House Amendment 8024

PAG LIN

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1  1    Amend House File 234 as follows:
1  2 #1.  By striking everything after the enacting clause
1  3 and inserting:
1  4    <Section 1.  HEALTH INSURANCE COVERAGE FOR MENTAL
1  5 HEALTH CONDITIONS == INTENT.  It is the intent of the
1  6 general assembly to require health insurance coverage
1  7 for costs relating to mental health conditions,
1  8 including alcohol or substance abuse treatment
1  9 services.>
1 10 #2.  Title page, line 1, by striking <requiring>
1 11 and inserting <expressing the intent of the general
1 12 assembly to require>
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COMMITTEE ON HUMAN RESOURCESSMITH of Marshall, Chairperson
LSB HF234.197 (3) 83
av/jp

House Amendment 8025

PAG LIN

1 1 Amend House File 2075 as follows:
1 2 #1. Page 1, line 23, after <c.> by inserting <(1)>
1 3 #2. Page 1, by striking lines 27 and 28 and
1 4 inserting <were receiving standard cancer treatment.>
1 5 #3. Page 1, before line 29 by inserting:
1 6 <(2) "Routine patient care costs" does not include
1 7 any of the following:>
1 8 #4. Page 1, line 29, by striking <(1)> and inserting
1 9 <(a)>
1 10 #5. Page 1, line 33, by striking <(2)> and inserting
1 11 <(b)>
1 12 #6. Page 2, line 1, by striking <(3)> and inserting
1 13 <(c)>
1 14 #7. Page 2, line 3, by striking <(4)> and inserting
1 15 <(d)>
1 16 #8. Page 2, line 6, by striking <(5)> and inserting
1 17 <(e)>
1 18 #9. Page 2, line 10, by striking <(6)> and inserting
1 19 <(f)>
1 20 #10. Page 2, line 12, by striking <(7)> and
1 21 inserting <(g)>
1 22 #11. Page 2, line 16, by striking <(8)> and
1 23 inserting <(h)>
1 24 #12. Page 2, line 21, by striking <(9)> and
1 25 inserting <(i)>
1 26 #13. Page 2, after line 23 by inserting:
1 27 <(j) Costs of extras treatments, services,
1 28 procedures, tests, or drugs that would not be performed
1 29 or administered except for participation in the
1 30 cancer clinical trial. Nothing in this subparagraph
1 31 subdivision shall limit payment for treatments,
1 32 services, procedures, tests, or drugs that are
1 33 otherwise a covered benefit under subparagraph (1).>
1 34 #14. By striking page 3, line 34, through page 4,
1 35 line 2.
1 36 #15. By renumbering as necessary.

T. OLSON of Linn

STRUYK of Pottawattamie
LSB HF2075.201 (2) 83
av/rj

House File 2105 - Introduced

HOUSE FILE
BY KAUFMANN, WAGNER, and SCHULTZ

A BILL FOR

An Act to include a separate proposition relating to smoking prohibitions as part of any referendum to approve or disapprove a gambling game license applicant.

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

TLSB 5520HH (6) 83
pf/rj

House File 2105 - Introduced continued

PAG LIN

1 1 Section 1. Section 99F.7, subsection 11, Code 2009, is
1 2 amended by adding the following new paragraph:
1 3 NEW PARAGRAPH. f. Any referendum conducted under this
1 4 subsection applicable to an applicant for a license with a
1 5 gaming floor, shall include a separate proposition to approve
1 6 or disapprove the exemption to the smoking prohibitions for
1 7 gaming floors as specified in section 142D.4.
1 8 Sec. 2. Section 142D.4, subsection 10, Code 2009, is amended
1 9 to read as follows:
1 10 10. Only the gaming floor of a premises licensed pursuant
1 11 to chapter 99F exclusive of any bar or restaurant located
1 12 within the gaming floor which is an enclosed area and subject
1 13 to the prohibitions of section 142D.3. However, the exemption
1 14 shall not apply to such a licensed premises if the exemption
1 15 is disapproved through a separate proposition included in a
1 16 referendum conducted pursuant to section 99F.7.
1 17 EXPLANATION
1 18 This bill directs that any referendum conducted regarding
1 19 the approval by the county electorate of an applicant for a
1 20 license with a gaming floor under Code chapter 99F (gambling
1 21 boat, gambling structure, and racetrack gambling game
1 22 regulation), shall include a separate proposition to approve
1 23 or disapprove the exemption for gaming floors from the smoking
1 24 prohibitions of Code chapter 142D. The bill also makes a
1 25 corresponding change to the provision relating to the exemption
1 26 for gaming floors in Code chapter 142D (the Smokefree Air Act).
LSB 5520HH (6) 83
pf/rj

House File 2106 - Introduced

HOUSE FILE
BY DRAKE

A BILL FOR

1 An Act relating to the use of a licensed engineer, landscape
2 architect, or architect for public improvements.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 5448YH (4) 83
jr/nh

House File 2106 - Introduced continued

PAG LIN

1 1 Section 1. Section 26.3, subsection 2, Code Supplement
1 2 2009, is amended to read as follows:
1 3 2. ~~A~~ If a governmental entity estimates that the total
1 4 cost of a proposed public improvement will exceed ten thousand
1 5 dollars, the governmental entity shall have an engineer
1 6 licensed under chapter 542B, a landscape architect licensed
1 7 under chapter 544B, or an architect registered under chapter
1 8 544A prepare plans and specifications, and calculate the
1 9 estimated total cost of a proposed public improvement. A
1 10 governmental entity shall ensure that sufficient paper copies
1 11 of the plans, specifications, and estimated total costs of
1 12 the proposed public improvement are available for prospective
1 13 bidders.
1 14 EXPLANATION
1 15 Under current law, a government entity must retain the
1 16 services of an appropriately licensed engineer, landscape
1 17 architect, or architect for public improvement projects.
1 18 This bill would limit the requirement to projects where the
1 19 estimated total cost of a public improvement exceeds $10,000.
LSB 5448YH (4) 83
jr/nh

House File 2107 - Introduced

HOUSE FILE
BY KELLEY

A BILL FOR

An Act providing for the severance and annexation of real property upon petition of the real property owners and approval of the city development board.

