 1, 2010.

1 34 LSB 1084XS 83

1 35 rn/nh/5



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SENATE FILE
BY KETTERING

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

A BILL FOR

1 An Act relating to adult mental health, mental retardation, and
2 developmental disabilities services by shifting responsibility
3 for such services from the counties to the state, revising
4 county levy authority for such services, and providing
5 effective and applicability dates.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
7 TLBS 2196XS 83
8 jp/sc/5



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1 1 Section 1. NEW SECTION. 217.45 EMPLOYEE RIGHTS OF FORMER
1 2 COUNTY EMPLOYEES.

1 3 1. County employees paid under a county mental health,
1 4 mental retardation, and developmental disabilities services
1 5 fund created pursuant to section 331.424A, shall become
1 6 employees of the department of human services effective July
1 7 1, 2010, and the department shall assume all costs associated
1 8 with the functions of the employees on that date. Employees
1 9 who were paid salaries by the counties immediately prior to
1 10 becoming state employees as a result of this Act shall not
1 11 forfeit accrued vacation, accrued sick leave, or benefits
1 12 related to longevity of service, except as provided in this
1 13 section.

1 14 2. The department of human services, after consulting with
1 15 the department of administrative services, shall prescribe
1 16 rules to provide for the following:

1 17 a. A person referred to in subsection 1 shall have to the
1 18 person's credit as a state employee commencing on the date of
1 19 becoming a state employee the number of accrued vacation days
1 20 that was credited to the person as a county employee as of the
1 21 end of the day prior to becoming a state employee.

1 22 b. Each person referred to in subsection 1 shall have to
1 23 the person's credit as a state employee commencing on the date
1 24 of becoming a state employee the number of accrued days of
1 25 sick leave that was credited to the person as a county
1 26 employee as of the end of the day prior to becoming a state
1 27 employee. However, the number of days of sick leave credited
1 28 to a person under this subsection and eligible to be taken
1 29 when sick or eligible to be received upon retirement shall not
1 30 respectively exceed the maximum number of days, if any, or the
1 31 maximum dollar amount as provided in section 70A.23 that state
1 32 employees generally are entitled to accrue or receive
1 33 according to rules in effect as of the date the person becomes
1 34 a state employee.

1 35 c. Commencing on the date of becoming a state employee,



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2 1 each person referred to in subsection 1 is entitled to claim
2 2 the person's most recent continuous period of service in full=
2 3 time county employment as full-time state employment for
2 4 purposes of determining the number of days of vacation which
2 5 the person is entitled to earn each year. The actual vacation
2 6 benefit, including the limitation on the maximum accumulated
2 7 vacation leave, shall be determined as provided in section
2 8 70A.1 according to rules in effect for state employees of
2 9 comparable longevity, irrespective of any greater or lesser
2 10 benefit as a county employee.

2 11 3. Persons referred to in subsection 1 who were covered by
2 12 county employee life insurance and accident and health
2 13 insurance plans prior to becoming state employees in
2 14 accordance with this section shall be permitted to apply prior
2 15 to becoming state employees for life insurance and health and
2 16 accident insurance plans that are available to state employees
2 17 so that those persons do not suffer a lapse of insurance
2 18 coverage as a result of this section. The department of human
2 19 services, after consulting with the department of
2 20 administrative services, shall prescribe rules and distribute
2 21 application forms and take other actions as necessary to
2 22 enable those persons to elect to have insurance coverage that
2 23 is in effect on the date of becoming state employees. The
2 24 actual insurance coverage available to a person shall be
2 25 determined by the plans that are available to state employees,
2 26 irrespective of any greater or lesser benefits that may have
2 27 been available to the person as a county employee.

2 28 4. Commencing on the date of becoming a state employee,
2 29 each person referred to in subsection 1 is entitled to claim
2 30 the person's most recent continuous period of service in full=
2 31 time county employment as full-time state employment for
2 32 purposes of determining disability benefits as provided in
2 33 section 70A.20 according to rules in effect for state
2 34 employees of comparable longevity, irrespective of any greater
2 35 or lesser benefit that may have been available to the person



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3 1 as a county employee.

3 2 Sec. 2. Section 222.60, Code 2009, is amended to read as
3 3 follows:

3 4 222.60 COSTS PAID BY ~~COUNTY OR~~ THE STATE OR COUNTY ==
3 5 DIAGNOSIS AND EVALUATION.

3 6 1. All necessary and legal expenses for the cost of
3 7 admission or commitment or for the treatment, training,
3 8 instruction, care, habilitation, support and transportation of
3 9 persons with mental retardation, ~~as provided for in the county~~
~~3 10 management plan provisions implemented pursuant to section~~
~~3 11 331.439, subsection 1,~~ in a state resource center, or in a
3 12 special unit, or any public or private facility within or
3 13 without the state, approved by the director of the department
3 14 of human services, shall be paid by ~~either:~~

3 15 1. ~~The county in which such person has legal settlement as~~
~~3 16 defined in section 252.16.~~

3 17 2. ~~The the state when such person has no legal settlement~~
~~3 18 or when such settlement is unknown. However, a county board~~
3 19 of supervisors may voluntarily authorize payment for such
3 20 services for a county resident who does not meet state
3 21 eligibility guidelines and does not have a source of payment
3 22 for the services.

3 23 2. Prior to a ~~county of legal settlement~~ the director
3 24 approving the payment of expenses for a person under this
3 25 section, the ~~county~~ director may require that the person be
3 26 diagnosed to determine if the person has mental retardation or
3 27 that the person be evaluated to determine the appropriate
3 28 level of services required to meet the person's needs relating
3 29 to mental retardation. The diagnosis and the evaluation may
3 30 be performed concurrently and shall be performed by an
3 31 individual or individuals approved by the ~~county~~ director who
3 32 are qualified to perform the diagnosis or the evaluation.
3 33 Following the initial approval for payment of expenses, the
3 34 county of legal settlement may require that an evaluation be
3 35 performed at reasonable time periods. The cost of a ~~county~~



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~~4 1 required diagnosis and an evaluation under this section is at~~
~~4 2 the county's department's expense. In the case of a person~~
~~4 3 without legal settlement or whose legal settlement is unknown,~~
~~4 4 the state may apply the diagnosis and evaluation provisions of~~
~~4 5 this paragraph at the state's expense. A diagnosis or an~~
~~4 6 evaluation under this section may be part of a county's~~
~~4 7 central point of coordination process under section 331.440,~~
~~4 8 provided that a diagnosis is performed only by an individual~~
~~4 9 qualified as provided in this section.~~

4 10 3. A diagnosis of mental retardation under this section
4 11 shall be made only when the onset of the person's condition
4 12 was prior to the age of eighteen years and shall be based on
4 13 an assessment of the person's intellectual functioning and
4 14 level of adaptive skills. The diagnosis shall be made by an
4 15 individual who is a psychologist or psychiatrist who is
4 16 professionally trained to administer the tests required to
4 17 assess intellectual functioning and to evaluate a person's
4 18 adaptive skills.

4 19 4. A diagnosis of mental retardation shall be made in
4 20 accordance with the criteria provided in the diagnostic and
4 21 statistical manual of mental disorders, fourth edition,
4 22 published by the American psychiatric association.

4 23 Sec. 3. Section 225C.1, subsection 1, Code 2009, is
4 24 amended to read as follows:

4 25 1. The general assembly finds that until July 1, 2010,
4 26 services to persons with mental illness, mental retardation,
4 27 developmental disabilities, or brain injury are were provided
4 28 in many parts of the state by highly autonomous
4 29 community-based service providers working cooperatively with
4 30 state and county officials. However, the general assembly
4 31 recognizes that heavy reliance on property tax funding for
4 32 mental health and mental retardation services ~~has enabled many~~
~~4 33 counties to exceed minimum state standards for the services~~
~~4 34 resulting~~ resulted in an uneven level of services around the
4 35 state. Consequently, greater efforts should be made to assure



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5 1 close coordination and continuity of care for those persons
5 2 receiving publicly supported disability services in Iowa. It
5 3 is the purpose of this chapter to continue and to strengthen
5 4 the services to persons with disabilities now available in the
5 5 state of Iowa, to make disability services conveniently
5 6 available to all persons in this state upon a reasonably
5 7 uniform financial basis, and to assure the continued high
5 8 quality of these services. Effective July 1, 2010, the
5 9 primary responsibility for adult mental health and disability
5 10 services was transitioned from the counties to the state in
5 11 order to enhance Iowa's capacity to achieve the purposes
5 12 outlined in this section.

5 13 Sec. 4. Section 229.42, Code 2009, is amended to read as
5 14 follows:

5 15 229.42 COSTS PAID VOLUNTARILY BY COUNTY.

5 16 1. If a person wishing to make application for voluntary
5 17 admission to a mental hospital established by chapter 226 is
5 18 unable to pay the costs of hospitalization or those
5 19 responsible for the person are unable to pay the costs, and
5 20 the person does not meet state eligibility guidelines,
5 21 application for authorization of voluntary admission ~~must~~ may
5 22 be made through a central point of coordination process before
~~5 23 application for admission is made to the hospital the person's~~
5 24 county of residence. The person's county of legal settlement
~~5 25 shall be determined through the central point of coordination~~
~~5 26 process and if the admission is approved through the central~~
~~5 27 point of coordination process, the person's admission to a~~
~~5 28 mental health hospital shall be authorized as a voluntary~~
~~5 29 case.~~ The authorization shall be issued on forms provided by
5 30 the administrator. The costs of the voluntary hospitalization
5 31 shall be paid by the county of ~~legal settlement~~ residence to
5 32 the department of human services and credited to the general
5 33 fund of the state, provided that the mental health hospital
5 34 rendering the services has certified to the county auditor of
5 35 the county of ~~legal settlement~~ residence the amount chargeable



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6 1 to the county and has sent a duplicate statement of the
6 2 charges to the department of human services. A However, a
6 3 county shall not be billed for the cost of a patient unless
6 4 the patient's admission is authorized ~~through the central~~
~~6 5 point of coordination process by the county's board of~~
6 6 supervisors. The mental health institute and the county ~~shall~~
6 7 may work together to locate appropriate alternative placements
6 8 and services, and to educate patients and family members of
6 9 patients regarding such alternatives.

6 10 2. All the provisions of chapter 230 shall apply to such
6 11 voluntary patients so far as is applicable.

6 12 3. The provisions of this section and of section 229.41
6 13 shall apply to all voluntary inpatients or outpatients
6 14 receiving mental health services either away from or at the
6 15 institution.

6 16 4. If a county has authorized the patient's voluntary
~~6 17 admission and fails to pay the billed charges within~~
6 18 forty-five days from the date the county auditor received the
6 19 certification statement from the superintendent, the
6 20 department of human services shall charge the delinquent
6 21 county the penalty of one percent per month on and after
6 22 forty-five days from the date the county received the
6 23 certification statement until paid. The penalties received
6 24 shall be credited to the general fund of the state.

6 25 Sec. 5. Section 230.1, Code 2009, is amended to read as
6 26 follows:

6 27 230.1 LIABILITY OF ~~COUNTY AND~~ STATE.

6 28 ~~1-~~ The necessary and legal costs and expenses attending
6 29 the taking into custody, care, investigation, admission,
6 30 commitment, and support of a person with mental illness
6 31 admitted or committed to a state hospital shall be paid by a
~~6 32 county or by the state as follows:~~, except as otherwise
6 33 provided in section 229.42.

6 34 a. By the county in which such person has a legal
~~6 35 settlement, if the person is eighteen years of age or older.~~



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~~7 1 b. By the state when such person has no legal settlement
7 2 in this state, when the person's legal settlement is unknown,
7 3 or if the person is under eighteen years of age.~~

~~7 4 2. The legal settlement of any person found mentally ill
7 5 who is a patient of any state institution shall be that
7 6 existing at the time of admission thereto.~~

~~7 7 3. A county of legal settlement is not liable for costs
7 8 and expenses associated with a person with mental illness
7 9 unless the costs and expenses are for services and other
7 10 support authorized for the person through the central point of
7 11 coordination process. For the purposes of this chapter,
7 12 "central point of coordination process" means the same as
7 13 defined in section 331.440.~~

7 14 Sec. 6. Section 249A.26, Code 2009, is amended by striking
7 15 the section and inserting in lieu thereof the following:

7 16 249A.26 STATE RESPONSIBILITY FOR MENTAL HEALTH AND
7 17 DISABILITY SERVICES.

7 18 Unless a county voluntarily agrees to participate in the
7 19 costs of disability services, as defined in section 225C.2,
7 20 effective July 1, 2010, the nonfederal share of the cost of
7 21 such services provided under the medical assistance program is
7 22 the responsibility of the state.

7 23 Sec. 7. Section 331.424, subsection 1, Code 2009, is
7 24 amended by adding the following new paragraph:

7 25 NEW PARAGRAPH. k. To the extent that the board deems it
7 26 advisable, the costs of disability services, as defined in
7 27 section 225C.2, provided to county residents.

7 28 Sec. 8. Section 904.201, subsection 8, Code 2009, is
7 29 amended to read as follows:

7 30 8. Chapter 230 governs the determination of costs and
7 31 charges for the care and treatment of persons with mental
7 32 illness admitted to the forensic psychiatric hospital, except
7 33 that charges for the care and treatment of any person
7 34 transferred to the forensic psychiatric hospital from an adult
7 35 correctional institution or from a state training school shall



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8 1 be paid entirely from state funds. Charges for all other
8 2 persons at the forensic psychiatric hospital shall be billed
8 3 to the ~~respective counties~~ department of human services at the
8 4 same ratio as for patients at state mental health institutes
8 5 under section 230.20.

8 6 Sec. 9.

8 7 1. Sections 331.424A, 331.438, 331.439, and 331.440, Code
8 8 2009, are repealed.

8 9 2. Chapter 426B, Code 2009, is repealed.

8 10 Sec. 10. CONFORMING AMENDMENTS LEGISLATION. If this Act
8 11 is enacted, the legislative services agency shall prepare
8 12 committee study bills for submission in the 2010 regular
8 13 session of the Eighty-third General Assembly to the committees
8 14 on human resources of the senate and house of representatives
8 15 to amend the Code of Iowa as necessary to transfer
8 16 responsibility for costs and delivery of disability services,
8 17 as defined in section 225C.2, from the counties to the state.
8 18 The provisions of the bill shall include but are not limited
8 19 to making changes in boards, committees, and commissions,
8 20 revising referral responsibilities, eliminating or changing
8 21 references to central point of coordination administrators,
8 22 repealing or amending provisions that are rendered obsolete,
8 23 incorrect, or inaccurate as a result of the passage of this
8 24 Act, and making other conforming amendments as necessary.
8 25 This section takes effect July 1, 2009.

8 26 Sec. 11. EFFECTIVE DATE. Except as otherwise provided in
8 27 this section and in section 10 of this Act, this Act takes
8 28 effect July 1, 2010. The Act applies prior to July 1, 2010,
8 29 for purposes of making changes in the county budget and levy
8 30 responsibilities and authority necessary to implement the
8 31 provisions of this Act beginning on July 1, 2010.

8 32 EXPLANATION

8 33 This bill relates to adult mental health, mental
8 34 retardation, and developmental disabilities services by
8 35 shifting responsibility for payment of such services from the



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9 1 counties to the state, effective July 1, 2010, and revising
9 2 county levy authority for such services. Many provisions of
9 3 the bill reference the definition of "disability services" in
9 4 Code section 225C.2, which defines the term to mean services
9 5 and other support available to a person with mental illness,
9 6 mental retardation or other developmental disability, or brain
9 7 injury (MI/MR/DD/BI).

9 8 New Code section 217.45 provides for transfer of county
9 9 employees paid under a county MH/MR/DD services fund from
9 10 county employment to state employment with the department of
9 11 human services effective July 1, 2010, and outlines benefits
9 12 and rights of such employees.

9 13 The bill amends significant Code provisions outlining
9 14 county or state responsibilities for MH/MR/DD services to
9 15 provide for state responsibility and that county participation
9 16 in costs is voluntary. The following Code provisions are
9 17 addressed:

9 18 Code section 222.60 is amended to provide that the state is
9 19 responsible for expenses for the cost of admission or
9 20 commitment or for the treatment, training, instruction, care,
9 21 habilitation, support, and transportation of persons with
9 22 mental retardation in public or private facilities. However,
9 23 a county may voluntarily pay for the costs of such services
9 24 for a county resident who does not meet state eligibility
9 25 requirements and does not have a payment source.

9 26 Code section 225C.1, stating the purpose of the MH/MR/DD/BI
9 27 services chapter, is amended to provide for state
9 28 responsibility, in lieu of counties, effective July 1, 2010.

9 29 Code section 229.42, relating to financial responsibility
9 30 under the mental health commitment Code chapter, is amended to
9 31 provide that a county may voluntarily accept responsibility to
9 32 pay the costs of a patient who is a county resident and placed
9 33 in a state mental health institute.

9 34 Code section 230.1, relating to responsibility for the
9 35 necessary and legal costs and expenses attending the taking



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10 1 into custody, care, investigation, admission, commitment, and
10 2 support of a person with mental illness in a state mental
10 3 health institute, is amended to provide that the state is
10 4 responsible and to eliminate county responsibility unless it
10 5 is provided voluntarily.
10 6 Code section 249A.26, relating to state and county
10 7 participation in funding for medical assistance (Medicaid)
10 8 program services to persons with disabilities, is amended by
10 9 striking the section and providing that unless a county
10 10 voluntarily agrees to participate in the costs, effective July
10 11 1, 2010, the nonfederal share of the cost of mental health and
10 12 disability services provided under the program is the
10 13 responsibility of the state.
10 14 Code section 331.424, relating to county supplemental levy
10 15 authority, is amended to authorize the county, when the
10 16 general levy is insufficient, to utilize its supplemental levy
10 17 authority to the extent that the board of supervisors deems it
10 18 advisable to pay the costs of disability services provided to
10 19 county residents.
10 20 Code section 904.201, relating to charges for services
10 21 provided at the Iowa medical and classification center at
10 22 Oakdale, is amended to provide that those costs for the care
10 23 and treatment of persons with mental illness that under
10 24 current law are charged to counties are instead charged to the
10 25 department of human services.
10 26 The bill repeals these Code sections: Code section
10 27 331.424A, providing for the establishment of the county
10 28 MI/MR/DD services fund and prohibiting the county from paying
10 29 for these services from any other fund; Code section 331.438,
10 30 relating to joint state=county planning, implementing, and
10 31 funding of MI/MR/DD services, including allowed growth
10 32 payments to counties; Code section 331.439, relating to county
10 33 eligibility for state funding associated with the services;
10 34 and Code section 331.440, relating to the county central point
10 35 of coordination system and shifting of state cases to county



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11 1 responsibility. In addition, Code chapter 426B, relating to
11 2 property tax relief payments to counties and funding pools
11 3 associated with allowed growth payments, is repealed.
11 4 The legislative services agency is directed to prepare and
11 5 submit committee study bills for the 2010 regular legislative
11 6 session to further amend the Code as necessary to implement
11 7 the bill. This section takes effect July 1, 2009. The
11 8 remainder of the bill takes effect July 1, 2010. However, the
11 9 bill provides that the changes in the bill that affect county
11 10 budget preparation and levy authority involving the fiscal
11 11 year that begins on the bill's effective date, apply prior to
11 12 the effective date.
11 13 LSB 2196XS 83
11 14 jp/sc/5



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Senate Study Bill 1194

SENATE FILE
BY (PROPOSED COMMITTEE ON
REBUILD IOWA BILL BY
CHAIRPERSON HOGG)

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

Passed House, Date _____
Vote: Ayes _____ Nays _____

A BILL FOR

- 1 An Act relating to flood damage prevention and insurance.
- 2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 3 TLSB 2143SC 83
- 4 tm/rj/8



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1 1 DIVISION I
1 2 PUBLIC POLICY
1 3 Section 1. LAND MANAGEMENT == PUBLIC POLICY. It is the
1 4 policy of this state that the land in watersheds and
1 5 floodplains should be managed to reduce flooding, reduce flood
1 6 damage, ameliorate the effects of drought, improve water
1 7 quality, improve habitat and the natural environment, increase
1 8 renewable energy production, and enhance economic and
1 9 recreational opportunities.