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

TLSB 5615YH (4) 83
md/sc

House File 2107 - Introduced continued

PAG LIN

1 1 Section 1. NEW SECTION. 368.25A Boundary adjustment between
1 2 cities by petition and consent.
1 3 1. A real property owner within the boundaries of a city
1 4 may file a petition for severance with the city council if the
1 5 petitioner's real property, if severed, would be eligible for
1 6 annexation by a different city and if such annexation would
1 7 not create an island. Contiguous property owners may file a
1 8 combined petition under this section.
1 9 2. The petition shall be filed with the city council of the
1 10 city from which severance is sought and the city council of
1 11 the city to which annexation is requested. The petition shall
1 12 be in substantially the form required of an application under
1 13 section 368.7.
1 14 3. If the city councils of both cities approve the petition,
1 15 the petition shall be filed with the board. Approval by either
1 16 city council may be conditioned upon an agreement entered into
1 17 by the cities providing for the transition of property taxes
1 18 or the sharing of property tax revenues from the real property
1 19 described in the petition for a period not to exceed forty
1 20 years and providing for all necessary zoning ordinance changes
1 21 within a period not to exceed ten years. An agreement between
1 22 cities under this subsection shall be filed with the board at
1 23 the same time the approved petition is filed. An agreement
1 24 may include additional transition provisions relating to the
1 25 transfer or sharing of property tax revenues for property
1 26 outside the boundaries of the territory described in the
1 27 petition and any other provisions deemed by the cities to be in
1 28 the public interest if such actions are within the authority
1 29 of the cities.
1 30 4. Following receipt of a petition, the board shall initiate
1 31 proceedings to sever the territory from the city in which it
1 32 is located and annex the territory to the annexing city. The
1 33 board shall notify both cities of the severance and annexation
1 34 proceedings and shall hold a public hearing on the severance,
1 35 annexation, and any agreement between the cities pursuant to

House File 2107 - Introduced continued

2 1 subsection 3. The board shall give notice of the hearing
2 2 in the same manner as notice of a public meeting in section
2 3 368.11, subsection 5.
2 4 5. The board may only approve the petition if the board
2 5 also approves any agreements between the cities pursuant to
2 6 subsection 2, and filed with the board. The board may only
2 7 approve or deny the severance and annexation of the territory
2 8 described in the petition, and the order of the board approving
2 9 the petition is not subject to approval at an election.
2 10 EXPLANATION
2 11 This bill allows a real property owner within the boundaries
2 12 of a city to file a petition for severance with the city
2 13 council if the petitioner's real property would be eligible
2 14 for annexation by a different city if severed and if such
2 15 annexation would not create an island. The bill allows
2 16 contiguous property owners to file a combined petition under
2 17 this section.
2 18 The bill requires the petition to be filed with both the city
2 19 from which severance is sought and the city to which annexation
2 20 is requested. If both cities approve the petition, the
2 21 petition is filed with the city development board. Approval
2 22 by either city council may be conditioned upon an agreement
2 23 between the cities providing for, among other specified
2 24 provisions, the transition or sharing of property tax revenues
2 25 from the real property described in the petition for a period
2 26 not to exceed forty years.
2 27 Upon receiving a petition approved by both city councils,
2 28 the city development board must initiate proceedings to
2 29 sever and annex the owner's real property as requested in the
2 30 petition. The city development board is required to provide
2 31 notice to both cities of the proceedings and to hold a public
2 32 hearing.
2 33 The bill only allows the city development board to approve
2 34 the severance and annexation requested in the petition if
2 35 the board also approves the agreement between the cities, if

House File 2107 - Introduced continued

3 1 applicable. The bill also provides that the city development
3 2 board may only approve or deny the severance and annexation of
3 3 the territory described in the petition and that the order is
3 4 not subject to approval at an election.
LSB 5615YH (4) 83
md/sc

House File 2108 - Introduced

HOUSE FILE
BY QUIRK

A BILL FOR

An Act relating to the installation of fire sprinklers or fire suppression systems in residential buildings.
BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 5233YH (2) 83
jr/nh

House File 2108 - Introduced continued

PAG LIN

1 1 Section 1. Section 100.35, Code 2009, is amended to read as
1 2 follows:
1 3 100.35 Rules of marshal.
1 4 1. The fire marshal shall adopt, and may amend rules
1 5 under chapter 17A, which include standards relating to exits
1 6 and exit lights, fire escapes, fire protection, fire safety
1 7 and the elimination of fire hazards, in and for churches,
1 8 schools, hotels, theaters, amphitheaters, hospitals, health
1 9 care facilities as defined in section 135C.1, boarding homes
1 10 or housing, rest homes, dormitories, college buildings, lodge
1 11 halls, club rooms, public meeting places, places of amusement,
1 12 apartment buildings, food establishments as defined in section
1 13 137F.1, and all other buildings or structures in which persons
1 14 congregate from time to time, whether publicly or privately
1 15 owned. Violation of a rule adopted by the fire marshal is a
1 16 simple misdemeanor. However, upon proof that the fire marshal
1 17 gave written notice to the defendant of the violation, and
1 18 proof that the violation constituted a clear and present danger
1 19 to life, and proof that the defendant failed to eliminate the
1 20 condition giving rise to the violation within thirty days after
1 21 receipt of notice from the fire marshal, the penalty is that
1 22 provided by law for a serious misdemeanor. Each day of the
1 23 continuing violation of a rule after conviction of a violation
1 24 of the rule is a separate offense. A conviction is subject to
1 25 appeal as in other criminal cases.
1 26 2. Rules by the fire marshal affecting the construction of
1 27 new buildings, additions to buildings, or rehabilitation of
1 28 existing buildings and related to fire protection, shall be
1 29 substantially in accord with the provisions of the nationally
1 30 recognized building and related codes adopted as the state
1 31 building code pursuant to section 103A.7 or with codes adopted
1 32 by a local subdivision which are in substantial accord with the
1 33 codes comprising the state building code. The rules adopted
1 34 by the fire marshal shall not require the installation of fire
1 35 sprinklers or a related fire suppression system in a one=family

House File 2108 - Introduced continued

2 1 or two=family residential dwelling or a residential building
2 2 that contains no more than four dwelling units.
2 3 3. The rules adopted by the state fire marshal under
2 4 this section shall provide standards for fire resistance of
2 5 cellulose insulation sold or used in this state, whether for
2 6 public or private use. The rules shall provide for approval of
2 7 the cellulose insulation by at least one nationally recognized
2 8 independent testing laboratory.
2 9 Sec. 2. Section 103A.7, subsection 2, paragraph d, Code
2 10 Supplement 2009, is amended to read as follows:
2 11 d. Protection of the health, safety, and welfare of
2 12 occupants and users. The rules adopted by the state building
2 13 code commissioner shall not require the installation of fire
2 14 sprinklers or a related fire suppression system in a one=family
2 15 or two=family residential dwelling or a residential building
2 16 that contains no more than four dwelling units.
2 17 Sec. 3. Section 331.304, subsection 3, Code 2009, is amended
2 18 by adding the following new paragraph:
2 19 NEW PARAGRAPH. c. A county building code shall not
2 20 require the installation of fire sprinklers or a related fire
2 21 suppression system in a one=family or two=family residential
2 22 dwelling or a residential building that contains no more than
2 23 four dwelling units.
2 24 Sec. 4. Section 364.17, Code Supplement 2009, is amended by
2 25 adding the following new subsection:
2 26 NEW SUBSECTION. 8. A building or housing code adopted by a
2 27 city shall not require the installation of fire sprinklers or a
2 28 related fire suppression system in a one=family or two=family
2 29 residential dwelling or a residential building that contains no
2 30 more than four dwelling units.
2 31 EXPLANATION
2 32 This bill provides that the state building code or a
2 33 building code adopted by a city or county shall not require the
2 34 installation of fire sprinklers or a related fire suppression
2 35 system in a one=family or two=family residential dwelling or a

House File 2108 - Introduced continued

3 1 residential building that contains no more than four dwelling
3 2 units.
LSB 5233YH (2) 83
jr/nh

House File 2109 - Introduced

HOUSE FILE
BY COMMITTEE ON ETHICS

(SUCCESSOR TO HSB 506)

A BILL FOR

An Act relating to ethics laws by establishing disclosure requirements, providing jurisdictional authority, and allowing certain procedures in resolving ethics complaints, and including effective date provisions.

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

TLSB 5196HV (21) 83
tm/rj

House File 2109 - Introduced continued

PAG LIN

1 1 Section 1. Section 68B.22, subsection 4, paragraph s, Code
1 2 Supplement 2009, is amended to read as follows:
1 3 s. Gifts of food, beverage, and entertainment received ~~by~~
~~1 4 public officials or public employees~~ at a function where every
1 5 member of the general assembly has been invited to attend,
1 6 when the function takes place during a regular session of the
1 7 general assembly. A sponsor of a function under this paragraph
1 8 shall file a registration prior to the function taking place
1 9 identifying the sponsor and the date, time, and location
1 10 of the function. The registration shall be filed with the
1 11 person or persons designated by the secretary of the senate
1 12 and the chief clerk of the house and with the board. After a
1 13 function takes place, the sponsor of the function shall file
1 14 a report disclosing the total amount expended, including
1 15 in=kind expenditures, on food, beverage, and entertainment
1 16 for the function. The report shall be filed with the person
1 17 or persons designated by the secretary of the senate and
1 18 the chief clerk of the house and with the board within ~~five~~
~~1 19 business~~ twenty=eight calendar days following the date of the
1 20 function. ~~The person or persons designated by the secretary~~
~~1 21 of the senate and the chief clerk of the house shall forward a~~
~~1 22 copy of each report to the board.~~
1 23 Sec. 2. Section 68B.31, subsection 4, paragraph a,
1 24 subparagraphs (3) and (4), Code 2009, are amended to read as
1 25 follows:
1 26 (3) Issue advisory opinions interpreting the intent
1 27 of constitutional and statutory provisions relating to
1 28 legislators, ~~and~~ lobbyists, and clients as well as interpreting
1 29 the code of ethics and rules issued pursuant to this section.
1 30 Opinions shall be issued when approved by a majority of the six
1 31 members and may be issued upon the written request of a member
1 32 of the general assembly or upon the committee's initiation.
1 33 Opinions are not binding on the legislator, ~~or~~ lobbyist, or
1 34 client.
1 35 (4) Receive and hear complaints and charges against members