1 10 DIVISION II
1 11 URBAN WATER CONSERVATION STANDARDS
1 12 Sec. 2. Section 8A.321, subsection 7, Code 2009, is
1 13 amended by adding the following new paragraph:
1 14 NEW PARAGRAPH. c. For real property projects beginning
1 15 construction on or after January 1, 2010, a project must
1 16 incorporate applicable urban water conservation standards
1 17 adopted pursuant to section 455B.277A.

1 18 Sec. 3. NEW SECTION. 15A.5 ECONOMIC DEVELOPMENT
1 19 FINANCIAL ASSISTANCE == URBAN WATER CONSERVATION STANDARDS.
1 20 Financial assistance for economic development shall not be
1 21 given for purposes of a vertical infrastructure project unless
1 22 the project incorporates applicable urban water conservation
1 23 standards adopted pursuant to section 455B.277A. For purposes
1 24 of this section, "vertical infrastructure" means the same as
1 25 defined in section 8.57, subsection 6, paragraph "c". This
1 26 section applies to projects that begin construction on or
1 27 after January 1, 2010.

1 28 Sec. 4. Section 262.9, subsection 4, Code 2009, is amended
1 29 to read as follows:

1 30 4. Manage and control the property, both real and
1 31 personal, belonging to the institutions. ~~The board shall~~
~~1 32 purchase~~ For any construction project beginning on or after
1 33 January 1, 2010, the project must incorporate applicable urban
1 34 water conservation standards adopted pursuant to section
1 35 455B.277A.



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2 1 4A. Purchase or require the purchase of, when the price is
2 2 reasonably competitive and the quality as intended,
2 3 soybean-based inks. All inks purchased that are used
2 4 internally or are contracted for by the board shall be
2 5 soybean-based to the extent formulations for such inks are
2 6 available.

2 7 a. The department of natural resources shall review the
2 8 procurement specifications currently used by the board to
2 9 eliminate, wherever possible, discrimination against the
2 10 procurement of products manufactured with soybean-based inks.

2 11 b. The department of natural resources shall assist the
2 12 board in locating suppliers of recycled content products and
2 13 soybean-based inks and collecting data on recycled content and
2 14 soybean-based ink purchases.

2 15 c. The board, in conjunction with the department of
2 16 natural resources, shall adopt rules to carry out the
2 17 provisions of this ~~section~~ subsection.

2 18 d. The department of natural resources shall cooperate
2 19 with the board in all phases of implementing this ~~section~~
2 20 subsection.

2 21 Sec. 5. NEW SECTION. 455B.277A URBAN WATER CONSERVATION
2 22 STANDARDS.

2 23 1. By January 1, 2010, the department of natural
2 24 resources, in cooperation with the department of agriculture
2 25 and land stewardship, shall adopt urban water conservation
2 26 standards designed to limit water runoff, reduce future flood
2 27 damage, and improve water quality.

2 28 2. All cities and counties shall adopt development
2 29 standards to incorporate urban water conservation standards
2 30 adopted pursuant to subsection 1 and limit development in
2 31 flood plains. A city or county shall not allow development in
2 32 an area located in a five hundred year flood plain as
2 33 determined by the federal emergency management agency unless
2 34 the development is designed to mitigate future flood damage.

2 35 3. All cities and counties shall do the following:



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3 1 a. Only provide public funding for projects that conform
3 2 to urban water conservation standards.

3 3 b. Only provide tax increment financing for projects that
3 4 conform to urban water conservation standards.

3 5 DIVISION III
3 6 FLOOD INSURANCE

3 7 Sec. 6. NEW SECTION. 455B.262A NATIONAL FLOOD INSURANCE
3 8 PROGRAM.

3 9 All cities in this state shall meet the requirements for
3 10 participation in the national flood insurance program on or
3 11 before July 30, 2011. The department shall assist cities with
3 12 developing and administering local flood plain management
3 13 programs and with otherwise meeting the requirements for
3 14 participation in the national flood insurance program. A city
3 15 may apply to the department for a waiver from the
3 16 participation requirements in this section. The department
3 17 shall grant a waiver if it is determined by the department
3 18 that the city is not susceptible to flood damage.

3 19 Sec. 7. NEW SECTION. 505.41 FLOOD INSURANCE.

3 20 By January 1, 2010, a person owning property in a five
3 21 hundred year flood plain as determined by the federal
3 22 emergency management agency shall purchase insurance providing
3 23 coverage against direct or indirect or consequential loss or
3 24 damage, including loss of use or occupancy and the
3 25 depreciation of property lost or damaged by flood unless the
3 26 owner submits a certificate of self=insurance to the
3 27 commissioner of insurance for approval. The commissioner of
3 28 insurance shall develop the form, submission procedure, and
3 29 approval process for certificates of self=insurance.

3 30 Sec. 8. IMPLEMENTATION OF ACT. Section 25B.2, subsection
3 31 3, shall not apply to this division of this Act.

3 32 EXPLANATION

3 33 This bill relates to flood damage prevention and insurance.

3 34 DIVISION I. Division I of the bill states general public
3 35 policy for land management.



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4 1 DIVISION II. Division II of the bill relates to urban
4 2 water conservation standards.
4 3 The division requires the department of natural resources,
4 4 in cooperation with the department of agriculture and land
4 5 stewardship, to adopt urban water conservation standards
4 6 designed to limit water runoff, reduce future flood damage,
4 7 and improve water quality. The division requires all cities
4 8 and counties to adopt development standards to incorporate
4 9 urban water conservation standards and limit development in
4 10 flood plains. The division prohibits a city or county from
4 11 allowing development in an area located in a 500 year flood
4 12 plain unless the development is designed to mitigate future
4 13 flood damage. The division requires cities and counties to
4 14 only provide public funding for projects that conform to urban
4 15 water conservation standards and only provide tax increment
4 16 financing for projects that conform to urban water
4 17 conservation standards.
4 18 The division requires construction projects beginning on or
4 19 after January 1, 2010, that are coordinated by the department
4 20 of administrative services to incorporate applicable urban
4 21 water conservation standards.
4 22 The division requires that financial assistance for
4 23 economic development shall not be given for purposes of a
4 24 vertical infrastructure project unless the project
4 25 incorporates applicable urban water conservation standards.
4 26 This requirement applies to projects that begin construction
4 27 on or after January 1, 2010.
4 28 The division requires construction projects beginning on or
4 29 after January 1, 2010, that are under the control of the state
4 30 board of regents to incorporate applicable urban water
4 31 conservation standards.
4 32 DIVISION III. Division III of the bill relates to flood
4 33 insurance.
4 34 The division requires all cities in this state to meet the
4 35 requirements for participation in the national flood insurance



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5 1 program on or before July 30, 2011. The division allows the
5 2 application for a waiver from this requirement if the city
5 3 demonstrates to the department of natural resources that the
5 4 city is not susceptible to flood damage.
5 5 The division requires a person owning property in a 500
5 6 year flood plain to purchase insurance providing coverage
5 7 against flood damage unless the owner submits a certificate of
5 8 self-insurance to the insurance commissioner for approval.
5 9 The division requires the insurance to be purchased by January
5 10 1, 2010.
5 11 The division may include a state mandate as defined in Code
5 12 section 25B.3. The division makes inapplicable Code section
5 13 25B.2, subsection 3, which would relieve a political
5 14 subdivision from complying with a state mandate if funding for
5 15 the cost of the state mandate is not provided or specified.
5 16 Therefore, political subdivisions are required to comply with
5 17 any state mandate included in the division.
5 18 LSB 2143SC 83
5 19 tm/rj/8



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Senate Study Bill 1195

SENATE FILE
BY (PROPOSED COMMITTEE ON
VETERANS AFFAIRS BILL
BY CHAIRPERSON BEALL)

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

Passed House, Date _____
Vote: Ayes _____ Nays _____

A BILL FOR

1 An Act providing for family military leave from employment for
2 certain relatives of individuals called to active military
3 service and providing a remedy.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 1195SC 83
6 ec/nh/14



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1 1 Section 1. NEW SECTION. 29A.110 CITATION.
1 2 This subchapter shall be known and may be cited as the
1 3 "Iowa Family Military Leave Act".
1 4 Sec. 2. NEW SECTION. 29A.111 DEFINITIONS.
1 5 As used in this subchapter, unless the context otherwise
1 6 requires:
1 7 1. "Employee" means any person employed by an employer.
1 8 2. "Employee benefits" means all benefits, other than
1 9 salary and wages, provided or made available to employees by
1 10 an employer and includes group life insurance, health
1 11 insurance, disability insurance, and pensions, regardless of
1 12 whether the benefits are provided by a policy or practice of
1 13 the employer.
1 14 3. "Employer" means the state of Iowa or any political
1 15 subdivision, board, commission, department, institution, or
1 16 school district thereof, and every other person who regularly
1 17 employs at least six employees within the state.
1 18 4. "Family military leave" means time off from work
1 19 requested by an employee to ease the transition of a family
1 20 member who is called into or returning from duty in the armed
1 21 forces of the United States.
1 22 Sec. 3. NEW SECTION. 29A.112 FAMILY MILITARY LEAVE.
1 23 1. An employer shall allow an employee to take family
1 24 military leave as provided in this section if all of the
1 25 following conditions are met:
1 26 a. The employee has been employed by the employer for at
1 27 least twelve months and for at least one thousand two hundred
1 28 fifty hours during the twelve-month period immediately
1 29 preceding the commencement of family military leave.
1 30 b. The employee is the parent or spouse of an individual
1 31 who is a member of the reserve components of the armed forces
1 32 of the United States or the national guard and who is called
1 33 into active federal duty in the armed forces of the United
1 34 States for a period of at least one hundred twenty consecutive
1 35 days at a location more than two hundred fifty miles from the



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2 1 residence of the parent or spouse.

2 2 c. The employee gives at least seven days' notice, or, for
2 3 an employee requesting family military leave prior to the date
2 4 of deployment, such advance notice as is practicable, to the
2 5 employer of dates that the employee intends to take family
2 6 military leave.

2 7 d. The dates of the requested family military leave fall
2 8 within either of the following deployment-related periods:

2 9 (1) During a predeployment period, which commences two
2 10 weeks before and ends one week after the date of deployment of
2 11 the employee's spouse or child.

2 12 (2) During a postdeployment period, which commences one
2 13 week before and ends two weeks after the date the deployment
2 14 of the employee's spouse or child ends. For purposes of this
2 15 subparagraph, the deployment of an employee's spouse or child
2 16 ends upon the date the deployment is completed or the date the
2 17 spouse or child dies or incurs a serious injury preventing the
2 18 completion of the deployment.

2 19 e. The employee has exhausted all accrued leave and
2 20 compensatory time available to the employee, other than sick
2 21 and disability leave.

2 22 2. The maximum family military leave allowed for an
2 23 eligible period of military service is twenty-one days.
2 24 However, no more than fourteen days of family military leave
2 25 shall be allowed during the predeployment or postdeployment
2 26 period.

2 27 3. An employer may require an employee requesting family
2 28 military leave under this section to provide certification
2 29 from the proper military authority to verify the employee's
2 30 eligibility.

2 31 Sec. 4. NEW SECTION. 29A.113 EMPLOYER AND EMPLOYEE
2 32 DUTIES, RIGHTS, AND RESPONSIBILITIES.

2 33 1. An employer shall continue to provide existing employee
2 34 benefits to the employee during family military leave. The
2 35 employee shall be responsible for the same proportion of the



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3 1 cost of such benefits as the employee paid before the leave
3 2 period. The employer is not required to pay salary or wages
3 3 to the employee while on family military leave.
3 4 2. Upon expiration of an employee's family military leave,
3 5 the employer shall restore the employee to the position held
3 6 by the employee when the leave commenced or to a position with
3 7 at least equivalent seniority, benefits, pay, and other terms
3 8 and conditions of employment.
3 9 3. An employer shall not discharge, fine, suspend, expel,
3 10 discipline, or discriminate against an employee with respect
3 11 to any term or condition of employment because of the
3 12 employee's actual or potential exercise, or support for
3 13 another employee's exercise, of any right under this
3 14 subchapter. This section does not prevent an employer from
3 15 taking employment action that is independent of the exercise
3 16 of a right under this subchapter.
3 17 4. An employer shall not deprive an employee who takes
3 18 family military leave of any employee benefit that accrued
3 19 before the date the family military leave begins.
3 20 5. This subchapter does not affect an employer's
3 21 obligation to comply with any collective bargaining agreement
3 22 or employee benefit plan that provides greater leave rights to
3 23 employees than provided under section 29A.112.
3 24 6. An employer shall not require an employee to waive
3 25 rights under this subchapter and shall not interfere with,
3 26 restrain, or deny the exercise or attempted exercise of a
3 27 right provided under this subchapter. In addition, an
3 28 employee's rights under this subchapter cannot be waived or
3 29 diminished under a term in a collective bargaining agreement
3 30 or employee benefit plan that takes effect on or after July 1,
3 31 2009.
3 32 Sec. 5. NEW SECTION. 29A.114 ENFORCEMENT.
3 33 A civil action to enforce this subchapter may be brought by
3 34 any employee in a district court having jurisdiction. The
3 35 court may enjoin any act or practice that violates or may



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4 1 violate this subchapter, may award court costs and reasonable
4 2 attorney fees, and may order any other equitable relief that
4 3 is necessary and appropriate to redress the violation or to
4 4 enforce this subchapter.

4 5 Sec. 6. IMPLEMENTATION OF ACT. Section 25B.2, subsection
4 6 3, shall not apply to this Act.

4 7 EXPLANATION

4 8 This bill establishes a family military leave Act.

4 9 The bill provides that the spouse or parent of an
4 10 individual in the national guard or reserves who is ordered to
4 11 active federal duty for a period of at least 120 days at a
4 12 location more than 250 miles away from the spouse or parent
4 13 may take unpaid time off from work for up to 21 days.
4 14 However, the bill provides that of the 21 days of unpaid time
4 15 off allowed, no more than 14 days shall be allowed during the
4 16 predeployment or postdeployment period of the eligible period
4 17 of service. The requirements apply to public and private
4 18 employers in this state with at least six employees and is
4 19 available to employees who have been employed by the employer
4 20 for at least 12 months and who have been employed for at least
4 21 1,250 hours during the 12-month period preceding the requested
4 22 leave. The bill provides that the unpaid time off can be
4 23 taken within two weeks before or one week after the employee's
4 24 spouse's or child's deployment date or one week before or two
4 25 weeks after the employee's spouse's or child's deployment
4 26 ends. The bill provides that the deployment ends when the
4 27 deployment is completed or the military member dies or is
4 28 seriously injured. The bill requires the employee to provide
4 29 notice before taking leave and to have exhausted all accrued
4 30 leave and compensatory time available. The bill requires
4 31 employers to maintain an employee's status during the period
4 32 of leave and to not take adverse action against an employee
4 33 for exercising their rights under the bill. The bill further
4 34 provides that leave rights granted under the bill cannot be
4 35 waived by an employee. The bill provides that a civil action



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5 1 may be brought to enforce an employee's rights under the bill
5 2 and to seek equitable relief.
5 3 The bill may include a state mandate as defined in Code
5 4 section 25B.3. The bill makes inapplicable Code section
5 5 25B.2, subsection 3, which would relieve a political
5 6 subdivision from complying with a state mandate if funding for
5 7 the cost of the state mandate is not provided or specified.
5 8 Therefore, political subdivisions are required to comply with
5 9 any state mandate included in the bill.
5 10 LSB 1195SC 83
5 11 ec/nh/14.1



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Senate Study Bill 1196

SENATE/HOUSE FILE
BY (PROPOSED DEPARTMENT OF
COMMERCE/DIVISION OF
BANKING BILL)

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

Passed House, Date _____
Vote: Ayes _____ Nays _____

A BILL FOR

- 1 An Act relating to mortgage lending by establishing licensing
- 2 requirements applicable to mortgage loan originators; making
- 3 specified modifications to existing licensing provisions
- 4 relating to mortgage bankers and brokers, regulated loans, and
- 5 industrial loans; and providing penalties and effective dates.
- 6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 7 TLSB 1357DP 83
- 8 rn/nh/24



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1 1 DIVISION I
1 2 MORTGAGE LOAN ORIGINATORS
1 3 Section 1. NEW SECTION. 535D.1 TITLE.
1 4 This chapter shall be known and may be cited as the "Iowa
1 5 Secure and Fair Enforcement for Mortgage Licensing Act".
1 6 Sec. 2. NEW SECTION. 535D.2 LEGISLATIVE FINDINGS AND
1 7 PURPOSE.
1 8 The activities of mortgage loan originators and the
1 9 origination or offering of financing for residential real
1 10 property have a direct, valuable, and immediate impact upon
1 11 this state's consumers, its economy, the neighborhoods and
1 12 communities of this state, and the housing and real estate
1 13 industry. The general assembly finds that accessibility to
1 14 mortgage credit is vital to the state's citizens. The general
1 15 assembly also finds that it is essential for the protection of
1 16 the citizens of this state and the stability of the state's
1 17 economy that reasonable standards for licensing and regulation
1 18 of the business practices of mortgage loan originators be
1 19 imposed. The general assembly further finds that the
1 20 obligations of mortgage loan originators to consumers in
1 21 connection with originating or making residential mortgage
1 22 loans are such as to warrant the regulation of the mortgage
1 23 lending process. The purpose of this chapter is to protect
1 24 consumers seeking mortgage loans and to ensure that the
1 25 mortgage lending industry is operating without unfair,
1 26 deceptive, or fraudulent practices on the part of mortgage
1 27 loan originators.
1 28 Sec. 3. NEW SECTION. 535D.3 DEFINITIONS.
1 29 As used in this chapter, unless the context otherwise
1 30 requires:
1 31 1. "Clerical or support duties" means, subsequent to the
1 32 receipt of a residential mortgage loan application, the
1 33 receipt, collection, distribution, and analysis of information
1 34 common for the processing or underwriting of a residential
1 35 mortgage loan; and communicating with a consumer to obtain the



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2 1 information necessary for the processing or underwriting of a
2 2 residential mortgage loan, to the extent that such
2 3 communication does not include offering or negotiating loan
2 4 rates or terms, or counseling consumers about residential
2 5 mortgage loan rates or terms.

2 6 2. "Depository institution" means a depository institution
2 7 as defined in 12 U.S.C. } 1813(c) and a credit union organized
2 8 under the laws of this state, another state, or the United
2 9 States.