House File 2109 - Introduced continued

2 1 of its house, lobbyists, or clients of a lobbyist alleging a
2 2 violation of the code of ethics, rules governing lobbyists,
2 3 this chapter, or other matters referred to it by its house or
2 4 the independent special counsel. The committee shall recommend
2 5 rules for the receipt and processing of findings of probable
2 6 cause relating to ethical violations of members of the general
2 7 assembly, ~~or~~ lobbyists, or clients of lobbyists during the
2 8 legislative session and those received after the general
2 9 assembly adjourns.
2 10 Sec. 3. Section 68B.31, subsection 5, Code 2009, is amended
2 11 to read as follows:
2 12 5. Any person may file a complaint with the ethics
2 13 committee of either house alleging that a member of the general
2 14 assembly, ~~or a~~ lobbyist, or client of a lobbyist before the
2 15 general assembly has committed a violation of this chapter.
2 16 The ethics committee shall prescribe and provide forms for this
2 17 purpose. The complaint shall include the name and address
2 18 of the complainant and a statement of the facts believed to
2 19 be true that form the basis of the complaint, including the
2 20 sources of information and approximate dates of the acts
2 21 alleged and a certification by the complainant under penalty of
2 22 perjury that the facts stated to be true are true to the best
2 23 of the complainant's knowledge.
2 24 Sec. 4. Section 68B.31, subsection 7, Code 2009, is amended
2 25 to read as follows:
2 26 7. a. If the ethics committee determines that a complaint
2 27 is not valid, the complaint shall be dismissed and returned
2 28 to the complainant with a notice of dismissal stating the
2 29 reason or reasons for the dismissal. If the ethics committee
2 30 determines that a complaint is valid and the ethics committee
2 31 does not take action under rules adopted pursuant to paragraph
2 32 "b", the ethics committee shall request that the chief justice
2 33 of the supreme court appoint an independent special counsel
2 34 to investigate the allegations contained in the complaint
2 35 to determine whether there is probable cause to believe

House File 2109 - Introduced continued

3 1 that a violation of this chapter has occurred and whether an
3 2 evidentiary hearing on the complaint should be held. Payment
3 3 of costs for the independent special counsel shall be made from
3 4 section 2.12.
3 5 b. The ethics committee may adopt rules for purposes of
3 6 taking action on valid complaints without requesting the
3 7 appointment of an independent special counsel and without
3 8 requiring action by the appropriate house pursuant to
3 9 subsection 11. Such action may only be taken if the committee
3 10 determines that no dispute exists between the parties regarding
3 11 material facts that establish a violation.
3 12 Sec. 5. Section 68B.31, subsection 8, Code 2009, is amended
3 13 to read as follows:
3 14 8. If a hearing on the complaint is ordered the ethics
3 15 committee shall receive all admissible evidence, determine
3 16 any factual or legal issues presented during the hearing, and
3 17 make findings of fact based upon evidence received. Hearings
3 18 shall be conducted in the manner prescribed in section 17A.12.
3 19 The rules of evidence applicable under section 17A.14 shall
3 20 also apply in hearings before the ethics committee. Clear and
3 21 convincing evidence shall be required to support a finding
3 22 that the member of the general assembly, ~~or~~ lobbyist, or
3 23 client before the general assembly has committed a violation
3 24 of this chapter. Parties to a complaint may, subject to the
3 25 approval of the ethics committee, negotiate for settlement
3 26 of disputes that are before the ethics committee. Terms of
3 27 any negotiated settlements shall be publicly recorded. If a
3 28 complaint is filed or initiated less than ninety days before
3 29 the election for a state office, for which the person named
3 30 in the complaint is the incumbent officeholder, the ethics
3 31 committee shall, if possible, set the hearing at the earliest
3 32 available date so as to allow the issue to be resolved before
3 33 the election. An extension of time for a hearing may be
3 34 granted when both parties mutually agree on an alternate date
3 35 for the hearing. The ethics committee shall make every effort

House File 2109 - Introduced continued

4 1 to hear all ethics complaints within three months of the date
4 2 that the complaints are filed. However, after three months
4 3 from the date of the filing of the complaint, extensions
4 4 of time for purposes of preparing for hearing may only be
4 5 granted by the ethics committee when the party charged in the
4 6 complaint with the ethics violation consents to an extension.
4 7 If the party charged does not consent to an extension, the
4 8 ethics committee shall not grant any extensions of time for
4 9 preparation prior to hearing. All complaints alleging a
4 10 violation of this chapter or the code of ethics shall be
4 11 heard within nine months of the filing of the complaint.
4 12 Final dispositions of violations, which the ethics committee
4 13 has found to have been established by clear and convincing
4 14 evidence, shall be made within thirty days of the conclusion of
4 15 the hearing on the complaint.
4 16 Sec. 6. Section 68B.32A, subsection 5, Code Supplement
4 17 2009, is amended to read as follows:
4 18 5. Receive and file registration ~~and reports~~ from lobbyists
4 19 of the executive branch of state government, client disclosure
4 20 from clients of lobbyists of the executive branch of state
4 21 government, personal financial disclosure information from
4 22 officials and employees in the executive branch of state
4 23 government who are required to file personal financial
4 24 disclosure information under this chapter, and gift and bequest
4 25 disclosure information pursuant to section 8.7. The board,
4 26 upon its own motion, may initiate action and conduct a hearing
4 27 relating to reporting requirements under this chapter or
4 28 section 8.7.
4 29 Sec. 7. Section 68B.34A, Code Supplement 2009, is amended
4 30 to read as follows:
4 31 68B.34A Actions commenced against local officials or
4 32 employees.
4 33 1. Complaints alleging conduct of local officials or local
4 34 employees which violates this chapter, except for sections
4 35 68B.36~~, 68B.37,~~ and 68B.38, shall be filed with the county

House File 2109 - Introduced continued

5 1 attorney in the county where the accused resides. However, if
5 2 the county attorney is the person against whom the complaint is
5 3 filed, or if the county attorney otherwise has a personal or
5 4 legal conflict of interest, the complaint shall be referred to
5 5 another county attorney.
5 6 2. Complaints alleging conduct of local officials or local
5 7 employees which violates section 68B.36~~, 68B.37,~~ or 68B.38
5 8 shall be filed with the ethics committee of the appropriate
5 9 house of the general assembly if the conduct involves lobbying
5 10 activities before the general assembly or with the board if
5 11 the conduct involves lobbying activities before the executive
5 12 branch.
5 13 Sec. 8. Section 68B.36, subsections 1 and 5, Code 2009, are
5 14 amended to read as follows:
5 15 1. All lobbyists shall, on or before the day their lobbying
5 16 activity begins, register by filing a lobbyist's registration
5 17 statement at times and in the manner provided in this section.
5 18 In addition to any other information required by the general
5 19 assembly and the board, a lobbyist shall identify in the
5 20 registration statement all clients of the lobbyist. Lobbyists
5 21 engaged in lobbying activities before the general assembly
5 22 shall file the statement with the chief clerk of the house of
5 23 representatives or the secretary of the senate. Lobbyists
5 24 engaged in lobbying activities before the office of the
5 25 governor or any state agency shall file the statement with
5 26 the board. The chief clerk of the house and the secretary
5 27 of the senate shall provide appropriate registration forms
5 28 to lobbyists before the general assembly. The board shall
5 29 prescribe appropriate registration forms for lobbyists before
5 30 the office of the governor and state agencies.
5 31 5. ~~All federal, state, and local officials or employees~~
~~5 32 representing the official positions of their departments,~~
~~5 33 commissions, boards, or agencies shall, when lobbying the~~
~~5 34 general assembly, present to the chief clerk of the house or~~
~~5 35 the secretary of the senate a letter of authorization from~~

~~House File 2109 - Introduced continued~~

~~6 1 their department or agency heads prior to the commencement of~~
~~6 2 their lobbying. When lobbying a state agency or the office~~
~~6 3 of the governor, the letter shall be presented to the board.~~
~~6 4 The lobbyist registration statement of these officials and~~
~~6 5 employees shall not be deemed complete until the letter of~~
~~6 6 authorization is attached.~~ Federal, state, and local officials
6 7 who wish to lobby in opposition to the official position of
6 8 their departments, commissions, boards, or agencies must
6 9 indicate this on their lobbyist registration statements.
6 10 Sec. 9. Section 68B.38, subsection 1, Code 2009, is amended
6 11 to read as follows:
6 12 1. On or before July 31 of each year, a lobbyist's client
6 13 shall file with the general assembly ~~or~~ and board a report that
6 14 contains information on all salaries, fees, retainers, and
6 15 reimbursement of expenses paid ~~or anticipated to be paid~~ by the
6 16 lobbyist's client to the lobbyist for lobbying purposes during
6 17 the preceding twelve calendar months, concluding on June 30 of
6 18 each year. The amount reported to the general assembly and the
6 19 board shall include the total amount of all salaries, fees,
6 20 retainers, and reimbursement of expenses paid to a lobbyist for
6 21 lobbying both the legislative and executive branches.
6 22 Sec. 10. REPEAL. Section 68B.37, Code 2009, is repealed.
6 23 Sec. 11. EFFECTIVE UPON ENACTMENT. This Act, being deemed
6 24 of immediate importance, takes effect upon enactment.
6 25 EXPLANATION
6 26 This bill relates to ethics laws by establishing disclosure
6 27 requirements, providing jurisdictional authority, and allowing
6 28 certain procedures in resolving ethics complaints.
6 29 The bill amends an exception to the gift law that requires
6 30 public disclosure of expenses for a function sponsored by a
6 31 restricted donor where every member of the general assembly is
6 32 invited to attend a function that takes place during a regular
6 33 session of the general assembly. Currently, a report must
6 34 be filed with the general assembly detailing expenses by the
6 35 function sponsor within five business days following the date

House File 2109 - Introduced continued

of the function. A copy of the report is currently forwarded to the Iowa ethics and campaign disclosure board. The bill changes the five=business=day deadline to 28 calendar days following the date of the function. The bill also requires a function registration to be filed with the general assembly and the board prior to the function taking place. The bill also allows the receipt of food, beverages, and entertainment by anyone attending such a function. The bill requires the function report to be filed with the general assembly and the board.

The bill provides that complaints may be filed with the ethics committee against a client of a lobbyist alleging violations of Code chapter 68B, the code of ethics, or rules governing lobbyists. The bill also provides for the issuance of advisory opinions relating to clients of lobbyists.

The bill allows the ethics committees in the senate and house of representatives to adopt rules enabling the committees to take certain types of action on valid complaints without requesting the appointment of independent special counsel and without requiring action by the appropriate chamber. Such action may only be taken if the committee determines that there is no dispute between the parties regarding material facts establishing a violation. Currently, if a complaint is determined to be valid, the ethics committee is required to request the appointment of an independent special counsel to investigate the complaint and determine whether probable cause exists.