2 10 3. "Federal banking agencies" means the board of governors
2 11 of the federal reserve system, the comptroller of the
2 12 currency, the director of the office of thrift supervision,
2 13 the national credit union administration, and the federal
2 14 deposit insurance corporation.

2 15 4. "Immediate family member" means a spouse, child,
2 16 sibling, parent, grandparent, or grandchild. This includes
2 17 stepparents, stepchildren, stepsiblings, and adoptive
2 18 relationships.

2 19 5. "Individual" means a natural person.

2 20 6. "Loan processor or underwriter" means an individual who
2 21 performs clerical or support duties as an employee at the
2 22 direction of and subject to the supervision and instruction of
2 23 a person licensed, or exempt from licensing, under chapter
2 24 535B, 536, 536A, or this chapter.

2 25 7. "Mortgage loan originator" means an individual who for
2 26 compensation or gain or in the expectation of compensation or
2 27 gain takes a residential mortgage loan application or offers
2 28 or negotiates terms of a residential mortgage loan. "Mortgage
2 29 loan originator" does not include any of the following:

2 30 a. An individual engaged solely as a loan processor or
2 31 underwriter except as otherwise provided in section 535D.4,
2 32 subsection 2.

2 33 b. An individual who only performs real estate brokerage
2 34 activities and is licensed in accordance with state law,
2 35 unless the individual is compensated by a lender, a mortgage



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- 3 1 broker, or mortgage loan originator or by any agent of such
3 2 lender, mortgage broker, or mortgage loan originator.
- 3 3 c. An individual solely involved in extensions of credit
3 4 relating to timeshare plans, as that term is defined in 11
3 5 U.S.C. } 101(53D).
- 3 6 d. An individual involved solely in servicing residential
3 7 mortgage loans, provided the individual does not take a
3 8 residential mortgage loan application and offer or negotiate
3 9 terms of a residential mortgage loan for compensation or gain.
- 3 10 8. "Nationwide mortgage licensing system and registry"
3 11 means a mortgage licensing system developed and maintained by
3 12 the conference of state bank supervisors and the American
3 13 association of residential mortgage regulators for the
3 14 licensing and registration of licensed mortgage loan
3 15 originators.
- 3 16 9. "Nontraditional mortgage product" means any mortgage
3 17 product other than a thirty-year fixed rate mortgage.
- 3 18 10. "Real estate brokerage activity" means any activity
3 19 that involves offering or providing real estate brokerage
3 20 services to the public, including the following:
- 3 21 a. Acting as a real estate agent or real estate broker for
3 22 a buyer, seller, lessor, or lessee of real property.
- 3 23 b. Bringing together parties interested in the sale,
3 24 purchase, lease, rental, or exchange of real property.
- 3 25 c. Negotiating, on behalf of any party, any portion of a
3 26 contract relating to the sale, purchase, lease, rental, or
3 27 exchange of real property other than in connection with
3 28 providing financing with respect to any such transaction.
- 3 29 d. Engaging in any activity for which a person engaged in
3 30 the activity is required to be registered or licensed as a
3 31 real estate agent or real estate broker under any applicable
3 32 law.
- 3 33 e. Offering to engage in any activity, or act in any
3 34 capacity, described in paragraphs "a" through "d".
- 3 35 11. "Registered mortgage loan originator" means a mortgage



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4 1 loan originator who is an employee of a depository
4 2 institution, a subsidiary that is owned and controlled by a
4 3 depository institution and regulated by a federal banking
4 4 agency, or an institution regulated by the farm credit
4 5 administration; and is registered with and maintains a unique
4 6 identifier through the nationwide mortgage licensing system
4 7 and registry.

4 8 12. "Residential mortgage loan" means any loan primarily
4 9 for personal, family, or household use that is secured by a
4 10 mortgage, deed of trust, or other equivalent consensual
4 11 security interest on a dwelling as defined in section 103(v)
4 12 of the federal Truth in Lending Act or on residential real
4 13 estate.

4 14 13. "Residential real estate" means any real property
4 15 located in this state, upon which is constructed or intended
4 16 to be constructed a dwelling as defined in section 103(v) of
4 17 the federal Truth in Lending Act.

4 18 14. "Servicing residential mortgage loans" means, on
4 19 behalf of a note holder, collecting or receiving payments,
4 20 including payments of principal, interest, escrow amounts, and
4 21 other amounts due and owing to the note holder pursuant to a
4 22 residential mortgage loan, and includes, when the borrower is
4 23 in default, or in reasonably foreseeable likelihood of
4 24 default, working with the borrower on behalf of the note
4 25 holder to modify either temporarily or permanently the
4 26 obligation or otherwise mitigate loss on an existing
4 27 residential mortgage loan.

4 28 15. "Superintendent" means the superintendent of banking
4 29 appointed pursuant to section 524.201.

4 30 16. "Unique identifier" means a number or other identifier
4 31 assigned by protocols established by the nationwide mortgage
4 32 licensing system and registry.

4 33 Sec. 4. NEW SECTION. 535D.4 LICENSE AND REGISTRATION
4 34 REQUIRED.

4 35 1. On or after January 1, 2010, an individual shall not



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5 1 engage in the business of a mortgage loan originator with
5 2 respect to any residential real estate located in this state
5 3 without first obtaining and maintaining annually a license
5 4 under this chapter. Each licensed mortgage loan originator
5 5 must register with and maintain a valid unique identifier
5 6 issued by the nationwide mortgage licensing system and
5 7 registry.

5 8 2. A loan processor or underwriter who is an independent
5 9 contractor may not engage in the activities of a loan
5 10 processor or underwriter unless such independent contractor
5 11 loan processor or underwriter obtains and maintains a license
5 12 pursuant to this section, and registers with and maintains a
5 13 valid unique identifier issued by the nationwide mortgage
5 14 licensing system and registry.

5 15 3. An individual engaging solely in loan processor or
5 16 underwriter activities shall not represent to the public,
5 17 through advertising or other means of communicating or
5 18 providing information including the use of business cards,
5 19 stationery, brochures, signs, rate lists, or other promotional
5 20 items, that the individual can or will perform any of the
5 21 activities of a mortgage loan originator.

5 22 Sec. 5. NEW SECTION. 535D.4A EXEMPTIONS.

5 23 This chapter does not apply to any of the following:

5 24 1. A registered mortgage loan originator when acting for
5 25 an employer described in section 535D.3, subsection 11.

5 26 2. An individual who offers or negotiates terms of a
5 27 residential mortgage loan with or on behalf of an immediate
5 28 family member of the individual.

5 29 3. An individual who offers or negotiates terms of a
5 30 residential mortgage loan secured by a dwelling that served as
5 31 the individual's residence.

5 32 4. A licensed attorney who negotiates the terms of a
5 33 residential mortgage loan on behalf of a client as an
5 34 ancillary matter to the attorney's representation of the
5 35 client, unless the attorney is compensated by a lender, a



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6 1 mortgage broker, or other mortgage loan originator or by any
6 2 agent of such lender, mortgage broker, or other mortgage loan
6 3 originator.

6 4 Sec. 6. NEW SECTION. 535D.5 LICENSE AND REGISTRATION ==
6 5 APPLICATION AND ISSUANCE.

6 6 1. An applicant for licensure shall submit an application
6 7 on a form prescribed by the superintendent.

6 8 2. The superintendent may enter into a contract with the
6 9 nationwide mortgage licensing system and registry or other
6 10 entities designated by the nationwide mortgage licensing
6 11 system and registry to collect and maintain records and
6 12 process transaction fees or other fees related to licensees or
6 13 other persons subject to this chapter.

6 14 3. For the purpose of participating in the nationwide
6 15 mortgage licensing system and registry, the superintendent may
6 16 adopt rules which waive or modify, in whole or in part,
6 17 requirements of this chapter and replace them with
6 18 requirements reasonably necessary to participate in the
6 19 nationwide mortgage licensing system and registry.

6 20 4. In connection with an application for licensing as a
6 21 mortgage loan originator, the applicant shall, at a minimum,
6 22 furnish to the nationwide mortgage licensing system and
6 23 registry information concerning the applicant's identity,
6 24 including all of the following:

6 25 a. Fingerprints for submission to the federal bureau of
6 26 investigation, and any governmental agency or entity
6 27 authorized to receive such information for a state, national,
6 28 and international criminal history background check.

6 29 b. Personal history and experience in a form prescribed by
6 30 the nationwide mortgage licensing system and registry,
6 31 including the submission of authorization for the nationwide
6 32 mortgage licensing system and registry and the superintendent
6 33 to obtain an independent credit report obtained from a
6 34 consumer reporting agency described in section 603(p) of the
6 35 federal Fair Credit Reporting Act; and information related to



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7 1 any administrative, civil, or criminal findings by any
7 2 governmental jurisdiction.
7 3 c. Any other information requested by the superintendent.
7 4 5. For the purposes of this section and in order to reduce
7 5 the points of contact which the federal bureau of
7 6 investigation may have to maintain for purposes of subsection
7 7 4, the superintendent may use the nationwide mortgage
7 8 licensing system and registry as a channeling agent for
7 9 requesting information from and distributing information to
7 10 the United States department of justice or other governmental
7 11 agency, or to or from any other source so directed by the
7 12 superintendent.

7 13 Sec. 7. NEW SECTION. 535D.6 CONDITIONS OF LICENSURE.

7 14 An applicant for licensure as a mortgage loan originator
7 15 shall demonstrate qualifications as follows:

7 16 1. The applicant has never had a mortgage loan originator
7 17 license revoked in any governmental jurisdiction, except that
7 18 a subsequent formal vacation of such revocation shall not be
7 19 deemed a revocation.

7 20 2. The applicant has not been convicted of, or pled guilty
7 21 or no contest to, a felony in a domestic, foreign, or military
7 22 court during the seven-year period preceding the date of the
7 23 application for licensure; or at any time preceding such date
7 24 of application, if such felony involved an act of fraud,
7 25 dishonesty, or a breach of trust, or money laundering. A
7 26 pardon of a conviction shall not constitute a conviction for
7 27 purposes of this subsection.

7 28 3. The applicant has demonstrated financial
7 29 responsibility, character, and general fitness such as to
7 30 command the confidence of the community and to warrant a
7 31 determination that the applicant will operate honestly,
7 32 fairly, and efficiently within the purposes of this chapter.
7 33 For purposes of this subsection, a person has shown that the
7 34 person is not financially responsible when the person has
7 35 shown a disregard in the management of their own financial



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8 1 condition. The superintendent shall not deny a license on the
8 2 sole basis of an applicant's credit score. A determination
8 3 that an individual has not shown financial responsibility may
8 4 include but not be limited to current outstanding judgments,
8 5 except judgments solely as a result of medical expenses;
8 6 current outstanding tax liens or other government liens or
8 7 filings; foreclosures within the past three years; or a
8 8 pattern of seriously delinquent accounts within the past three
8 9 years.

8 10 4. The applicant has completed the prelicensing education
8 11 requirements pursuant to section 535D.7.

8 12 5. The applicant has passed a written test that meets the
8 13 requirements of section 535D.8.

8 14 6. The applicant has met the surety bond requirement or
8 15 paid into a recovery fund as required pursuant to section
8 16 535D.14.

8 17 7. There are no other grounds to deny the applicant a
8 18 license pursuant to rules adopted by the superintendent. Such
8 19 rules may include discretionary grounds for license denial.

8 20 Sec. 8. NEW SECTION. 535D.7 PRELICENSING EDUCATION OF
8 21 LOAN ORIGINATORS.

8 22 1. An applicant for licensure shall complete at least
8 23 twenty hours of prelicensing education approved in accordance
8 24 with subsection 2, which shall include at a minimum the
8 25 following:

8 26 a. Three hours of federal laws and regulations pertaining
8 27 to residential mortgage loan origination.

8 28 b. Three hours of ethics, which shall include instruction
8 29 on fraud, consumer protection, and fair lending issues.

8 30 c. Two hours of training related to lending standards for
8 31 the nontraditional mortgage product marketplace.

8 32 2. Prelicensing education courses shall be reviewed and
8 33 approved by the nationwide mortgage licensing system and
8 34 registry based upon reasonable standards. Review and approval
8 35 of a prelicensing education course shall include review and



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- 9 1 approval of the course provider.
- 9 2 3. A prelicensing education course that is approved by the
9 3 nationwide mortgage licensing system and registry, and is
9 4 provided by the employer of the applicant or an entity which
9 5 is affiliated with the applicant by an agency contract, or any
9 6 subsidiary or affiliate of such employer or entity, shall meet
9 7 the requirements of this section.
- 9 8 4. Prelicensing education may be offered either in a
9 9 classroom, online, or by any other means approved by the
9 10 nationwide mortgage licensing system and registry.
- 9 11 5. Prelicensing education requirements approved by the
9 12 nationwide mortgage licensing system and registry for any
9 13 state shall be accepted as credit towards completion of
9 14 prelicensing education requirements in this state.
- 9 15 Sec. 9. NEW SECTION. 535D.8 TEST REQUIREMENTS.
- 9 16 1. An applicant for licensure shall pass a qualified
9 17 written test developed by the nationwide mortgage licensing
9 18 system and registry and administered by a test provider
9 19 approved by the nationwide mortgage licensing system and
9 20 registry based upon reasonable standards.
- 9 21 2. A written test shall not be treated as a qualified
9 22 written test for purposes of subsection 1 unless the test, in
9 23 the determination of the nationwide mortgage licensing system
9 24 and registry, adequately measures the applicant's knowledge
9 25 and comprehension in appropriate subject areas including the
9 26 following:
- 9 27 a. Ethics.
- 9 28 b. Federal laws and regulations pertaining to residential
9 29 mortgage loan origination.
- 9 30 c. State laws and regulations pertaining to residential
9 31 mortgage loan origination.
- 9 32 d. Other relevant federal and state laws and regulations,
9 33 including instruction on fraud, consumer protection, the
9 34 nontraditional mortgage marketplace, and fair lending issues.
- 9 35 3. Nothing in this section shall prohibit a test provider



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10 1 approved by the nationwide mortgage licensing system and
10 2 registry from providing a test at the location of the employer
10 3 of the applicant or the location of any subsidiary or
10 4 affiliate of the employer of the applicant, or the location of
10 5 any entity with which the applicant holds an exclusive
10 6 arrangement to conduct the business of a mortgage loan
10 7 originator.

10 8 4. An applicant shall not be considered to have passed a
10 9 qualified written test unless the applicant achieves a test
10 10 score of not less than seventy-five percent correct answers to
10 11 questions. An applicant who fails to achieve a test score of
10 12 not less than seventy-five percent correct answers to
10 13 questions may retake the test three consecutive times with
10 14 each consecutive retake occurring at least thirty days after
10 15 the preceding test. After three consecutive failed tests, an
10 16 individual shall be required to wait at least six months
10 17 before taking the test again. A licensed mortgage loan
10 18 originator who fails to maintain a valid license for a period
10 19 of five years or longer shall be required to retake and
10 20 successfully pass the test, not taking into account any time
10 21 during which such individual is a registered mortgage loan
10 22 originator.

10 23 Sec. 10. NEW SECTION. 535D.9 STANDARDS FOR LICENSE
10 24 RENEWAL AND NONRENEWAL.

10 25 1. The minimum standards for license renewal for a
10 26 mortgage loan originator include the following:

10 27 a. The mortgage loan originator continues to meet the
10 28 conditions for licensure under section 535D.6.

10 29 b. The mortgage loan originator has satisfied the annual
10 30 continuing education requirements described in section
10 31 535D.10.

10 32 c. The mortgage loan originator has paid all required fees
10 33 for renewal of the license.

10 34 2. The license of a mortgage loan originator failing to
10 35 satisfy the minimum standards for license renewal shall not be



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11 1 renewed. The superintendent may adopt rules for the
11 2 reinstatement of a license not renewed pursuant to this
11 3 subsection consistent with the standards established by the
11 4 nationwide mortgage licensing system and registry.
11 5 Sec. 11. NEW SECTION. 535D.10 CONTINUING EDUCATION.
11 6 1. A licensed mortgage loan originator shall annually
11 7 complete at least eight hours of education approved in
11 8 accordance with subsection 2, which shall include at a minimum
11 9 the following:
11 10 a. Three hours of federal laws and regulations pertaining
11 11 to residential mortgage loan origination.
11 12 b. Two hours of ethics, which shall include instruction on
11 13 fraud, consumer protection, and fair lending issues.
11 14 c. Two hours of training related to lending standards for
11 15 the nontraditional mortgage product marketplace.
11 16 2. Continuing education courses shall be reviewed and
11 17 approved by the nationwide mortgage licensing system and
11 18 registry based upon reasonable standards. Review and approval
11 19 of a continuing education course shall include review and
11 20 approval of the course provider.
11 21 3. A continuing education course that is approved by the
11 22 nationwide mortgage licensing system and registry and is
11 23 provided by the employer of the mortgage loan originator or an
11 24 entity which is affiliated with the mortgage loan originator
11 25 by an agency contract, or any subsidiary or affiliate of such
11 26 employer or entity, shall meet the requirements of this
11 27 section.
11 28 4. Continuing education may be offered either in a
11 29 classroom, online, or by any other means approved by the
11 30 nationwide mortgage licensing system and registry.
11 31 5. A licensed mortgage loan originator, other than an
11 32 originator subject to license nonrenewal pursuant to section
11 33 535D.9, subsection 2, or making up continuing education
11 34 pursuant to subsection 9 of this section may only receive
11 35 credit for a continuing education course in the year in which



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12 1 the course is taken, and may not take the same approved course
12 2 in the same or successive years to meet the annual
12 3 requirements for continuing education.

12 4 6. A licensed mortgage loan originator who is an approved
12 5 instructor of an approved continuing education course may
12 6 receive credit for the licensed mortgage loan originator's own
12 7 annual continuing education requirement at the rate of two
12 8 hours credit for every one hour taught.

12 9 7. Completion of continuing education requirements that
12 10 have been approved by the nationwide mortgage licensing system
12 11 and registry for any state shall be accepted as credit towards
12 12 completion of continuing education requirements in this state.

12 13 8. A licensed mortgage loan originator who subsequently
12 14 becomes unlicensed must complete the continuing education
12 15 requirements for the last year in which the license was held
12 16 prior to issuance of a new or renewed license.

12 17 9. A person meeting the requirements of section 535D.9,
12 18 subsection 1, paragraphs "a" and "c", may make up any
12 19 deficiency in continuing education as established by rule of
12 20 the superintendent.

12 21 Sec. 12. NEW SECTION. 535D.11 DUTIES AND POWERS OF
12 22 SUPERINTENDENT.

12 23 In addition to any other duties imposed upon the
12 24 superintendent by law, the superintendent shall require
12 25 mortgage loan originators to be licensed and registered, as
12 26 provided in this chapter, through the nationwide mortgage
12 27 licensing system and registry. In order to carry out this
12 28 requirement the superintendent may participate in the
12 29 nationwide mortgage licensing system and registry. For this
12 30 purpose, the superintendent may establish by rule requirements
12 31 as necessary, including but not limited to the following:

12 32 1. Applicant background checks for criminal history
12 33 through fingerprint or other databases or through civil or
12 34 administrative records; applicant background checks for credit
12 35 history; or applicant background checks for any other



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13 1 information as deemed necessary by the nationwide mortgage
13 2 licensing system and registry.