The bill requires lobbyist registration statements to include a list of clients of the lobbyist. The bill eliminates a requirement that a letter of authorization be filed by all federal, state, and local officials or employees representing the official positions of their departments, commissions, boards, or agencies.

Currently, the client of a lobbyist is required to file an annual report that contains information on all salaries,

House File 2109 - Introduced continued

8 1 fees, retainers, and reimbursement of expenses paid by the
8 2 lobbyist's client to the lobbyist for lobbying purposes during
8 3 the preceding 12 calendar months. The bill provides that the
8 4 amount reported to the general assembly and the ethics and
8 5 campaign disclosure board shall include the total amount of all
8 6 salaries, fees, retainers, and reimbursement of expenses paid
8 7 to a lobbyist for lobbying both the legislative and executive
8 8 branches.
8 9 Currently, a lobbyist before the general assembly and a
8 10 lobbyist before a state agency or the office of the governor
8 11 must file periodic reports disclosing information related to
8 12 campaign contributions, lobbying expenditures, and a listing of
8 13 clients. The bill eliminates these periodic reports and makes
8 14 conforming amendments.
8 15 The bill takes effect upon enactment.
LSB 5196HV (21) 83
tm/rj

House File 2110 - Introduced

HOUSE FILE
BY COMMITTEE ON VETERANS
AFFAIRS

(SUCCESSOR TO HSB 538)

A BILL FOR

An Act relating to unemployment insurance benefits for spouses who leave employment to accompany a spouse on a military assignment.

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

TLSB 5441HV (7) 83
ak/nh

House File 2110 - Introduced continued

PAG LIN

1 1 Section 1. Section 96.5, subsection 1, Code 2009, is amended
1 2 by adding the following new paragraph:
1 3 NEW PARAGRAPH. b. The individual's leaving was caused by
1 4 the relocation of the individual's spouse by the military. The
1 5 employer's account shall not be charged for any benefits paid
1 6 to an individual who leaves due to the relocation of a military
1 7 spouse. Relief of charges under this paragraph applies to
1 8 both contributory and reimbursable employers, notwithstanding
1 9 section 96.8, subsection 5.
1 10 EXPLANATION
1 11 This bill allows unemployment insurance benefits for an
1 12 individual who left employment because of the relocation of the
1 13 individual's spouse due to a military assignment in another
1 14 area.
1 15 An individual's employer shall not be charged for any
1 16 benefits paid under this exception. Relief of charges
1 17 applies to both contributory and reimbursable employers,
1 18 notwithstanding Code section 96.8(5).
LSB 5441HV (7) 83
ak/nh

House File 2111 - Introduced

HOUSE FILE
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO HSB 524)

A BILL FOR

An Act providing notification to the department of workforce development by the secretary of state when certain business entities apply for reinstatement after dissolution to ensure certain tax obligations have been fulfilled.

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

TLSB 5429HV (6) 83
ak/nh

House File 2111 - Introduced continued

PAG LIN

1 1 Section 1. Section 489.706, subsection 2, Code 2009, is
1 2 amended to read as follows:
1 3 2. The secretary of state shall refer the federal tax
1 4 identification number contained in the application for
1 5 reinstatement to the ~~department~~ departments of revenue and
1 6 workforce development. The ~~department~~ departments of revenue
1 7 and workforce development shall report to the secretary of
1 8 state the tax status of the limited liability company. If
1 9 ~~the~~ either department reports to the secretary of state that
1 10 a filing delinquency or liability exists against the limited
1 11 liability company, the secretary of state shall not cancel the
1 12 declaration of dissolution until the filing delinquency or
1 13 liability is satisfied.
1 14 Sec. 2. Section 490.1422, subsection 2, paragraph a, Code
1 15 2009, is amended to read as follows:
1 16 a. The secretary of state shall refer the federal tax
1 17 identification number contained in the application for
1 18 reinstatement to the ~~department~~ departments of revenue
1 19 and workforce development. The ~~department~~ departments of
1 20 revenue and workforce development shall report to the
1 21 secretary of state the tax status of the corporation. If
1 22 ~~the~~ either department reports to the secretary of state that a
1 23 filing delinquency or liability exists against the corporation,
1 24 the secretary of state shall not cancel the certificate of
1 25 dissolution until the filing delinquency or liability is
1 26 satisfied.
1 27 Sec. 3. Section 490A.1322, subsection 2, paragraph a, Code
1 28 2009, is amended to read as follows:
1 29 a. The secretary of state shall refer the federal tax
1 30 identification number contained in the application for
1 31 reinstatement to the ~~department~~ departments of revenue and
1 32 workforce development. The ~~department~~ departments of revenue
1 33 and workforce development shall report to the secretary of
1 34 state the tax status of the limited liability company. If
1 35 ~~the~~ either department reports to the secretary of state that