13 3 2. The payment of application and renewal fees for
13 4 licenses through the nationwide mortgage licensing system and
13 5 registry and any additional fees as determined by the
13 6 superintendent based on the actual cost of the operation of
13 7 the finance bureau of the banking division of the department
13 8 of commerce, including the proportionate share of
13 9 administrative expenses in the operation of the banking
13 10 division attributable to the finance bureau as determined by
13 11 the superintendent, incurred in the discharge of duties
13 12 imposed by this chapter.

13 13 3. Establishment of licensure renewal or reporting dates.

13 14 4. Requirements for amending or surrendering a license or
13 15 any other such activities as the superintendent deems
13 16 necessary for participation in the nationwide mortgage
13 17 licensing system and registry.

13 18 Sec. 13. NEW SECTION. 535D.12 NATIONWIDE MORTGAGE
13 19 LICENSING SYSTEM AND REGISTRY INFORMATION == CHALLENGE
13 20 PROCESS.

13 21 The superintendent shall establish a process by rule
13 22 whereby mortgage loan originators may challenge information
13 23 entered into the nationwide mortgage licensing system and
13 24 registry by the superintendent.

13 25 Sec. 14. NEW SECTION. 535D.13 DISCIPLINARY ACTION AND
13 26 CIVIL ENFORCEMENT AUTHORITY.

13 27 1. The superintendent may, pursuant to chapter 17A, take
13 28 disciplinary action against a licensed mortgage loan
13 29 originator if the superintendent finds any of the following:

13 30 a. The licensee has violated a provision of this chapter
13 31 or a rule adopted pursuant to this chapter or any other state
13 32 or federal law or regulation applicable to the conduct of the
13 33 licensee's business including but not limited to chapters 535
13 34 and 535A.

13 35 b. A fact or condition exists which, had it existed at the



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14 1 time of the original application for the license, would have
14 2 warranted the superintendent to refuse to issue the original
14 3 license.
14 4 c. The licensee fails at any time to meet the requirements
14 5 of section 535D.6 or 535D.9, or withholds information or makes
14 6 a material misstatement in an application for a license or
14 7 renewal of a license.
14 8 d. The licensee has violated an order of the
14 9 superintendent.
14 10 2. The superintendent may impose one or more of the
14 11 following disciplinary actions against a licensee:
14 12 a. Revoke a license.
14 13 b. Suspend a license until further order of the
14 14 superintendent or for a specified period of time.
14 15 c. Impose a period of probation under specified
14 16 conditions.
14 17 d. Impose civil penalties in an amount not to exceed five
14 18 thousand dollars for each violation.
14 19 e. Issue a citation and warning concerning licensee
14 20 behavior.
14 21 f. Order a licensee to cease and desist from conducting
14 22 business or from any harmful activities or violations of law
14 23 or rule.
14 24 g. Order the licensee to pay restitution.
14 25 3. The superintendent may order an emergency suspension of
14 26 a licensee's license or issue an order to immediately cease
14 27 and desist from conducting business or from any harmful
14 28 activities or violations of law or rule pursuant to section
14 29 17A.18A. A written order containing the facts or conduct
14 30 which warrants the emergency action shall be timely sent to
14 31 the licensee by restricted certified mail. Upon issuance of
14 32 an emergency suspension order, the licensee must also be
14 33 notified of the right to an evidentiary hearing. A suspension
14 34 proceeding shall be promptly instituted and determined.
14 35 4. A licensee may surrender a license by delivering to the



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15 1 superintendent written notice of surrender, but a surrender
15 2 does not affect the licensee's civil or criminal liability for
15 3 acts committed before the surrender.

15 4 5. A revocation, suspension, or surrender of a license
15 5 does not impair or affect the obligation of a preexisting
15 6 lawful contract between the licensee and any person, including
15 7 a mortgagor.

15 8 6. The superintendent may issue an order to a person who
15 9 is not licensed under this chapter to require compliance with
15 10 this chapter, including to cease and desist from conducting
15 11 business or from any harmful activities or violations of law
15 12 or rule, may impose a civil penalty against such person for
15 13 any violation of this chapter in an amount up to five thousand
15 14 dollars for each violation, and may order the person to pay
15 15 restitution.

15 16 7. Before issuing an order under subsection 6, the
15 17 superintendent shall provide the person written notice and the
15 18 opportunity to request a hearing. The hearing must be
15 19 requested within thirty days after receipt of the notice and
15 20 shall be conducted in the same manner as provided for
15 21 disciplinary proceedings involving a licensee under this
15 22 chapter.

15 23 8. A person aggrieved by the imposition of a civil penalty
15 24 under subsection 6 may seek judicial review pursuant to
15 25 section 17A.19.

15 26 9. An action to enforce an order under this section may be
15 27 joined with an action for an injunction.

15 28 Sec. 15. NEW SECTION. 535D.14 SURETY BOND REQUIRED OR
15 29 RECOVERY FUND.

15 30 1. a. A mortgage loan originator shall be covered by a
15 31 surety bond in accordance with this section unless the
15 32 superintendent establishes a recovery fund pursuant to
15 33 subsection 4 into which the mortgage loan originator makes
15 34 payments. In the event that the mortgage loan originator is
15 35 an employee or exclusive agent of a person subject to chapter



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16 1 535B, 536, or 536A, the surety bond of such person can be used
16 2 in lieu of the mortgage loan originator's surety bond
16 3 requirement.

16 4 b. The surety bond shall provide coverage for each
16 5 mortgage loan originator in an amount as prescribed in
16 6 subsection 2. The surety bond shall be in a form as
16 7 prescribed by the superintendent. The superintendent may,
16 8 pursuant to rule, determine requirements for such surety bonds
16 9 as are necessary to accomplish the purposes of this chapter.

16 10 2. The bond shall be maintained in an amount that reflects
16 11 the dollar value of loans originated as determined by the
16 12 superintendent.

16 13 3. When an action is commenced on a licensee's bond the
16 14 superintendent may require the filing of a new bond.

16 15 Immediately upon recovery upon any action on the bond the
16 16 licensee shall file a new bond.

16 17 4. If the superintendent determines it is not feasible to
16 18 establish surety bonding requirements that reflect the dollar
16 19 amount of loans originated by a mortgage loan originator, as
16 20 provided in subsection 1508(d)(6) of the federal Housing and
16 21 Economic Recovery Act of 2008, Pub. L. No. 110-289(1508), the
16 22 superintendent may establish by rule a recovery fund to be
16 23 paid into by mortgage loan originators. The rules shall
16 24 provide for the amounts to be paid into the fund by mortgage
16 25 loan originators. In the event the superintendent establishes
16 26 a recovery fund, the fund shall be established as a separate
16 27 fund in the state treasury. Moneys deposited in the fund
16 28 shall be administered by the superintendent and used for the
16 29 purposes of compensating members of the public for losses
16 30 caused by licensees. In addition, the superintendent may use
16 31 moneys from the fund for the purpose of investigating and
16 32 prosecuting violations of this chapter or any other state or
16 33 federal law, rule, or regulation applicable to the conduct of
16 34 a licensee's business. Notwithstanding section 12C.7,
16 35 interest earned on amounts deposited in the fund, if



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17 1 established, shall be credited to the fund. Any balance in
17 2 the fund on June 30 of any fiscal year shall not revert to the
17 3 general fund of the state.

17 4 Sec. 16. NEW SECTION. 535D.15 CONFIDENTIALITY.

17 5 1. Except as otherwise provided in section 1512 of the
17 6 federal Housing and Economic Recovery Act of 2008, Pub. L. No.
17 7 110-289(1512), the requirements under any federal law or
17 8 chapter 22 regarding the privacy or confidentiality of any
17 9 information or material provided to the nationwide mortgage
17 10 licensing system and registry, and any privilege arising under
17 11 federal or state law, including the rules of any federal or
17 12 state court, with respect to such information or material,
17 13 shall continue to apply to such information or material after
17 14 the information or material has been disclosed to the
17 15 nationwide mortgage licensing system and registry. Such
17 16 information and material may be shared with any state or
17 17 federal regulatory official with mortgage industry oversight
17 18 authority without the loss of privilege or the loss of
17 19 confidentiality protections provided by federal law or chapter
17 20 22.

17 21 2. The superintendent may enter into agreements or sharing
17 22 arrangements with other governmental agencies, the conference
17 23 of state bank supervisors, the American association of
17 24 residential mortgage regulators, or other associations
17 25 representing governmental agencies.

17 26 3. Information or material that is subject to privilege or
17 27 confidentiality under subsection 1 shall not be subject to any
17 28 of the following:

17 29 a. Disclosure under any federal or state law governing the
17 30 disclosure to the public of information held by an officer or
17 31 an agency of the federal government or this state.

17 32 b. Subpoena or discovery, or admission into evidence, in
17 33 any private civil action or administrative process, unless
17 34 with respect to any privilege held by the nationwide mortgage
17 35 licensing system and registry with respect to such information



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18 1 or material, the person to whom such information or material
18 2 pertains waives, in whole or in part, that privilege.

18 3 4. This section supersedes any provision of chapter 22
18 4 relating to the disclosure of confidential supervisory
18 5 information or any information or material described in
18 6 subsection 1 of this section that is inconsistent with
18 7 subsection 1.

18 8 5. This section shall not apply with respect to
18 9 information or material relating to the employment history of,
18 10 and publicly adjudicated disciplinary and enforcement actions
18 11 against, mortgage loan originators that are included in the
18 12 nationwide mortgage licensing system and registry for access
18 13 by the public.

18 14 Sec. 17. NEW SECTION. 535D.16 INVESTIGATION AND
18 15 EXAMINATION AUTHORITY.

18 16 The superintendent may conduct investigations and
18 17 examinations as follows:

18 18 1. For purposes of initial licensing, license renewal,
18 19 license suspension, license conditioning, license revocation
18 20 or termination, or general or specific inquiry or
18 21 investigation to determine compliance with this chapter, the
18 22 superintendent may access, receive, and use any books,
18 23 accounts, records, files, documents, information, or evidence
18 24 including but not limited to:

18 25 a. Criminal, civil, and administrative history
18 26 information, including criminal history data as specified in
18 27 chapter 692.

18 28 b. Personal history and experience information including
18 29 independent credit reports obtained from a consumer reporting
18 30 agency described in section 603(p) of the federal Fair Credit
18 31 Reporting Act.

18 32 c. Any other documents, information, or evidence the
18 33 superintendent deems relevant to the inquiry or investigation
18 34 regardless of the location, possession, control, or custody of
18 35 such documents, information, or evidence.



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19 1 2. For the purposes of investigating violations or
19 2 complaints arising under this chapter, or for the purposes of
19 3 examination, the superintendent may review, investigate, or
19 4 examine any licensee, individual, or person subject to this
19 5 chapter, as often as necessary in order to carry out the
19 6 purposes of this chapter. The superintendent may direct,
19 7 subpoena, or order the attendance of and examine under oath
19 8 all persons whose testimony may be required about the loans or
19 9 the business or subject matter of any such examination or
19 10 investigation, and may direct, subpoena, or order such person
19 11 to produce books, accounts, records, files, and any other
19 12 documents the superintendent deems relevant to the inquiry.
19 13 3. Each licensee, individual, or person subject to this
19 14 chapter shall make available to the superintendent upon
19 15 request the books and records relating to the operations of
19 16 such licensee, individual, or person. The superintendent
19 17 shall have access to such books and records and interview the
19 18 officers, principals, mortgage loan originators, employers,
19 19 employees, independent contractors, agents, and customers of
19 20 the licensee, individual, or person subject to this chapter
19 21 concerning their business.
19 22 4. Each licensee, individual, or person subject to this
19 23 chapter shall make or compile reports or prepare other
19 24 information as directed by the superintendent in order to
19 25 carry out the purposes of this section including but not
19 26 limited to the following:
19 27 a. Accounting compilations.
19 28 b. Information lists and data concerning loan transactions
19 29 in a format prescribed by the superintendent.
19 30 c. Such other information deemed necessary to carry out
19 31 the purposes of this section.
19 32 5. In making any examination or investigation authorized
19 33 by this chapter, the superintendent may control access to any
19 34 documents and records of the licensee or person under
19 35 examination or investigation. The superintendent may take



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20 1 possession of the documents and records or place a person in
20 2 exclusive charge of the documents and records in the place
20 3 where they are usually kept. During the period of control, an
20 4 individual or person shall not remove or attempt to remove any
20 5 of the documents or records except pursuant to a court order
20 6 or with the consent of the superintendent. Unless the
20 7 superintendent has reasonable grounds to believe the documents
20 8 or records of the licensee have been or are at risk of being
20 9 altered or destroyed for purposes of concealing a violation of
20 10 this chapter, the licensee or owner of the documents or
20 11 records shall have access to the documents or records as
20 12 necessary to conduct its ordinary business affairs.

20 13 6. In order to carry out the purposes of this section, the
20 14 superintendent may:

20 15 a. Retain attorneys, accountants, or other professionals
20 16 or specialists as examiners, auditors, or investigators to
20 17 conduct or assist in the conduct of examinations or
20 18 investigations.

20 19 b. Enter into agreements or relationships with other
20 20 government officials or regulatory associations in order to
20 21 improve efficiencies and reduce regulatory burden by sharing
20 22 resources, standardized or uniform methods or procedures, and
20 23 documents, records, information, or evidence obtained under
20 24 this section.

20 25 c. Use, hire, contract, or employ publicly or privately
20 26 available analytical systems, methods, or software to examine
20 27 or investigate the licensee, individual, or person subject to
20 28 this chapter.

20 29 d. Accept and rely on examination or investigation reports
20 30 made by other government officials, within or without this
20 31 state.

20 32 e. Accept audit reports made by an independent certified
20 33 public accountant for the licensee, individual, or person
20 34 subject to this chapter in the course of that part of the
20 35 examination covering the same general subject matter as the



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21 1 audit and may incorporate the audit report in the report of
21 2 the examination, report of investigation, or other writing of
21 3 the superintendent.

21 4 7. The authority of this section shall remain in effect,
21 5 whether such a licensee, individual, or person subject to this
21 6 chapter acts or claims to act under any licensing or
21 7 registration law of this state, or claims to act without such
21 8 authority.

21 9 8. A licensee, individual, or person subject to
21 10 investigation or examination under this section shall not
21 11 knowingly withhold, abstract, remove, mutilate, destroy, or
21 12 secrete any books, records, computer records, or other
21 13 information.

21 14 Sec. 18. NEW SECTION. 535D.17 PROHIBITED ACTS AND
21 15 PRACTICES.

21 16 It is a violation of this chapter for a person or
21 17 individual subject to this chapter to engage in any of the
21 18 following activities:

21 19 1. Directly or indirectly employ any scheme, device, or
21 20 artifice to defraud or mislead borrowers or lenders or to
21 21 defraud any person.

21 22 2. Any unfair or deceptive practice toward any person.

21 23 3. Obtain property by fraud or misrepresentation.

21 24 4. Solicit or enter into a contract with a borrower that
21 25 provides in substance that the person or individual subject to
21 26 this chapter may earn a fee or commission through "best
21 27 efforts" to obtain a loan even though no loan is actually
21 28 obtained for the borrower.

21 29 5. Solicit, advertise, or enter into a contract for
21 30 specific interest rates, points, or other financing terms
21 31 unless the terms are actually available at the time of
21 32 soliciting, advertising, or contracting.

21 33 6. Conduct any business covered by this chapter without
21 34 holding a valid license as required under this chapter, or
21 35 assist or aide and abet any person in the conduct of business



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22 1 under this chapter without a valid license as required under
22 2 this chapter.

22 3 7. Fail to make disclosures as required by this chapter or
22 4 any other applicable state or federal law including
22 5 regulations thereunder.

22 6 8. Fail to comply with this chapter or rules or
22 7 regulations promulgated under this chapter, or fail to comply
22 8 with any other state or federal law, including the rules and
22 9 regulations thereunder, applicable to any business authorized
22 10 or conducted under this chapter.

22 11 9. Make, in any manner, any false or deceptive statement
22 12 or representation.

22 13 10. Negligently make any false statement or knowingly and
22 14 willfully make any omission of material fact in connection
22 15 with any information or reports filed with a governmental
22 16 agency or the nationwide mortgage licensing system and
22 17 registry or in connection with any investigation conducted by
22 18 the superintendent or another governmental agency.

22 19 11. Make any payment, threat, or promise, directly or
22 20 indirectly, to any person for the purposes of influencing the
22 21 independent judgment of the person in connection with a
22 22 residential mortgage loan, or make any payment, threat, or
22 23 promise, directly or indirectly, to any appraiser of a
22 24 property, for the purposes of influencing the independent
22 25 judgment of the appraiser with respect to the value of the
22 26 property.

22 27 12. Collect, charge, attempt to collect or charge, or use
22 28 or propose any agreement purporting to collect or charge any
22 29 fee prohibited by this chapter.

22 30 13. Cause or require a borrower to obtain property
22 31 insurance coverage in an amount that exceeds the replacement
22 32 cost of the improvements as established by the property
22 33 insurer.

22 34 14. Fail to truthfully account for moneys belonging to a
22 35 party to a residential mortgage loan transaction.



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23 1 Sec. 19. NEW SECTION. 535D.18 REPORT TO NATIONWIDE
23 2 MORTGAGE LICENSING SYSTEM AND REGISTRY.
23 3 The superintendent shall regularly report violations of
23 4 this chapter, as well as enforcement actions and other
23 5 relevant information, to the nationwide mortgage licensing
23 6 system and registry subject to the confidentiality provisions
23 7 of section 535D.15.
23 8 Sec. 20. NEW SECTION. 535D.19 UNIQUE IDENTIFIER SHOWN.
23 9 The unique identifier of any person originating a
23 10 residential mortgage loan shall be clearly shown on all
23 11 residential mortgage loan application forms, solicitations, or
23 12 advertisements, including business cards or internet websites,
23 13 and any other documents as established by rule, regulation, or
23 14 order of the superintendent.
23 15 Sec. 21. NEW SECTION. 535D.20 OPERATING WITHOUT A
23 16 LICENSE == PENALTY.
23 17 A person who, without first obtaining a license under this
23 18 chapter, engages in the business or occupation of, or
23 19 advertises or holds the person out as, or claims to be, or
23 20 temporarily acts as, a mortgage loan originator in this state
23 21 is guilty of a class "D" felony and may be prosecuted by the
23 22 attorney general or a county attorney.
23 23 Sec. 22. NEW SECTION. 535D.21 ADMINISTRATIVE AUTHORITY.
23 24 The superintendent shall have broad administrative
23 25 authority to administer, interpret, and enforce this chapter
23 26 and to promulgate rules implementing this chapter.
23 27 Sec. 23. TRANSITION PROVISIONS. If an individual
23 28 registrant who was registered under chapter 535B before
23 29 January 1, 2010, meets the qualifications for licensure in
23 30 section 535D.6, subsections 1, 2, 3, 6, and 7, as enacted by
23 31 this Act, but has not completed the prelicensing education
23 32 requirements pursuant to section 535D.7, as enacted by this
23 33 Act, or passed a written test that meets the requirements of
23 34 section 535D.8, as enacted by this Act, by January 1, 2010,
23 35 the superintendent may issue the individual a temporary



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24 1 mortgage loan originator license under chapter 535D, as
24 2 enacted by this division of this Act. The temporary mortgage
24 3 loan originator license shall expire on December 31, 2010, and
24 4 beginning January 1, 2011, the individual must meet all of the
24 5 qualifications for licensure specified in section 535D.6, as
24 6 enacted by this Act, to obtain a license.
24 7 Sec. 24. EFFECTIVE DATE. This division of this Act takes
24 8 effect July 1, 2009.

DIVISION II
MORTGAGE

BANKERS AND BROKERS

24 11 Sec. 25. Section 535B.1, subsection 2, Code 2009, is
24 12 amended by striking the subsection.

24 13 Sec. 26. Section 535B.1, subsections 4 and 5, Code 2009,
24 14 are amended to read as follows:

24 15 4. "Mortgage banker" means a person who does one or more
24 16 of the following:

24 17 a. Makes at least four mortgage loans on residential real
24 18 property located in this state in a calendar year.

24 19 b. Originates at least four mortgage loans on residential
24 20 real property located in this state in a calendar year and
24 21 sells four or more such loans in the secondary market.

24 22 c. Services at least four mortgage loans on residential
24 23 real property located in this state. However, a natural
24 24 person, who services less than fifteen mortgage loans on
24 25 residential real estate within the state and who does not sell
24 26 or transfer mortgage loans, is exempt from this paragraph if
24 27 that person is otherwise exempt from the provisions of this
24 28 chapter.

24 29 "Mortgage banker" does not include a person whose job
24 30 responsibilities on behalf of a licensee or individual
~~24 31 registrant are to process mortgage loans, are solely clerical~~
~~24 32 in nature, or otherwise do not involve direct contact with~~
~~24 33 loan applicants who is a licensed mortgage loan originator~~
24 34 under chapter 535D.
24 35



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25 1 5. "Mortgage broker" means a person who arranges or
25 2 negotiates, or attempts to arrange or negotiate, at least four
25 3 mortgage loans or commitments for four or more such loans on
25 4 residential real property located in this state in a calendar
25 5 year. "Mortgage broker" does not include a person ~~whose job~~
~~25 6 responsibilities on behalf of a licensee or individual~~
~~25 7 registrant are to process mortgage loans, are solely clerical~~
~~25 8 in nature, or otherwise do not involve direct contact with~~
~~25 9 loan applicants who is a licensed mortgage loan originator~~
25 10 under chapter 535D.

25 11 Sec. 27. Section 535B.4, subsection 7, Code 2009, is
25 12 amended to read as follows:

25 13 7. Applications for renewals of licenses ~~and individual~~
~~25 14 registrations~~ under this chapter must be filed with the
25 15 administrator before December 1 of the year of expiration on
25 16 forms prescribed by the administrator. A renewal application
25 17 must be accompanied by a fee of two hundred dollars for a
25 18 license to transact business solely as a mortgage broker, and
25 19 four hundred dollars for a license to transact business as a
25 20 mortgage banker. ~~The fee to renew an individual registration~~
~~25 21 shall be the fee determined pursuant to section 535B.4A.~~ The
25 22 administrator may assess a late fee of ten dollars per day for
25 23 applications or registrations accepted for processing after
25 24 December 1.

25 25 Sec. 28. Section 535B.7, Code 2009, is amended to read as
25 26 follows:

25 27 535B.7 DISCIPLINARY ACTION.

25 28 1. The administrator may, pursuant to chapter 17A, take
25 29 disciplinary action against a licensee ~~or individual~~
~~25 30 registrant~~ if the administrator finds any of the following:
25 31 a. The licensee ~~or individual registrant~~ has violated a
25 32 provision of this chapter or a rule adopted under this chapter
25 33 or any other state or federal law applicable to the conduct of
25 34 its business including but not limited to chapters 535 and
25 35 535A.



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26 1 b. A fact or condition exists which, if it had existed at
26 2 the time of the original application for the license ~~or~~
~~26 3 individual registration~~, would have warranted the
26 4 administrator to refuse originally to issue the license ~~or~~
~~26 5 individual registration~~.

26 6 c. The licensee is found upon investigation to be
26 7 insolvent, in which case the license shall be revoked
26 8 immediately.

26 9 d. The licensee ~~or individual registrant~~ has violated an
26 10 order of the administrator.

26 11 2. The administrator may impose one or more of the
26 12 following disciplinary actions against a licensee ~~or~~
~~26 13 individual registrant~~:

26 14 a. Revoke a license ~~or individual registration~~.

26 15 b. Suspend a license ~~or individual registration~~ until
26 16 further order of the administrator or for a specified period
26 17 of time.

26 18 c. Impose a period of probation under specified
26 19 conditions.

26 20 d. Impose civil penalties in an amount not to exceed five
26 21 thousand dollars for each violation.

26 22 e. Issue a citation and warning respecting licensee ~~or~~
~~26 23 individual registrant~~ behavior.

26 24 f. Order the licensee ~~or individual registrant~~ to pay
26 25 restitution.

26 26 3. The administrator may order an emergency suspension of
26 27 a licensee's license ~~or an individual's registration~~ pursuant
26 28 to section 17A.18A. A written order containing the facts or
26 29 conduct which warrants the emergency action shall be timely
26 30 sent to the licensee ~~or individual registrant~~ by restricted
26 31 certified mail. Upon issuance of the suspension order, the
26 32 licensee ~~or individual registrant~~ must also be notified of the
26 33 right to an evidentiary hearing. A suspension proceeding
26 34 shall be promptly instituted and determined.

26 35 4. Except as provided in this section, a license ~~or~~



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~~27 1 individual registration shall not be revoked or suspended~~
27 2 except after notice and a hearing thereon in accordance with
27 3 chapter 17A.

27 4 5. A licensee may surrender a license ~~and an individual~~
~~27 5 registrant may surrender an individual registration by~~
27 6 delivering to the administrator written notice of surrender,
27 7 but a surrender does not affect the licensee's ~~or individual~~
~~27 8 registrant's~~ civil or criminal liability for acts committed
27 9 before the surrender.

27 10 6. A revocation, suspension, or surrender of a license ~~or~~
~~27 11 individual registration~~ does not impair or affect the
27 12 obligation of a preexisting lawful contract between the
27 13 licensee ~~or individual registrant~~ and any person, including a
27 14 mortgagor.

27 15 Sec. 29. NEW SECTION. 535B.7A PROHIBITED ACTS.

27 16 It is a violation of this chapter for a licensee to engage
27 17 in any of the prohibited acts or practices in section 535D.16.

27 18 Sec. 30. Section 535B.8, Code 2009, is amended to read as
27 19 follows:

27 20 535B.8 OPERATING WITHOUT A LICENSE ~~OR REGISTRATION.~~

27 21 A person who, without first obtaining a license ~~or~~
~~27 22 individual registration~~ under this chapter, engages in the
27 23 business or occupation of, or advertises or holds the person
27 24 out as, or claims to be, or temporarily acts as, a mortgage
27 25 banker or mortgage broker in this state is guilty of a class
27 26 "D" felony and may be prosecuted by the attorney general or a
27 27 county attorney.

27 28 Sec. 31. Section 535B.9, subsection 1, Code 2009, is
27 29 amended to read as follows:

27 30 1. An applicant for a license shall file with the
27 31 administrator a bond furnished by a surety company authorized
27 32 to do business in this state, together with evidence of
27 33 whether the applicant is seeking to transact business as a
27 34 mortgage broker or as a mortgage banker. ~~The~~ Until such time
27 35 as the superintendent pursuant to administrative rule



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28 1 determines a bond amount that reflects the dollar value of
28 2 loans originated, the bond shall be in the amount of one
28 3 hundred thousand dollars. The bond shall be continuous in
28 4 nature until canceled by the surety with not less than thirty
28 5 days' notice in writing to the mortgage broker or mortgage
28 6 banker and to the administrator indicating the surety's
28 7 intention to cancel the bond on a specific date. The bond
28 8 shall be for the use of the state and any persons who may have
28 9 causes of action against the applicant. The bond shall be
28 10 conditioned upon the applicant's faithfully conforming to and
28 11 abiding by this chapter and any rules adopted under this
28 12 chapter and shall require that the surety pay to the state and
28 13 to any persons all moneys that become due or owing to the
28 14 state and to the persons from the applicant by virtue of this
28 15 chapter.

28 16 Sec. 32. Section 535B.10, subsection 2, Code 2009, is
28 17 amended to read as follows:

28 18 2. For the purposes of discovering violations of this
28 19 chapter or any related rules or for securing information
28 20 lawfully required under this chapter, the administrator may at
28 21 any time and as often as the administrator deems necessary,
28 22 but in no event less frequently than once during each two-year
28 23 period, investigate the business and examine the books,
28 24 accounts, records, and files used by a licensee ~~or individual~~
28 25 ~~registrant.~~

28 26 Sec. 33. Section 535B.14, Code 2009, is amended to read as
28 27 follows:

28 28 535B.14 RULEMAKING AUTHORITY.

28 29 The administrator may adopt, amend, or repeal rules to aid
28 30 in the administration and enforcement of this chapter,
28 31 including rules providing the grounds for denial of ~~an~~
28 32 ~~individual registration~~ a license based on information
28 33 received as a result of a background check, character and
28 34 fitness grounds, and any other grounds for which ~~an individual~~
28 35 ~~registrant or a licensee~~ may be disciplined.



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29 1 Sec. 34. Section 535B.17, Code 2009, is amended to read as
29 2 follows:

29 3 535B.17 POWERS AND DUTIES OF THE ADMINISTRATOR == WAIVER
29 4 AUTHORITY.

29 5 In addition to any other duties imposed upon the
29 6 administrator by law, the administrator may participate in a
29 7 multistate automated licensing system for mortgage bankers,
29 8 mortgage brokers, and ~~individual registrants~~ mortgage loan
29 9 originators. For this purpose, the administrator may
29 10 establish by rule or order new requirements as necessary,
29 11 including but not limited to requirements that license
29 12 applicants ~~and individual registrants~~ submit to fingerprinting
29 13 and criminal history checks, and pay fees therefor.

29 14 Sec. 35. NEW SECTION. 535B.18 MORTGAGE CALL REPORTS.

29 15 Each licensee shall submit to the nationwide mortgage
29 16 licensing system and registry, as defined in section 535D.3,
29 17 reports of condition, which shall be in such form and shall
29 18 contain such information as the nationwide mortgage licensing
29 19 system and registry may require.

29 20 Sec. 36. Section 535B.4A, Code 2009, is repealed.

29 21 Sec. 37. Section 535B.9A, Code 2009, is repealed.

29 22 Sec. 38. EFFECTIVE DATES.

29 23 1. The sections of this division of this Act amending
29 24 section 535B.9 and enacting sections 535B.7A and 535B.18 take
29 25 effect July 1, 2009.

29 26 2. The sections of this division of this Act amending
29 27 sections 535B.1, 535B.4, 535B.7, 535B.8, 535B.10, 535B.14, and
29 28 535B.17 to eliminate the classification of "individual
29 29 registrant" and repealing sections 535B.4A and 535B.9A take
29 30 effect January 1, 2010.

29 31 DIVISION III

29 32 REGULATED AND INDUSTRIAL LOANS

29 33 Sec. 39. Section 536.3, Code 2009, is amended by striking
29 34 the section and inserting in lieu thereof the following:

29 35 536.3 BOND.



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30 1 An applicant for a license shall file with the
30 2 superintendent a bond furnished by a surety company authorized
30 3 to do business in this state. Until such time as the
30 4 superintendent through the administrative rule process
30 5 determines a bond amount that reflects the dollar value of
30 6 loans originated, the bond shall be in the amount of
30 7 twenty-five thousand dollars. The bond shall be continuous in
30 8 nature until canceled by the surety with not less than thirty
30 9 days' notice in writing to the licensee and to the
30 10 superintendent indicating the surety's intention to cancel the
30 11 bond on a specific date. The bond shall be for the use of the
30 12 state and any persons who may have causes of action against
30 13 the applicant. The bond shall be conditioned upon the
30 14 applicant's faithfully conforming to and abiding by this
30 15 chapter and any rules adopted under this chapter and shall
30 16 require that the surety pay to the state and to any persons
30 17 all moneys that become due or owing to the state and to the
30 18 persons from the applicant by virtue of this chapter.

30 19 Sec. 40. Section 536.6, subsection 1, Code 2009, is
30 20 amended to read as follows:

30 21 1. If the superintendent ~~shall find~~ finds at any time that
30 22 the bond is insecure or exhausted or otherwise of doubtful
30 23 validity or collectibility, an additional bond to be approved
30 24 by the superintendent, with one or more sureties and of the
30 25 character specified in section 536.3, ~~in the a sum of not more~~
~~30 26 than twenty-five thousand dollars not to exceed that amount~~
30 27 determined pursuant to section 536.3, shall be filed by the
30 28 licensee within ten days after written demand upon the
30 29 licensee by the superintendent.

30 30 Sec. 41. Section 536.11, Code 2009, is amended by adding
30 31 the following new subsection:

30 32 NEW SUBSECTION. 3. Each licensee making residential
30 33 mortgage loans shall submit to the nationwide mortgage
30 34 licensing system and registry reports of condition, which
30 35 shall be in such form and shall contain such information as



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31 1 the nationwide mortgage licensing system and registry may
31 2 require. For purposes of this subsection, "nationwide
31 3 mortgage licensing system and registry" and "residential
31 4 mortgage loan" mean the same as defined in section 535D.3.

31 5 Sec. 42. NEW SECTION. 536.30 POWERS AND DUTIES OF THE
31 6 SUPERINTENDENT == NATIONWIDE SYSTEM.

31 7 In addition to any other duties imposed upon the
31 8 superintendent by law, the superintendent may require
31 9 applicants and licensees to be licensed through the nationwide
31 10 mortgage licensing system and registry as defined in section
31 11 535D.3. In order to carry out this requirement, the
31 12 superintendent may participate in the nationwide mortgage
31 13 licensing system and registry. For this purpose, the
31 14 superintendent may establish by rule or order new requirements
31 15 as necessary, including but not limited to requirements that
31 16 applicants, including officers and directors and those who
31 17 have control of the applicant, submit to fingerprinting,
31 18 criminal history checks, and pay fees therefor.

31 19 Sec. 43. Section 536A.7A, subsection 1, Code 2009, is
31 20 amended to read as follows:

31 21 1. An applicant for a license shall file with the
31 22 superintendent a bond furnished by a surety company authorized
31 23 to do business in this state. ~~The~~ Until such time as the
31 24 superintendent pursuant to administrative rule determines a
31 25 bond amount that reflects the dollar value of the loans
31 26 originated, the bond shall be in the amount of twenty-five
31 27 thousand dollars. The bond shall be continuous in nature
31 28 until canceled by the surety with not less than thirty days'
31 29 notice in writing to the applicant and to the superintendent
31 30 indicating the surety's intention to cancel the bond on a
31 31 specific date. The bond shall be for the use of the state and
31 32 any persons who may have causes of action against the
31 33 applicant. The bond shall be conditioned upon the applicant's
31 34 faithfully conforming to and abiding by this chapter and any
31 35 rules adopted under this chapter and shall require that the



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32 1 surety pay to the state and to any persons all moneys that
32 2 become due or owing to the state and to the persons from the
32 3 applicant by virtue of this chapter.

32 4 Sec. 44. Section 536A.14, Code 2009, is amended by adding
32 5 the following new subsection:

32 6 NEW SUBSECTION. 3. Each licensee making residential
32 7 mortgage loans shall submit to the nationwide mortgage
32 8 licensing system and registry reports of condition, which
32 9 shall be in such form and shall contain such information as
32 10 the nationwide mortgage licensing system and registry may
32 11 require. For purposes of this subsection, "nationwide
32 12 mortgage licensing system and registry" and "residential
32 13 mortgage loan" mean the same as defined in section 535D.3.

32 14 Sec. 45. NEW SECTION. 536A.32 POWERS AND DUTIES OF THE
32 15 SUPERINTENDENT == NATIONWIDE SYSTEM.

32 16 In addition to any other duties imposed upon the
32 17 superintendent by law, the superintendent may require
32 18 applicants and licensees to be licensed through the nationwide
32 19 mortgage licensing system and registry as defined in section
32 20 535D.3. In order to carry out this requirement, the
32 21 superintendent may participate in the nationwide mortgage
32 22 licensing system and registry. For this purpose, the
32 23 superintendent may establish by rule or order new requirements
32 24 as necessary, including but not limited to requirements that
32 25 applicants, including officers and directors and those who
32 26 have control of the applicant, submit to fingerprinting,
32 27 criminal history checks, and pay fees therefor.

32 28 Sec. 46. EFFECTIVE DATE. This division of this Act takes
32 29 effect July 1, 2009.

32 30 EXPLANATION

32 31 This bill establishes licensure requirements relating to
32 32 the origination of mortgage loans.

32 33 The bill contains legislative intent provisions relating to
32 34 the importance of residential real estate financing to the
32 35 citizens and economy of this state and stating that the bill's



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33 1 provisions are directed at protecting consumers and ensuring
33 2 that the mortgage lending industry is operating without
33 3 unfair, deceptive, or fraudulent practices on the part of
33 4 mortgage loan originators.

33 5 The bill provides, among other definitions, a definition of
33 6 a "mortgage loan originator" as an individual who for
33 7 compensation or gain, or in the expectation of compensation or
33 8 gain, takes a residential mortgage loan application or offers
33 9 or negotiates terms of a residential mortgage loan.

33 10 Exclusions from the definition include an individual engaged
33 11 solely as a loan processor or underwriter as defined in the
33 12 bill other than with the status of an independent contractor;
33 13 an individual who only performs real estate brokerage
33 14 activities and is licensed in accordance with state law,
33 15 unless the individual is compensated by a lender, a mortgage
33 16 broker, or other mortgage loan originator or by any agent of
33 17 such lender, mortgage broker, or mortgage loan originator; an
33 18 individual solely involved in extensions of credit relating to
33 19 federally defined timeshare plans; and an individual involved
33 20 solely in servicing residential mortgage loans, as defined in
33 21 the bill, provided the individual does not take a residential
33 22 mortgage loan application and offer or negotiate terms of a
33 23 residential mortgage loan for compensation or gain. The bill
33 24 also provides a definition of the "nationwide mortgage
33 25 licensing system and registry" (hereafter referred to as the
33 26 "registry") as the mortgage licensing system developed and
33 27 maintained by the conference of state bank supervisors and the
33 28 American association of residential mortgage regulators for
33 29 the licensing and registration of licensed mortgage loan
33 30 originators.