House File 2111 - Introduced continued

2 1 a filing delinquency or liability exists against the limited
2 2 liability company, the secretary of state shall not cancel the
2 3 certificate of dissolution until the filing delinquency or
2 4 liability is satisfied.
2 5 Sec. 4. Section 501.813, subsection 2, paragraph a, Code
2 6 2009, is amended to read as follows:
2 7 a. The secretary of state shall refer the federal tax
2 8 identification number contained in the application for
2 9 reinstatement to the ~~department~~ departments of revenue
2 10 and workforce development. The ~~department~~ departments of
2 11 revenue and workforce development shall report to the
2 12 secretary of state the tax status of the cooperative. If
2 13 ~~the~~ either department reports to the secretary of state that a
2 14 filing delinquency or liability exists against the cooperative,
2 15 the secretary of state shall not cancel the certificate of
2 16 dissolution until the filing delinquency or liability is
2 17 satisfied.
2 18 Sec. 5. Section 504.1423, subsection 2, paragraph a, Code
2 19 2009, is amended to read as follows:
2 20 a. The secretary of state shall refer the federal tax
2 21 identification number contained in the application for
2 22 reinstatement to the ~~department~~ departments of revenue
2 23 and workforce development. The ~~department~~ departments of
2 24 revenue and workforce development shall report to the
2 25 secretary of state the tax status of the corporation. If
2 26 ~~the~~ either department reports to the secretary of state that a
2 27 filing delinquency or liability exists against the corporation,
2 28 the secretary of state shall not cancel the certificate of
2 29 dissolution until the filing delinquency or liability is
2 30 satisfied.
2 31 EXPLANATION
2 32 This bill directs the secretary of state to notify the
2 33 department of workforce development when a limited liability
2 34 company, corporation, cooperative, or nonprofit corporation
2 35 applies for reinstatement after a dissolution. The department

House File 2111 - Introduced continued

3 1 must report the tax status to the secretary of state, including
3 2 any filing delinquencies or liabilities, which would include
3 3 unpaid unemployment insurance tax. Any filing delinquencies or
3 4 liabilities would prevent the secretary of state from canceling
3 5 the business entity's certificate of dissolution until the
3 6 matter is resolved.
LSB 5429HV (6) 83
ak/nh

House File 2112 - Introduced

HOUSE FILE
BY ALONS, CHAMBERS,
QUIRK, and SODERBERG

A BILL FOR

An Act concerning choice of automobile repair facilities under automobile liability insurance policies.

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

TLSB 5190YH (4) 83
av/nh

House File 2112 - Introduced continued

PAG LIN

1 1 Section 1. NEW SECTION. 516B.4 Choice of automobile repair
1 2 facilities.
1 3 1. An insurer transacting business in this state,
1 4 including its producers and adjusters, that issues or renews an
1 5 automobile liability policy shall not do any of the following:
1 6 a. Require that a claimant under the policy use a particular
1 7 automobile repair business or location for an estimate or a
1 8 repair.
1 9 b. Engage in any act or practice that intimidates, coerces,
1 10 or threatens a claimant or that provides an incentive or
1 11 inducement for a claimant to use a particular automobile repair
1 12 business or location.
1 13 2. An insurer transacting business in this state,
1 14 including its producers and adjusters, that issues or renews
1 15 an automobile liability policy is entitled to have access
1 16 to a claimant's automobile for the purpose of preparing a
1 17 competitive repair estimate.
1 18 3. If an insurer has a direct repair program with automobile
1 19 repair businesses or locations, the insurer shall not limit the
1 20 number of automobile repair businesses or locations with whom
1 21 it maintains a direct repair program except that an insurer may
1 22 limit the number of automobile repair businesses or locations
1 23 participating in the insurer's direct repair program to
1 24 those automobile repair businesses or locations that meet the
1 25 requirements of subsection 4. An insurer is not required to
1 26 establish a direct repair program in a particular market area
1 27 where the insurer's number of policyholders does not support
1 28 establishing a direct repair program in that area.
1 29 4. If an insurer has a direct repair program, the insurer,
1 30 upon request, shall provide to a claimant, without prejudice or
1 31 bias, a list of all automobile repair businesses or locations
1 32 that are reasonably close or convenient to the claimant
1 33 and willing to provide services and that meet the insurer's
1 34 criteria for participation in its direct repair program by:
1 35 a. Possessing the equipment necessary to undertake repairs.

House File 2112 - Introduced continued

2 1 b. Undertaking training of management and technical
2 2 personnel with respect to repair information and the claims
2 3 process.
2 4 c. Agreeing to perform quality repairs at market price and
2 5 that meet industry quality repair standards.
2 6 d. Agreeing to warrant the quality of work including
2 7 refinishing, in writing, to the claimant or insured, for a
2 8 period of not less than one year from the date of repair.
2 9 e. Agreeing to inspection of their repairs and services by
2 10 the insurer and agreeing that the insurer may terminate the
2 11 direct repair program with the automobile repair business or
2 12 location if the repair and services provided are below the
2 13 standards of quality required by the automotive industry.
2 14 f. If requested, agreeing to execute an agreement with
2 15 the insurer that may contain additional criteria that are not
2 16 designed to unfairly limit the number of automobile repair
2 17 businesses or locations with whom the insurer maintains direct
2 18 repair programs. The additional criteria may include criteria
2 19 determined to be necessary by the insurer and designed to
2 20 ensure that the automobile repair business or location has
2 21 the necessary estimating systems and programs and equipment
2 22 to communicate electronically with the insurer and that the
2 23 automobile repair business or location has taken steps to
2 24 ensure the privacy of the insurer and the claimant. However,
2 25 the insurer shall not abrogate the right of an automobile
2 26 repair business or location to purchase parts or supplies from
2 27 any vendor, at the sole discretion of the automobile repair
2 28 business or location.
2 29 5. An insurer transacting business in this state,
2 30 including its producers and adjusters, that issues or renews
2 31 an automobile liability policy shall not abrogate the right of
2 32 a claimant to use any automobile repair business or location
2 33 at the claimant's sole discretion, and the insurer shall pay
2 34 for the reasonable and necessary cost of the automobile repair
2 35 services for covered damages, less any deductible under the