33 31 The bill prohibits an individual from engaging in the
33 32 business of a mortgage loan originator with respect to any
33 33 residential real estate located in Iowa without first becoming
33 34 licensed pursuant to new Code chapter 535D. In addition, a
33 35 licensed mortgage loan originator must register with and



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34 1 maintain a valid unique identifier issued by the nationwide
34 2 mortgage licensing system and registry. These provisions
34 3 apply to individuals engaged in the business of a mortgage
34 4 loan originator and registered under Code chapter 535B as an
34 5 individual registrant beginning January 1, 2010. The bill
34 6 provides exemptions from the licensing provisions for
34 7 registered mortgage loan originators as defined in the bill,
34 8 individuals who offer or negotiate terms of a residential
34 9 mortgage loan with or on behalf of an immediate family member,
34 10 individuals who offer or negotiate terms of a residential
34 11 mortgage loan secured by a dwelling that served as the
34 12 individual's residence, and licensed attorneys who negotiate
34 13 the terms of a residential mortgage loan on behalf of a client
34 14 as an ancillary matter to the attorney's representation of the
34 15 client, unless the attorney is compensated by a lender, a
34 16 mortgage broker, or mortgage loan originator or by any agent
34 17 of such lender, mortgage broker, or mortgage loan originator.
34 18 The bill authorizes the superintendent of banking to adopt
34 19 rules relating to the application and licensure process, and
34 20 relating to participation in the nationwide mortgage licensing
34 21 system and registry, and permits the superintendent to waive
34 22 or modify Code chapter requirements as reasonably necessary to
34 23 participate in the registry.
34 24 The bill provides for information relative to an
34 25 applicant's identity to be submitted to the registry, and
34 26 specifies various conditions of licensure including specified
34 27 prior convictions, demonstrated financial responsibility and
34 28 character, completion of prelicensing education requirements
34 29 contained in the bill, and successful passage of a licensing
34 30 test qualified by the registry. The bill also addresses
34 31 standards for license renewal and nonrenewal, continuing
34 32 education requirements, duties and powers of the
34 33 superintendent relative to mortgage loan originator
34 34 regulation, and grounds for disciplinary action against a
34 35 licensee and civil enforcement authority on the part of the



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35 1 superintendent. The bill requires the posting of a surety
35 2 bond, but provides that if the mortgage loan originator is
35 3 already the subject of a bond pursuant to Code chapter 535B,
35 4 536, or 536A, the existing bond will suffice. The bill
35 5 provides that if the superintendent determines that it is not
35 6 feasible to establish surety bonding requirements, the
35 7 superintendent may alternatively by rule establish a recovery
35 8 fund to be paid into by mortgage loan originators.
35 9 The bill addresses confidentiality, stating that the
35 10 requirements under any federal law or Code chapter 22
35 11 regarding the privacy or confidentiality of any information or
35 12 material provided to the nationwide mortgage licensing system
35 13 and registry, and any privilege arising under federal or state
35 14 law, including the rules of any federal or state court, with
35 15 respect to such information or material, shall continue to
35 16 apply to such information or material after the information or
35 17 material has been disclosed to the nationwide mortgage
35 18 licensing system and registry. The bill provides, however,
35 19 that this information and material may be shared with any
35 20 state or federal regulatory officials with mortgage industry
35 21 oversight authority without the loss of privilege or
35 22 confidentiality protections. The bill authorizes the
35 23 superintendent to enter into agreements or sharing
35 24 arrangements with other governmental agencies, the conference
35 25 of state bank supervisors, the American association of
35 26 residential mortgage regulators, or other associations
35 27 representing governmental agencies. The bill further states
35 28 that confidentiality protections shall not apply with respect
35 29 to information or material relating to the employment history
35 30 of, and publicly adjudicated disciplinary and enforcement
35 31 actions against, mortgage loan originators that are included
35 32 in the nationwide mortgage licensing system and registry for
35 33 access by the public.
35 34 The bill contains provisions authorizing the superintendent
35 35 to conduct investigations and examinations relating to



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36 1 licensing and violations of the new Code chapter, and
36 2 specifies a list of prohibited acts and practices. The bill
36 3 specifies that engaging in the business or occupation of, or
36 4 advertising or representing oneself to be, a mortgage loan
36 5 originator without possessing a license under the Code chapter
36 6 constitutes a class "D" felony punishable by confinement for
36 7 no more than five years and a fine of at least \$750 but not
36 8 more than \$7,500.

36 9 Additionally, the bill requires the superintendent to
36 10 regularly coordinate with and report information to the
36 11 registry, and requires the unique identifier assigned by the
36 12 registry to appear on all documents, cards, and websites
36 13 relating to a residential mortgage loan.

36 14 These provisions enacting new Code chapter 535D are
36 15 contained within division I of the bill, and take effect July
36 16 1, 2009. The bill provides that individuals with the status
36 17 of individual registrants under Code chapter 535B prior to
36 18 January 1, 2010, who meet licensing requirements under Code
36 19 chapter 535D but have not completed prelicensing education
36 20 requirements or passed the required written test may be issued
36 21 a temporary mortgage loan originator license. Beginning
36 22 January 1, 2011, such individuals must comply with all
36 23 requirements for licensure.

36 24 Division II of the bill modifies related provisions of Code
36 25 chapters 535B, 536, and 536A, dealing with mortgage bankers
36 26 and brokers, regulated loans, and industrial loans,
36 27 respectively. The bill deletes references to "individual
36 28 registrants" in Code chapter 535B, which are currently
36 29 identified as a natural person who is a mortgage banker or
36 30 mortgage broker and who is employed by, under contract with,
36 31 or is an agent of a licensee under Code chapter 535B. The
36 32 bill states that a mortgage banker or mortgage broker does not
36 33 include or refer to a licensed mortgage loan originator, makes
36 34 applicable the list of prohibited acts and practices in new
36 35 Code chapter 535D to mortgage bankers and mortgage brokers,



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37 1 modifies bond requirements to provide for determination by the
37 2 superintendent by rule of a bond amount reflecting the dollar
37 3 value of loans originated by a mortgage banker or mortgage
37 4 broker, extends participation by the administrator under Code
37 5 chapter 535B in a multistate automated licensing system to one
37 6 including mortgage loan originators, and establishes registry
37 7 reporting requirements applicable to licensees.

37 8 The bill provides that sections of the division which
37 9 eliminate the classification of "individual registrant" take
37 10 effect January 1, 2010, with remaining sections taking effect
37 11 July 1, 2009.

37 12 With regard to Code chapter 536, dealing with regulated
37 13 loans and amended in division III of the bill, the bill
37 14 supplies new bond requirements containing a provision similar
37 15 to that applicable to mortgage bankers and mortgage brokers
37 16 regarding determination by the superintendent of a dollar
37 17 value reflecting the amount of loans originated, and extends
37 18 similar registry reporting requirements and integration
37 19 provisions between the superintendent and the registry.

37 20 Substantially similar modifications are made with regard to
37 21 industrial loans regulated pursuant to Code chapter 536A.

37 22 Division III takes effect July 1, 2009.

37 23 LSB 1357DP 83

37 24 rn/nh/24.3



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Senate Study Bill 1197

SENATE FILE
BY (PROPOSED COMMITTEE ON
EDUCATION BILL BY
CHAIRPERSON SCHMITZ)

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

Passed House, Date _____
Vote: Ayes _____ Nays _____

A BILL FOR

- 1 An Act establishing a task force to develop a plan for the
- 2 implementation of an online school for certain populations.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4 TLSB 1858XC 83
- 5 kh/rj/5



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1 1 Section 1. DEPARTMENT OF EDUCATION == ONLINE SCHOOL TASK
1 2 FORCE.
1 3 1. The department of education shall convene a task force
1 4 to develop a plan for the implementation of an online school
1 5 for certain populations residing in this state using the
1 6 internet or another telecommunications system. The plan shall
1 7 address, at a minimum, online learning tools, online
1 8 curricula, online course credit, and the issuance of a high
1 9 school diploma for coursework successfully completed online.
1 10 The online school plan shall be designed for populations that
1 11 include but are not limited to persons who have dropped out,
1 12 or are at risk of dropping out, of school; persons who are
1 13 institutionalized underachievers; persons with mental illness,
1 14 mental retardation, or other developmental disabilities;
1 15 persons with learning disabilities; and other persons who face
1 16 barriers to academic achievement.
1 17 2. The director of the department of education shall
1 18 appoint members to the task force which shall include
1 19 education practitioners and stakeholders, persons who
1 20 represent the target populations, and educational technology
1 21 specialists.
1 22 3. The task force shall select a chairperson from its
1 23 membership. A majority of the members of the task force shall
1 24 constitute a quorum.
1 25 4. The task force shall submit its findings and
1 26 recommendations in a report to the state board of education
1 27 and the general assembly by January 15, 2010.

1 28 EXPLANATION

1 29 This bill directs the department of education to convene a
1 30 task force to develop a plan for the implementation of an
1 31 online school for certain populations in the state, including
1 32 but not limited to persons who have dropped out, or are at
1 33 risk of dropping out, of school; persons who are
1 34 institutionalized underachievers; persons with mental illness,
1 35 mental retardation, or other developmental disabilities;



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2 1 persons with learning disabilities; and other persons who face
2 2 barriers to academic achievement. The plan must address
2 3 online learning tools, online curricula, online course credit,
2 4 and the issuance of a high school diploma for coursework
2 5 successfully completed online.

2 6 The director of the department is directed to appoint
2 7 members to the task force which shall include education
2 8 practitioners and stakeholders, persons who represent the
2 9 target populations, and educational technology specialists.

2 10 The task force must submit its findings and recommendations
2 11 in a report to the state board of education and the general
2 12 assembly by January 15, 2010.

2 13 LSB 1858XC 83

2 14 kh/rj/5



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Senate Study Bill 1198

SENATE/HOUSE FILE
BY (PROPOSED GOVERNOR'S BILL)

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

Passed House, Date _____
Vote: Ayes _____ Nays _____

A BILL FOR

1 An Act requiring a severe weather safe room in newly constructed
2 public buildings and providing an implementation provision and
3 applicability date.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 1728XL 83
6 ec/rj/5



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1 1 Section 1. Section 103A.7, subsection 2, Code 2009, is
1 2 amended by adding the following new paragraph:
1 3 NEW PARAGRAPH. h. The inclusion, if applicable, in the
1 4 erection and construction of buildings by a public entity, of
1 5 a severe weather safe room to protect persons against extreme
1 6 wind events that is consistent with design and construction
1 7 guidelines for community safe rooms created by the federal
1 8 emergency management agency.

1 9 Sec. 2. APPLICABILITY. This Act applies to public
1 10 buildings both planned and constructed on or after July 1,
1 11 2009.

1 12 Sec. 3. IMPLEMENTATION OF ACT. Section 25B.2, subsection
1 13 3, shall not apply to this Act.

1 14 EXPLANATION

1 15 This bill requires the state building code to contain a
1 16 provision requiring the inclusion of a severe weather safe
1 17 room in public buildings to protect against extreme wind
1 18 events that is consistent with design and construction
1 19 guidelines for community safe rooms created by the federal
1 20 emergency management agency. The bill applies to public
1 21 buildings both planned and constructed on or after July 1,
1 22 2009.

1 23 The bill may include a state mandate as defined in Code
1 24 section 25B.3. The bill makes inapplicable Code section
1 25 25B.2, subsection 3, which would relieve a political
1 26 subdivision from complying with a state mandate if funding for
1 27 the cost of the state mandate is not provided or specified.
1 28 Therefore, political subdivisions are required to comply with
1 29 any state mandate included in the bill.

1 30 LSB 1728XL 83

1 31 ec/rj/5.1



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Senate Study Bill 1199

SENATE/HOUSE FILE
BY (PROPOSED AUDITOR OF
STATE BILL)

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

Passed House, Date _____
Vote: Ayes _____ Nays _____

A BILL FOR

- 1 An Act concerning the duties and responsibilities of the auditor
- 2 of state.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4 TLSB 1216XD 83
- 5 ec/sc/14



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1 1 Section 1. Section 11.1, Code 2009, is amended to read as
 1 2 follows:
 1 3 11.1 DEFINITIONS.
 1 4 1. For purposes of this chapter, unless the context
 1 5 otherwise requires:
 1 6 a. ~~The term "department" shall be construed to mean~~
 1 7 "Department" means any authority charged by law with official
 1 8 responsibility for the expenditure of public money of the
 1 9 state and any agency receiving money from the general revenues
 1 10 of the state.
 1 11 b. "Examination" means procedures that are less in scope
 1 12 than an audit but which are directed toward reviewing
 1 13 financial activities and compliance with legal requirements.
 1 14 c. "Governmental subdivision" means cities and
 1 15 administrative agencies established by cities, hospitals or
 1 16 health care facilities established by a city, counties, county
 1 17 hospitals organized under chapters 347 and 347A, memorial
 1 18 hospitals organized under chapter 37, entities organized under
 1 19 chapter 28E, community colleges, area education agencies, and
 1 20 school districts.
 1 21 d. "Regents institutions" means the institutions governed
 1 22 by the board of regents under section 262.7.
 1 23 2. As used in this chapter, unless the context otherwise
 1 24 requires, "book", "list", "record", or "schedule" kept by a
 1 25 county auditor, assessor, treasurer, recorder, sheriff, or
 1 26 other county officer means the county system as defined in
 1 27 section 445.1.
 1 28 Sec. 2. Section 11.2, subsection 1, Code 2009, is amended
 1 29 to read as follows:
 1 30 1. The auditor of state shall annually, and more often if
 1 31 deemed necessary, ~~make a full settlement between~~ audit the
 1 32 state and all state officers and departments and all persons
 1 33 receiving or expending state funds, and shall annually make a
 1 34 ~~complete audit of the books and accounts of every department~~
 1 35 ~~of the state.~~



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2 1 a. ~~Provided,~~ except that the accounts, records, and
2 2 documents of the treasurer of state shall be audited daily.
2 3 b. ~~Provided further, that a preliminary audit of the~~
2 4 ~~educational institutions and the state fair board shall be~~
2 5 ~~made periodically, at least quarterly, to check the monthly~~
2 6 ~~reports submitted to the director of the department of~~
2 7 ~~administrative services as required by section 8A.502,~~
2 8 ~~subsection 9, and that a final audit of such state agencies~~
2 9 ~~shall be made at the close of each fiscal year.~~
2 10 Sec. 3. Section 11.2, Code 2009, is amended by adding the
2 11 following new subsection:
2 12 NEW SUBSECTION. 1A. Departments shall immediately notify
2 13 the auditor of state regarding any suspected embezzlement,
2 14 theft, or other significant financial irregularities.
2 15 Sec. 4. Section 11.2, subsection 2, paragraphs a, b, and
2 16 c, Code 2009, are amended to read as follows:
2 17 a. The state board of regents shall make available to the
2 18 auditor of state and treasurer of state the most recent annual
2 19 report of any investment entity or investment professional
2 20 employed by an a regents institution ~~governed by the board.~~
2 21 b. All contracts or agreements with an investment entity
2 22 or investment professional employed by an a regents
2 23 ~~institution governed by the state board of regents~~ shall
2 24 require the investment entity or investment professional
2 25 employed by an a regents institution ~~governed by the state~~
2 26 ~~board of regents~~ to notify in writing the state board of
2 27 regents within thirty days of receipt of all communication
2 28 from an independent auditor or the auditor of state or any
2 29 regulatory authority of the existence of a material weakness
2 30 in internal control ~~structure~~, or regulatory orders or
2 31 sanctions against the investment entity or investment
2 32 professional, with regard to the type of services being
2 33 performed under the contracts or agreements. This provision
2 34 shall not be limited or avoided by another contractual
2 35 provision.



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3 1 c. The audit under this section shall not be certified
3 2 until the most recent annual reports of any investment entity
3 3 or investment professional employed by ~~an~~ a regents
3 4 institution ~~governed by the state board of regents~~ are
3 5 reviewed by the auditor of state.

3 6 Sec. 5. Section 11.4, subsection 1, Code 2009, is amended
3 7 to read as follows:

3 8 1. The auditor of state shall make or cause to be made and
3 9 filed and kept in the auditor's office written reports of all
3 10 audits and examinations, which reports shall ~~set out in detail~~
3 11 include, if applicable, the following:

3 12 a. The actual financial condition of ~~such the state or~~
3 13 department ~~found to exist on every examination.~~

3 14 b. Whether, in the auditor's opinion,

3 15 (1) All funds have been expended for the purpose for which
3 16 appropriated.

3 17 (2) The department so audited ~~and~~ or examined is
3 18 efficiently conducted, and if the maximum results for the
3 19 money expended are obtained.

3 20 (3) The work of the departments so audited or examined
3 21 needlessly conflicts with or duplicates the work done by any
3 22 other department.

3 23 c. All illegal or unbusinesslike practices.

3 24 d. Any recommendations for greater simplicity, accuracy,
3 25 efficiency, or economy in the operation of the business of the
3 26 several departments and institutions.

~~3 27 e. Comparisons of prices paid and terms obtained by the
3 28 various departments for goods and services of like character
3 29 and reasons for differences therein, if any.~~

3 30 ~~f. e.~~ Any other information which, in the auditor's
3 31 judgment, may be of value ~~to the auditor.~~

3 32 Sec. 6. Section 11.4, subsection 2, Code 2009, is amended
3 33 by striking the subsection.

3 34 Sec. 7. Section 11.5A, Code 2009, is amended to read as
3 35 follows:



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4 1 11.5A AUDIT COSTS.

4 2 When requested by the auditor of state, the department of
4 3 management shall transfer from any unappropriated funds in the
4 4 state treasury an amount not exceeding the expenses and
4 5 prorated salary costs already paid to perform ~~examinations~~
4 6 audits of state executive departments and agencies, and the
4 7 offices of the judicial branch, and federal financial
4 8 assistance, as defined in ~~Pub. L. No. 98-502~~ the federal
4 9 Single Audit Act, 31 U.S.C. } 7501, et seq., received by all
4 10 other departments, as listed in section 11.5B, for which
4 11 payments by agencies have not been made. Upon payment by the
4 12 departments, the auditor of state shall credit the payments to
4 13 the state treasury.

4 14 Sec. 8. Section 11.5B, unnumbered paragraph 1, Code 2009,
4 15 is amended to read as follows:

4 16 The auditor of state shall be reimbursed by a department or
4 17 agency for performing audits or examinations of the following
4 18 state departments or agencies, or funds received by a
4 19 department or agency:

4 20 Sec. 9. Section 11.5B, subsection 13, Code 2009, is
4 21 amended to read as follows:

4 22 13. Federal financial assistance, as defined in ~~Pub. L.~~
4 23 ~~No. 98-502~~ the federal Single Audit Act, 31 U.S.C. } 7501, et
4 24 seq., received by all other departments.

4 25 Sec. 10. Section 11.5B, Code 2009, is amended by adding
4 26 the following new subsection:

4 27 NEW SUBSECTION. 16. Rebuild Iowa office.

4 28 Sec. 11. Section 11.6, subsection 1, paragraph a, Code
4 29 2009, is amended to read as follows:

4 30 a. (1) ~~The~~ Except for entities organized under chapter
4 31 28E having gross receipts of one hundred thousand dollars or
4 32 less in a fiscal year, the financial condition and
4 33 transactions of all ~~cities and city offices, counties, county~~
4 34 ~~hospitals organized under chapters 347 and 347A, memorial~~
4 35 ~~hospitals organized under chapter 37, entities organized under~~



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~~5 1 chapter 28E having gross receipts in excess of one hundred
5 2 thousand dollars in a fiscal year, merged areas, area
5 3 education agencies, and all school offices in school
5 4 districts, government subdivisions shall be examined audited
5 5 at least once each year, except that cities having a
5 6 population of seven hundred or more but less than two thousand
5 7 shall be examined at least once every four years, and cities
5 8 having a population of less than seven hundred may be examined
5 9 as otherwise provided in this section. ~~The examination shall~~
~~5 10 cover the fiscal year next preceding the year in which the~~
~~5 11 audit is conducted.~~ The examination audit of school offices
5 12 districts shall include an audit of all school funds including
5 13 categorical funding provided by the state, the certified
5 14 annual financial report, the certified enrollment as provided
5 15 in section 257.6, supplementary weighting as provided in
5 16 section 257.11, and the revenues and expenditures of any
5 17 nonprofit school organization established pursuant to section
5 18 279.62. Differences in certified enrollment shall be reported
5 19 to the department of management. The ~~examination~~ audit of
5 20 ~~school offices~~ districts shall include at a minimum a
5 21 determination that the laws of the state are being followed,
5 22 that categorical funding is not used to supplant other funding
5 23 except as otherwise provided, that supplementary weighting is
5 24 pursuant to an eligible sharing condition, and that
5 25 postsecondary courses provided in accordance with section
5 26 257.11 and chapter 261E supplement, rather than supplant,
5 27 school district courses. The ~~examination~~ audit of a city that
5 28 owns or operates a municipal utility providing local exchange
5 29 services pursuant to chapter 476 shall include ~~an audit~~
5 30 performing tests of the city's compliance with section 388.10.
5 31 The ~~examination~~ audit of a city that owns or operates a
5 32 municipal utility providing telecommunications services
5 33 pursuant to section 388.10 shall include ~~an audit~~ performing
5 34 tests of the city's compliance with section 388.10.
5 35 (2) Subject to the exceptions and requirements of~~



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6 1 ~~subsection~~ subsections 2 and 3, and subsection 4, paragraph
6 2 "a", subparagraph (3), ~~examinations~~ audits shall be made as
6 3 determined by the governmental subdivision either by the
6 4 auditor of state or by certified public accountants, certified
6 5 in the state of Iowa, and they shall be paid from the proper
6 6 public funds of the governmental subdivision.

6 7 Sec. 12. Section 11.6, subsection 1, Code 2009, is amended
6 8 by adding the following new paragraph after paragraph a:

6 9 NEW PARAGRAPH. aa. The financial condition and
6 10 transactions of community mental health centers organized
6 11 under chapter 230A, substance abuse programs organized under
6 12 chapter 125, and community action agencies organized under
6 13 chapter 216A, shall be audited at least once each year.

6 14 Sec. 13. Section 11.6, subsection 1, paragraph b, Code
6 15 2009, is amended to read as follows:

6 16 b. (1) In conjunction with the audit of the governmental
6 17 subdivision required under this section, the ~~person performing~~
6 18 ~~the audit~~ auditor shall also perform tests for compliance with
6 19 the investment policy of a ~~reasonable number of investment~~
6 20 ~~transactions in relation to the total investments and quantity~~
6 21 ~~of transactions in the period audited~~ the governmental
6 22 subdivision. The results of the compliance testing shall be
6 23 reported in accordance with generally accepted auditing
6 24 standards. The ~~person performing the audit~~ auditor may also
6 25 make recommendations for changes to investment policy or
6 26 practices. The governmental subdivision is responsible for
6 27 the remedy of reported noncompliance with its policy or
6 28 practices.

6 29 (2) (a) As part of its audit, the governmental
6 30 subdivision is responsible for obtaining and providing to the
6 31 ~~person performing the audit~~ auditor the audited financial
6 32 statements and related report on internal control ~~structure~~ of
6 33 outside persons, performing any of the following during the
6 34 period under audit for the governmental subdivision:

6 35 (i) Investing public funds.



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7 1 (ii) Advising on the investment of public funds.
7 2 (iii) Directing the deposit or investment of public funds.
7 3 (iv) Acting in a fiduciary capacity for the governmental
7 4 subdivision.

7 5 (b) The audit under this section shall not be certified
7 6 until all material information required by this subparagraph
7 7 is reviewed by the ~~person performing the audit~~ auditor.

7 8 (3) The review by the ~~person performing the audit~~ auditor
7 9 of the most recent annual report to shareholders of an
7 10 open-end management investment company or an unincorporated
7 11 investment company or investment trust registered with the
7 12 federal securities and exchange commission under the federal
7 13 Investment Company Act of 1940, 15 U.S.C. } 80(a), pursuant to
7 14 17 C.F.R. } 270.30d-1 or the review, by the ~~person performing~~
7 15 ~~the audit~~ auditor, of the most recent annual report to
7 16 shareholders, call reports, or the findings pursuant to a
7 17 regular examination under state or federal law, to the extent
7 18 the findings are not confidential, of a bank, savings and loan
7 19 association, or credit union shall satisfy the review
7 20 requirements of this paragraph.

7 21 (4) All contracts or agreements with outside persons
7 22 performing any of the functions listed in subparagraph (2)
7 23 shall require the outside person to notify in writing the
7 24 governmental subdivision within thirty days of receipt of all
7 25 communication from the ~~person performing the audit~~ auditor or
7 26 any regulatory authority of the existence of a material
7 27 weakness in internal control ~~structure~~, or regulatory orders
7 28 or sanctions against the outside person, with regard to the
7 29 type of services being performed under the contracts or
7 30 agreements. This provision shall not be limited or avoided by
7 31 another contractual provision.

7 32 (5) As used in this subsection, "outside person" excludes
7 33 a bank, savings and loan association, or credit union when
7 34 acting as an approved depository pursuant to chapter 12C.

7 35 (6) A joint investment trust organized pursuant to chapter



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8 1 28E shall file the audit reports required by this chapter with
8 2 the administrator of the securities and regulated industries
8 3 bureau of the insurance division of the department of commerce
8 4 within ten days of receipt from the auditor. The auditor of a
8 5 joint investment trust shall provide written notice to the
8 6 administrator of the time of delivery of the reports to the
8 7 joint investment trust.

8 8 (7) If during the course of an audit of a joint investment
8 9 trust organized pursuant to chapter 28E, the auditor
8 10 determines the existence of a material weakness in the
8 11 internal control ~~structure~~ or a material violation of the
8 12 internal control ~~structure~~, the auditor shall report the
8 13 determination to the joint investment trust which shall notify
8 14 the administrator in writing within twenty-four hours, and
8 15 provide a copy of the notification to the auditor. The
8 16 auditor shall provide, within twenty-four hours of the receipt
8 17 of the copy of the notice, written acknowledgment of the
8 18 receipt to the administrator. If the joint investment trust
8 19 does not make the notification within twenty-four hours, or
8 20 the auditor does not receive a copy of the notification within
8 21 twenty-four hours, the auditor shall immediately notify the
8 22 administrator in writing of the material weakness in the
8 23 internal control ~~structure~~ or the material violation of the
8 24 internal control ~~structure~~.

8 25 Sec. 14. Section 11.6, subsection 2, Code 2009, is amended
8 26 to read as follows:

8 27 2. a. ~~A city, community college, school district, area~~
~~8 28 education agency, entity organized under chapter 28E, county,~~
~~8 29 county hospital, or memorial hospital governmental~~
8 30 subdivision, community mental health center, substance abuse
8 31 program, or community action agency desiring to contract with
8 32 or employ certified public accountants shall utilize
8 33 procedures which include a written request for proposals.

8 34 b. ~~The governing body of a city, community college, school~~
~~8 35 district, area education agency, entity organized under~~



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~~9 1 chapter 28E, county, county hospital, or memorial hospital
9 2 utilizing the auditor of state instead of a certified public
9 3 accountant to perform an audit shall notify the auditor of
9 4 state by June 1 of the year to be audited. If the governing
9 5 body fails to notify the auditor of state of the decision to
9 6 use the auditor of state, the auditor of state may perform the
9 7 audit required in subsection 1 only if provisions are not made
9 8 by the governing body to contract for the audit.~~

9 9 Sec. 15. Section 11.6, subsection 3, Code 2009, is amended
9 10 to read as follows:

9 11 3. A township or city for which ~~examinations~~ audits are
9 12 not required under subsection 1 may contract with or employ
9 13 the auditor of state or certified public accountants for an
9 14 audit or examination of its financial transactions and
9 15 condition of its funds. ~~A financial~~ An audit or examination
9 16 is mandatory on application by one hundred or more taxpayers,
9 17 or if there are fewer than five hundred taxpayers in the
9 18 township or city, then by fifteen percent of the taxpayers.
9 19 Payment for the audit or examination shall be made from the
9 20 proper public funds of the township or city.

9 21 Sec. 16. Section 11.6, subsection 4, Code 2009, is amended
9 22 to read as follows:

9 23 4. a. In addition to the powers and duties under other
9 24 provisions of the Code, the auditor of state may at any time
9 25 cause to be made a complete or partial reaudit of the
9 26 financial condition and transactions of any ~~city, county,~~
~~9 27 county hospital, memorial hospital, entity organized under~~
~~9 28 chapter 28E, merged area, area education agency, school~~
~~9 29 corporation, township, or other governmental subdivision, or~~
9 30 an office of any ~~of these~~ governmental subdivision, if ~~one~~ any
9 31 of the following conditions exists:

9 32 (1) The auditor of state has probable cause to believe
9 33 such action is necessary in the public interest because of a
9 34 material deficiency in an audit of the governmental
9 35 subdivision filed with the auditor of state or because of a



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10 1 substantial failure of the audit to comply with the standards
10 2 and procedures established and published by the auditor of
10 3 state.

10 4 (2) The auditor of state receives from an elected official
10 5 or employee of the governmental subdivision a written request
10 6 for a complete or partial reaudit of the governmental
10 7 subdivision.

10 8 (3) The auditor of state receives a petition signed by at
10 9 least ~~fifty~~ one hundred eligible electors of the governmental
10 10 subdivision requesting a complete or partial reaudit of the
10 11 governmental subdivision. If the governmental subdivision has
10 12 not contracted with or employed a certified public accountant
10 13 to perform an audit of the fiscal year in which the petition
10 14 is received by the auditor of state, the auditor of state may
10 15 perform an audit required by subsection 1 or 3.

10 16 b. The ~~state audit reaudit~~ shall be paid from the proper
10 17 public funds available in the office of the auditor of state.
10 18 In the event the audited governmental subdivision recovers
10 19 damages from a person performing a previous audit due to
10 20 negligent performance of that audit or breach of the audit
10 21 contract, the auditor of state shall be entitled to
10 22 reimbursement on an equitable basis for funds expended from
10 23 any recovery made by the governmental subdivision.

10 24 ~~e. An examination under this subsection shall include a~~
~~10 25 determination of whether investments by the governmental~~
~~10 26 subdivision are authorized by state law.~~

10 27 Sec. 17. Section 11.6, subsection 7, Code 2009, is amended
10 28 to read as follows:

10 29 7. The auditor of state shall make guidelines available to
10 30 the public setting forth accounting and auditing standards and
10 31 procedures and audit and legal compliance programs to be
10 32 applied in the audit or examination of the governmental
10 33 subdivisions of the state, which shall require a review of ~~the~~
10 34 internal control ~~structure~~ and specify testing of ~~transactions~~
10 35 for compliance. The guidelines shall include a requirement



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11 1 that the certified public accountant and governmental
11 2 subdivision immediately notify the auditor of state regarding
11 3 any suspected embezzlement ~~or~~, theft, or other significant
11 4 financial irregularities. The auditor of of state shall also
11 5 provide standard reporting formats for use in reporting the
11 6 results of an ~~examination~~ audit of a governmental subdivision.
11 7 Sec. 18. Section 11.6, subsection 9, Code 2009, is amended
11 8 to read as follows:
11 9 9. The Accounts of the Iowa state association of counties
11 10 ~~shall keep accounts as required by the auditor of state.~~
~~11 11 These accounts, the Iowa league of cities, and the Iowa~~
11 12 association of school boards shall be audited annually by
11 13 either the auditor of state or a certified public accountant
11 14 certified in the state of Iowa. The audit shall state all
11 15 moneys expended for expenses incurred by and salaries paid to
11 16 legislative representatives and lobbyists of the association
11 17 audited.
11 18 Sec. 19. Section 11.6, subsection 10, Code 2009, is
11 19 amended to read as follows:
11 20 10. The auditor of state shall adopt rules in accordance
11 21 with chapter 17A to establish and collect a filing fee for the
11 22 filing of each report of audit or examination conducted
11 23 pursuant to subsections 1 through 3. The funds collected
11 24 shall be maintained in a segregated account for use by the
11 25 office of the auditor of state in performing ~~audits conducted~~
11 26 its duties pursuant to subsection 4 and for work paper reviews
~~11 27 conducted pursuant to subsection 5 this section.~~ Any funds
11 28 collected by the auditor pursuant to subsection 4 shall be
11 29 deposited in this account. Notwithstanding section 8.33, the
11 30 funds in this account shall not revert at the end of any
11 31 fiscal year.
11 32 Sec. 20. Section 11.6, Code 2009, is amended by adding the
11 33 following new subsection:
11 34 NEW SUBSECTION. 11. Each governmental subdivision shall
11 35 keep its records and accounts in such form and by such methods



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12 1 as to be able to exhibit in its reports the matters required
12 2 by the auditor of state, unless a form or method is otherwise
12 3 specifically prescribed by law. Each governmental subdivision
12 4 shall keep its records and accounts in current condition.

12 5 Sec. 21. Section 11.11, Code 2009, is amended by striking
12 6 the section and inserting in lieu thereof the following:

12 7 11.11 SCOPE OF AUDITS.

12 8 The written report of the audit of a governmental
12 9 subdivision shall include the auditor's opinion about whether
12 10 a governmental subdivision's financial statements are
12 11 presented fairly in all material respects in conformity with
12 12 generally accepted accounting principles or with an other
12 13 comprehensive basis of accounting. As a part of conducting an
12 14 audit of a governmental subdivision, an evaluation of internal
12 15 control and tests for compliance with laws and regulations
12 16 shall be performed.

12 17 Sec. 22. Section 11.19, unnumbered paragraphs 2, 3, and 4,
12 18 Code 2009, are amended to read as follows:

~~12 19 All reports shall be open to public inspection, including
12 20 copies on file in the office of the state auditor, and refusal
12 21 on the part of any public official to permit such inspection
12 22 when such reports have been filed with the state auditor,
12 23 shall constitute a simple misdemeanor.~~

~~12 24 In addition to the foregoing, notice that the report has
12 25 been filed shall be forwarded immediately to each newspaper,
12 26 radio station or television station located in the city,
12 27 school district or township which is under investigation or
12 28 audit; except that if there is no newspaper, radio station or
12 29 television station located therein, the notice shall be sent
12 30 to the official newspapers of the county.~~

12 31 Failure to file the report and the statement of cost with
12 32 the auditor of state within thirty days after receiving
12 33 notification of not receiving the audit report and the
12 34 statement of cost shall bar the accountant from making any
12 35 governmental subdivision audits or examinations under section



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13 1 11.6 for the following fiscal year.

13 2 Sec. 23. Section 11.20, Code 2009, is amended to read as
13 3 follows:

13 4 11.20 BILLS == AUDIT AND PAYMENT.

13 5 If the audit or examination is made by the auditor of state
13 6 under this chapter, each auditor shall file with the auditor
13 7 of state an itemized, certified and sworn voucher of time and
13 8 expense for the time that the auditor is actually engaged in
13 9 the audit or examination. The salaries shall be included in a
13 10 two-week payroll period. Upon approval of the auditor of
13 11 state the director of the department of administrative
13 12 services may issue warrants for the payment of the vouchers
13 13 and salary payments, ~~including a prorated amount for vacation~~
~~13 14 and sick leave,~~ from any unappropriated funds in the state
13 15 treasury. Repayment to the state shall be made as provided by
13 16 section 11.21.

13 17 Sec. 24. Section 11.21, Code 2009, is amended to read as
13 18 follows:

13 19 11.21 REPAYMENT == OBJECTIONS.

13 20 1. Upon payment by the state of the salary and expenses,
13 21 the auditor of state shall file with the warrant-issuing
13 22 officer of the ~~county, municipality or school,~~ governmental
13 23 subdivision whose offices were audited or examined, a sworn
13 24 statement consisting of the itemized expenses paid and
13 25 prorated salary costs paid under section 11.20. Upon ~~audit~~
~~13 26 and approval by the board of supervisors, council or school~~
~~13 27 board,~~ the warrant-issuing officer shall draw a warrant for
~~13 28 the amount on the county, or on the general fund of the~~
~~13 29 municipality or school in favor of the auditor of state, which~~
~~13 30 warrant shall be placed to the credit of the general fund of~~
~~13 31 the state governing body of the governmental subdivision,~~
13 32 payment shall be made from the proper public funds of the
13 33 governmental subdivision. In the event of the disapproval by
13 34 the governing body of the governmental subdivision of any
13 35 items of said included on the statement by the county,



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~~14 1 municipality, or school authorities, written objections shall~~
~~14 2 be filed with the auditor of state within thirty days from the~~
~~14 3 filing thereof of the sworn statement with the warrant=issuing~~
~~14 4 officer of the governmental subdivision. Disapproved items of~~
~~14 5 the statement shall be paid the auditor of state upon~~
~~14 6 receiving final decisions emanating from public hearing~~
~~14 7 established by the auditor of state.~~

~~14 8 2. Whenever the county board of supervisors, the school~~
~~14 9 board, or the council shall file governing body of the~~
~~14 10 governmental subdivision files written objections on the~~
~~14 11 question of compensation and expenses with the auditor of~~
~~14 12 state, the auditor or the auditor's representative shall hold~~
~~14 13 a public hearing in the municipality governmental subdivision~~
~~14 14 where the audit or examination was made and shall give the~~
~~14 15 complaining board notice of the time and place of hearing.~~
~~14 16 After such hearing the auditor shall have the power to reduce~~
~~14 17 the compensation and expenses of the auditor whose bills have~~
~~14 18 been questioned. Any auditor who shall be found guilty of~~
~~14 19 falsifying an expense voucher or engagement report shall be~~
~~14 20 immediately discharged by the auditor of state and shall not~~
~~14 21 be eligible for re=employment. Such auditor must thereupon~~
~~14 22 reimburse the auditor of state for all such compensation and~~
~~14 23 expenses so found to have been overpaid and in the event of~~
~~14 24 failure to do so, the auditor of state may collect the same~~
~~14 25 amount from the auditor's surety by suit, if necessary.~~

~~14 26 Sec. 25. Section 11.32, Code 2009, is amended to read as~~
~~14 27 follows:~~

~~14 28 11.32 CERTIFIED ACCOUNTANTS EMPLOYED.~~

~~14 29 Nothing in this chapter will shall prohibit the auditor of~~
~~14 30 state, with the prior written permission of the state~~
~~14 31 executive council, from employing certified public accountants~~
~~14 32 or registered public accountants for specific assignments.~~
~~14 33 Under the provision of this section, the The auditor of state~~
~~14 34 may employ such accountants for any assignment now expressly~~
~~14 35 reserved to the auditor of state. Payments, after approval by~~



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15 1 the executive council, will be made to the accountants so
15 2 employed from funds from which the auditor of state would have
15 3 been paid had the auditor of state performed the assignment,
15 4 or if no such specific funds are indicated, then payment will
15 5 be made from the funds of the executive council.

15 6 Sec. 26. Section 11.41, Code 2009, is amended by adding
15 7 the following new subsection:

15 8 NEW SUBSECTION. 1A. Auditors shall have the right while
15 9 conducting audits or examinations to have full access to all
15 10 papers, books, records, and documents of any officers or
15 11 employees and shall have the right, in the presence of the
15 12 custodian or the custodian's designee, to have full access to
15 13 the cash drawers and cash in the official custody of the
15 14 officer or employee and, during business hours, to examine the
15 15 public accounts of the department or governmental subdivision
15 16 in any depository which has public funds in its custody
15 17 pursuant to the law.

15 18 Sec. 27. NEW SECTION. 11.51 SUBPOENAS.

15 19 The auditor of state shall, in all matters pertaining to an
15 20 authorized audit or examination, have power to issue subpoenas
15 21 of all kinds, administer oaths and examine witnesses, either
15 22 orally or in writing, and the expense attending the same,
15 23 including the expense of taking oral examinations, shall be
15 24 paid as other expenses of the auditor.

15 25 Sec. 28. NEW SECTION. 11.52 REFUSAL TO TESTIFY.

15 26 In case any witness duly subpoenaed refuses to attend, or
15 27 refuses to produce documents, books, and papers, or attends
15 28 and refuses to make oath or affirmation, or, being sworn or
15 29 affirmed, refuses to testify, the auditor of state or the
15 30 auditor's designee may apply to the district court, or any
15 31 judge of said district having jurisdiction thereof, for the
15 32 enforcement of attendance and answers to questions as provided
15 33 by law in the matter of taking depositions.

15 34 Sec. 29. NEW SECTION. 11.53 REPORT FILED WITH COUNTY
15 35 ATTORNEY.



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16 1 If an audit or examination discloses any irregularity in
16 2 the collection or disbursement of public funds, in the
16 3 abatement of taxes, or other findings the auditor believes
16 4 represent significant noncompliance, a copy of the report
16 5 shall be filed with the county attorney, and it shall be the
16 6 county attorney's duty to cooperate with the state auditor,
16 7 and, in proper cases, with the attorney general, to secure the
16 8 correction of the irregularity.

16 9 Sec. 30. NEW SECTION. 11.54 DUTY OF ATTORNEY GENERAL.

16 10 In the event an audit or examination discloses any grounds
16 11 which would be grounds for removal from office, a copy of the
16 12 report shall be provided and filed by the auditor of state in
16 13 the office of the attorney general of the state, who shall
16 14 thereupon take such action as, in the attorney general's
16 15 judgment, the facts and circumstances warrant.

16 16 Sec. 31. NEW SECTION. 11.55 STATE AUDITORS.

16 17 1. The auditor of state shall appoint such number of state
16 18 auditors as may be necessary to make audits and examinations
16 19 as required in this chapter. The auditors shall be of
16 20 recognized skill and integrity and familiar with the system of
16 21 accounting used in departments or governmental subdivisions
16 22 and with the laws relating to the affairs of departments or
16 23 governmental subdivisions. Such auditors shall be subject at
16 24 all times to the direction of the auditor of state.

16 25 2. The auditor of state shall appoint such additional
16 26 assistants to the auditors as may be necessary, who shall be
16 27 subject to discharge at any time by the auditor of state.

16 28 3. Any auditor or assistant who is found guilty of
16 29 falsifying a time and expense voucher or engagement report
16 30 shall be immediately discharged by the auditor of state and
16 31 shall not be eligible for reemployment. Such auditor or
16 32 assistant must thereupon reimburse the auditor of state for
16 33 all such compensation and expenses so found to have been
16 34 overpaid and in the event of failure to do so, the auditor of
16 35 state may collect the same amount from the auditor's surety by



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17 1 suit, if necessary.

17 2 Sec. 32. Section 123.58, Code 2009, is amended to read as
17 3 follows:

17 4 123.58 AUDITING.

17 5 All provisions of sections 11.6, ~~11.7, 11.10,~~ 11.11, 11.14,
17 6 11.21, 11.41, and ~~11.23~~ 11.55, relating to auditing of
17 7 financial records of governmental subdivisions which are not
17 8 inconsistent with this chapter are applicable to the division
17 9 and its offices, warehouses, and depots.

17 10 Sec. 33. Section 125.55, Code 2009, is amended to read as
17 11 follows:

17 12 125.55 AUDITS.

17 13 All licensed substance abuse programs are subject to annual
17 14 audit either by the auditor of state or in lieu of the
17 15 examination by the auditor of state the substance abuse
17 16 program may contract with or employ certified public
17 17 accountants to conduct the audit, in accordance with sections
17 18 11.6, 11.14, and 11.19. The audit format shall be as
17 19 prescribed by the auditor of state. The certified public
17 20 accountant shall submit a copy of the audit to the director.
17 21 A licensed substance abuse program is also subject to special
17 22 audits as the director requests. The licensed substance abuse
17 23 program or the department shall pay all expenses incurred by
17 24 the auditor of state in conducting an audit under this
17 25 section.

17 26 Sec. 34. Section 216A.98, Code 2009, is amended to read as
17 27 follows:

17 28 216A.98 AUDIT.

17 29 Each community action agency shall be audited annually but
17 30 shall not be required to obtain a duplicate audit to meet the
17 31 requirements of this section. In lieu of an audit by the
17 32 auditor of state, the community action agency may contract
17 33 with or employ a certified public accountant to conduct the
17 34 audit, pursuant to the applicable terms and conditions
17 35 prescribed by sections 11.6, 11.14, and 11.19 and an audit



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18 1 format prescribed by the auditor of state. Copies of each
18 2 audit shall be furnished to the division within three months
18 3 following the annual audit.

18 4 Sec. 35. Section 230A.16, subsection 3, Code 2009, is
18 5 amended to read as follows:

18 6 3. Arrange for the financial condition and transactions of
18 7 the community mental health center to be audited once each
18 8 year by the auditor of state. However, in lieu of an audit by
18 9 state accountants, the local governing body of a community
18 10 mental health center organized under this chapter may contract
18 11 with or employ certified public accountants to conduct the
18 12 audit, pursuant to the applicable terms and conditions
18 13 prescribed by sections 11.6, 11.14, and 11.19 and audit format
18 14 prescribed by the auditor of state. Copies of each audit
18 15 shall be furnished by the accountant to the administrator of
18 16 the division of mental health and disability services and the
18 17 board of supervisors supporting the audited community mental
18 18 health center.

18 19 Sec. 36. Section 279.38, unnumbered paragraph 1, Code
18 20 2009, is amended to read as follows:

18 21 Boards of directors of school corporations may pay, out of
18 22 funds available to them, reasonable annual dues to the Iowa
18 23 association of school boards. The financial condition and
18 24 transactions of the Iowa association of school boards shall be
18 25 audited ~~in the same manner as school corporations~~ as provided
18 26 in section 11.6. In addition, annually the Iowa association
18 27 of school boards shall publish a listing of the school
18 28 districts and the annual dues paid by each and shall publish
18 29 an accounting of all moneys expended for expenses incurred by
18 30 and salaries paid to legislative representatives and lobbyists
18 31 of the association.

18 32 Sec. 37. Section 331.756, subsection 11, Code 2009, is
18 33 amended to read as follows:

18 34 11. Cooperate with the auditor of state to secure
18 35 correction of a financial irregularity as provided in section



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19 1 ~~11.15~~ 11.53.

19 2 Sec. 38. Section 364.5, unnumbered paragraph 2, Code 2009,
19 3 is amended to read as follows:

19 4 The financial condition and the transactions of the Iowa
19 5 league of cities shall be audited ~~in the same manner as cities~~
19 6 as provided in section 11.6.

19 7 Sec. 39. Sections 11.7 through 11.10, 11.12, 11.13, 11.15,
19 8 11.16, 11.23, 11.25, and 11.27, Code 2009, are repealed.

19 9 EXPLANATION

19 10 This bill makes changes relating to the duties and
19 11 responsibilities of the auditor of state.

19 12 Code section 11.1 is amended to define examination as a
19 13 procedure less in scope than an audit but which is directed at
19 14 reviewing financial activities and compliance with legal
19 15 requirements. Governmental subdivision is also defined to
19 16 mean cities, administrative agencies of cities, city
19 17 hospitals, counties, county hospitals, memorial hospitals,
19 18 chapter 28E entities, community colleges, area education
19 19 agencies, and school districts.

19 20 Code section 11.2, concerning annual settlements and
19 21 audits, is amended to eliminate language referring to
19 22 settlement between state officers and persons receiving or
19 23 expending state funds, but the requirement to make an annual
19 24 audit remains. The Code section is also amended to eliminate
19 25 the requirement to make a quarterly preliminary audit of the
19 26 educational institutions of the state and the state fair
19 27 board. The section is also amended to provide that
19 28 departments notify the auditor regarding any suspected
19 29 embezzlement, theft, or other financial irregularities.

19 30 Code section 11.4, concerning reports of audits, is amended
19 31 to eliminate the requirement that the written reports contain
19 32 comparisons of prices paid and terms obtained by the various
19 33 departments for goods and services and the reasons, if any, if
19 34 they differ.

19 35 Code section 11.5B, concerning the repayment of audit



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20 1 expenses, is amended by providing that the auditor of state
20 2 shall be reimbursed by the rebuild Iowa office for performing
20 3 audits or examinations of that office.

20 4 Code section 11.6, concerning the auditing and examination
20 5 of governmental subdivisions, is amended.

20 6 Code section 11.6(1), concerning what governmental
20 7 subdivisions are subject to audit, is amended. The bill adds
20 8 community mental health centers, substance abuse programs, and
20 9 community action agencies to the list of entities requiring an
20 10 annual audit.

20 11 Code section 11.6(2), concerning the employment of
20 12 certified public accountants by a governmental subdivision, is
20 13 amended to provide that a written request for proposals
20 14 process be used to employ such accountants.

20 15 Code section 11.6(4) is amended to increase from 50 to 100
20 16 the number of eligible electors of a governmental subdivision
20 17 needed to sign a petition for a reaudit of that governmental
20 18 subdivision.

20 19 Code section 11.6(7), concerning notification of suspected
20 20 theft or embezzlement, is amended to provide that governmental
20 21 subdivisions are also required to provide this notice and to
20 22 provide that the certified public accountant performing the
20 23 audit and the governmental subdivision also notify the auditor
20 24 of state if other significant financial irregularities are
20 25 suspected.

20 26 Code section 11.6(9) is amended to include the Iowa league
20 27 of cities and the Iowa association of school boards as
20 28 entities to be audited on an annual basis. Current law
20 29 provides for an audit of these entities under Code sections
20 30 364.5 and 279.38 and those sections are amended to reflect
20 31 placement of this requirement to audit in Code section 11.6.

20 32 Code section 11.6 is amended by adding a new subsection
20 33 that provides that governmental subdivisions keep records
20 34 current and in a format to exhibit in the reports the matters
20 35 required by the auditor of state.



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21 1 Code section 11.7, concerning appointment of state
21 2 auditors, is repealed, but the substance of the Code section
21 3 is transferred to new Code section 11.55.
21 4 Code section 11.8, concerning assistants to state auditors,
21 5 is repealed, but the substance of the Code section is
21 6 transferred to new Code section 11.55.
21 7 Code section 11.9, concerning certain local government
21 8 auditors' salaries and expenses, is repealed.
21 9 Code section 11.10, concerning examinations, is repealed,
21 10 but the substance of the Code section is transferred to Code
21 11 section 11.41, subsection 1A.
21 12 Code section 11.11, concerning scope of audits, is amended
21 13 to provide that the audit include an opinion about whether a
21 14 governmental subdivision's financial statements are in
21 15 conformity with generally accepted accounting principles or
21 16 with an other comprehensive basis of accounting.
21 17 Code section 11.12, concerning subpoenas, is repealed, but
21 18 the substance of the Code section is transferred to new Code
21 19 section 11.51.
21 20 Code section 11.13, concerning refusal to testify, is
21 21 repealed, but the substance of the Code section is transferred
21 22 to new Code section 11.52.
21 23 Code section 11.15, concerning reports filed with the
21 24 county attorney, is repealed, but the substance of the Code
21 25 section is transferred to new Code section 11.53.
21 26 Code section 11.16, concerning the duty of the attorney
21 27 general, is repealed, but the substance of the Code section is
21 28 transferred to new Code section 11.54.
21 29 Code section 11.19, concerning the auditor's powers and
21 30 duties, is amended to eliminate the requirement in this
21 31 section that reports be open to public inspection and
21 32 eliminates the criminal penalty for failing to permit
21 33 inspection of reports that have been filed with the auditor of
21 34 state. Provisions concerning the forwarding of notice that a
21 35 report has been filed to the local media are also stricken



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22 1 from this Code section. Code section 11.14 still provides
22 2 that the report is available for public inspection. The bill
22 3 also makes corresponding changes to Code sections 125.55,
22 4 216A.98, and 230A.16, to provide that the public inspection
22 5 requirements of Code section 11.14 apply to licensed substance
22 6 abuse programs, community action agencies, and community
22 7 mental health centers.

22 8 Code section 11.20, concerning salary payments to auditors,
22 9 is amended by striking the provision allowing for a prorated
22 10 amount for vacation and sick leave.

22 11 Code section 11.21, concerning repayment of auditors, is
22 12 amended to provide that the provisions of this Code section
22 13 apply to governmental subdivisions. The provision of this
22 14 Code section providing for the discharge of auditors who shall
22 15 be found guilty of falsifying an expense voucher is stricken
22 16 from this Code section, but the substance of this provision is
22 17 transferred to new Code section 11.55.

22 18 Code section 11.23, providing that each school officer
22 19 install and use a system of uniform blanks and forms, is
22 20 repealed.

22 21 Code sections 11.25 and 11.27, concerning the requirement
22 22 of the auditor to submit a biennial report to the governor and
22 23 to make individual audit reports, are repealed.

22 24 Code section 11.32 is amended to strike a reference to the
22 25 auditor having the authority to employ registered public
22 26 accountants. The current reference to employing certified
22 27 public accountants is unchanged by the bill.

22 28 LSB 1216XD 83

22 29 ec/sc/14.1



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Senate Study Bill 1200

SENATE/HOUSE FILE
BY (PROPOSED GOVERNOR'S
BILL)

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

Passed House, Date _____
Vote: Ayes _____ Nays _____

A BILL FOR

- 1 An Act relating to psychiatric medical institution for children
- 2 services and providing an effective date.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4 TLSB 1680XL 83
- 5 jp/rj/14



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PAG LIN

1 1 Section 1. PSYCHIATRIC MEDICAL INSTITUTIONS FOR CHILDREN
1 2 == REIMBURSEMENT.

1 3 1. For the purposes of this section, unless the context
1 4 otherwise requires, "psychiatric institution" means a
1 5 psychiatric medical institution for children licensed under
1 6 chapter 135H and receiving medical assistance program
1 7 reimbursement.

1 8 2. The department of human services, in consultation with
1 9 psychiatric institution providers, shall develop a cost-based
1 10 rate setting methodology with levels of reimbursement based on
1 11 acuity for psychiatric institution providers in accordance
1 12 with this section.

1 13 3. a. For the fiscal year beginning July 1, 2009, and
1 14 ending June 30, 2010, the maximum reimbursement rate for
1 15 psychiatric institution providers shall be 103 percent of the
1 16 patient-day weighted statewide average cost of psychiatric
1 17 institution providers located within the state, based on the
1 18 cost reports as of December 31, 2009. However, the average
1 19 cost computation shall not include the psychiatric institution
1 20 at the state mental health institute located at Independence
1 21 and upon receiving federal approval, the reimbursement rate
1 22 for that psychiatric institution shall be as provided in the
1 23 state plan amendment under subsection 5.

1 24 b. Notwithstanding paragraph "a", on a case-by-case basis
1 25 for psychiatric institution services provided to children with
1 26 intensive needs who would otherwise require placement outside
1 27 the state, the department may apply an exception to policy
1 28 process to authorize provider reimbursement in excess of the
1 29 maximum reimbursement rate under paragraph "a".

1 30 4. a. By January 1, 2010, the department shall develop a
1 31 methodology for cost-based reimbursement with an acuity
1 32 adjustment based on the aggregate acuity level of each
1 33 psychiatric institution's patient mix. Under the methodology,
1 34 each psychiatric institution's aggregate acuity level shall be
1 35 recalculated periodically. The department shall work with



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2 1 psychiatric institution provider representatives to develop
2 2 the methodology.

2 3 b. The department shall implement the cost-based
2 4 reimbursement with acuity adjustment methodology beginning on
2 5 July 1, 2010.

2 6 5. The department shall submit a medical assistance state
2 7 plan amendment to the centers for Medicare and Medicaid
2 8 services of the United States department of health and human
2 9 services requesting authorization to reimburse the psychiatric
2 10 institution at the state mental health institute located at
2 11 Independence at 100 percent of actual costs. Upon receiving
2 12 approval of the waiver, for the fiscal year beginning July 1,
2 13 2009, an amount equivalent to the resulting savings shall be
2 14 transferred from the appropriation for the state mental health
2 15 institute at Independence to the medical assistance
2 16 appropriation to be used for the purposes described in this
2 17 section.

2 18 6. The department shall track the number of admissions of
2 19 Iowa children to out-of-state psychiatric medical institutions
2 20 for children and the corresponding expenditures, and if
2 21 necessary, shall adopt utilization control strategies to
2 22 assure that utilization of such out-of-state admission is
2 23 reduced.

2 24 7. The department, in consultation with providers, shall
2 25 develop and implement outcome measures for all psychiatric
2 26 institution providers beginning on July 1, 2010.

2 27 8. The department of human services shall adopt rules
2 28 pursuant to chapter 17A to implement this section.

2 29 Sec. 2. Section 249A.31, Code 2009, is amended by adding
2 30 the following new unnumbered paragraph:

2 31 NEW UNNUMBERED PARAGRAPH. Effective July a, 2010, the
2 32 department shall apply a cost-based reimbursement methodology
2 33 for reimbursement of psychiatric medical institution for
2 34 children providers.

2 35 Sec. 3. EFFECTIVE DATE. This Act, being deemed of



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3 1 immediate importance, takes effect upon enactment.

3 2 EXPLANATION

3 3 This bill relates to psychiatric medical institution for
3 4 children (PMIC) services by providing for development and
3 5 implementation of a new reimbursement methodology that is
3 6 acuity-based and by addressing other PMIC service provisions.

3 7 The department of human services (DHS) is directed to work
3 8 with PMIC providers in developing the new reimbursement
3 9 methodology to be implemented beginning on July 1, 2010. For
3 10 fiscal year 2009=2010, the maximum reimbursement rate for PMIC
3 11 providers other than the PMIC at the state mental health
3 12 institute located at Independence, is limited to a specified
3 13 percentage of certain average costs. DHS may utilize the
3 14 exception to policy process on a case-by-case basis to
3 15 authorize a higher rate for services provided to children with
3 16 intensive needs who would otherwise be placed out-of-state.
3 17 DHS is required to track out-of-state PMIC placements and
3 18 apply utilization controls strategies to assure a reduction in
3 19 out-of-state PMIC admissions.

3 20 The department is required to apply for state medical
3 21 assistance plan amendment for authority to reimburse the PMIC
3 22 located at the state mental health institute for 100 percent
3 23 of actual costs. Any resulting savings to that institute's
3 24 appropriation for fiscal year 2009=2010 is to be transferred
3 25 to the medical assistance (Medicaid) program appropriation to
3 26 be used for the purposes in the bill.

3 27 The department is also required to work with PMIC providers
3 28 to develop and implement outcome measures for PMIC providers
3 29 beginning on July 1, 2010.

3 30 The department is required to adopt rules to implement the
3 31 bill.

3 32 Code section 249A.31, relating to cost-based reimbursement
3 33 under the Medicaid program, is amended to require permanent
3 34 cost-based reimbursement of PMICs effective July 1, 2010.

3 35 The bill takes effect upon enactment.



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4 1 LSB 1680XL 83
4 2 jp/rj/14.1