House File 2112 - Introduced continued

3 1 terms of the policy. This section does not require an insurer
3 2 to pay more for automobile repair services than the market
3 3 price.
3 4 6. For the purposes of this section:
3 5 a. "Automobile repair business or location" does not include
3 6 a business or location that exclusively provides automobile
3 7 glass replacement, glass repair services, or glass products.
3 8 b. "Claimant" means a person seeking repair of an automobile
3 9 whether that person is the insured person or a third party
3 10 making a claim against the insurer.
3 11 c. (1) "Market price" means either of the following:
3 12 (a) The price agreed upon between the insurer and the
3 13 policyholder or the service provider.
3 14 (b) The price that is reasonable within the market of the
3 15 local area where the repair or replacement is being performed.
3 16 (2) The market price shall not be less than the cost of the
3 17 repair or replacement work to the service provider.
3 18 Sec. 2. NEW SECTION. 516B.5 Automobile glass repair ==
3 19 prohibited activities.
3 20 1. An insurer transacting business in this state,
3 21 including its producers and adjusters, that issues or renews
3 22 an automobile liability policy shall not, individually or with
3 23 others, directly or indirectly, do any of the following:
3 24 a. Establish an agreement with any person to act as a glass
3 25 broker for the insurer under which the glass broker sets a
3 26 price that must be met by a glass repair shop as a condition for
3 27 doing glass replacement or glass repair work for the insurer.
3 28 b. Establish an agreement with a glass broker that requires
3 29 a glass repair shop to bill through a glass broker as a
3 30 condition of doing glass replacement or glass repair work for
3 31 the insurer.
3 32 c. Establish a price that must be met by a glass repair
3 33 shop as a condition for doing glass replacement or glass repair
3 34 work for the insurer that is below the market price as defined
3 35 in section 516B.4.

House File 2112 - Introduced continued

4 1 d. Require that an insured under the policy use a particular
4 2 company or location for providing automobile glass replacement,
4 3 glass repair services, or glass products insured, in whole or
4 4 in part, under the terms of the policy.
4 5 e. Engage in any act or practice of intimidation, coercion,
4 6 or threat for or against an insured to use a particular company
4 7 or location to provide automobile glass replacement, glass
4 8 repair services, or glass products insured, in whole or in
4 9 part, under the terms of the policy.
4 10 2. An insurer shall not establish an agreement with a
4 11 glass broker that has any affiliation or relation to or with
4 12 manufacturing, distribution, wholesaling, or retailing of
4 13 automobile glass, including windshield repair resin and tool
4 14 manufacturers, distributors, wholesalers, and retailers.
4 15 3. This section does not require an insurer to pay more for
4 16 automobile glass replacement, glass repair services, or glass
4 17 products than the market price as defined in section 516B.4.
4 18 4. This section does not prohibit an insurer from agreeing
4 19 to pay the full cost of glass replacement or repair, less any
4 20 deductible under the terms of the policy.
4 21 5. As used in this section, "glass broker" means an
4 22 automobile glass company that acts as a third=party agent for
4 23 the insurer whenever the automobile glass company enters into
4 24 agreements with other automobile glass dealers to provide glass
4 25 replacement, glass repair services, or glass products for the
4 26 insurer.
4 27 EXPLANATION
4 28 This bill relates to choice of automobile repair and glass
4 29 repair facilities under automobile liability policies issued or
4 30 renewed in this state.
4 31 New Code section 516B.4 prohibits an automobile liability
4 32 insurer from requiring that a claimant under the policy use
4 33 a particular automobile repair business or location for an
4 34 estimate or repair. A claimant may use any automobile repair
4 35 business or location of the claimant's choice and the insurer

House File 2112 - Introduced continued

5 1 must pay the reasonable and necessary cost of the repair
5 2 service for covered damages, less any deductible under the
5 3 terms of the policy. This section does not require an insurer
5 4 to pay more for repairs than the market price.
5 5 An insurer may have a direct repair program and provide to a
5 6 claimant, upon request, a list of participants in the direct
5 7 repair program that are reasonably close or convenient to the
5 8 claimant and that meet criteria, as specified in the bill, for
5 9 participation in the program.
5 10 An insurer is prohibited from infringing on the right of an
5 11 automobile repair business or location to purchase parts or
5 12 supplies from a vendor of its choice.
5 13 New Code section 516B.5 prohibits an automobile liability
5 14 insurer from establishing an agreement with any person to
5 15 act as a glass broker for the insurer under which the glass
5 16 broker sets a price that must be met by a glass repair shop
5 17 as a condition for doing glass repair or replacement work
5 18 for the insurer, that requires a glass repair shop to bill
5 19 through a glass broker as a condition of doing glass repair or
5 20 replacement work for the insurer, or that establishes a price
5 21 that must be met by a glass repair shop that is below the market
5 22 price as a condition of doing business with the insurer. An
5 23 insurer is prohibited from establishing an agreement with a
5 24 glass broker that has any affiliation or relation to or with
5 25 manufacturing, distribution, wholesaling, or retailing of
5 26 automobile glass, including windshield repair resin and tool
5 27 manufacturers, distributors, wholesalers, and retailers.
5 28 An automobile liability insurer is also prohibited from
5 29 requiring an insured to use a particular company or location
5 30 for providing automobile glass replacement, glass repair
5 31 services, or glass products pursuant to the policy. An insurer
5 32 is not required to pay more than the market price for such
5 33 services.
5 34 For the purposes of Code section 516B.5, a "glass broker"
5 35 means an automobile glass company that acts as a third=party

House File 2112 - Introduced continued

6 1 agent for an automobile liability insurer whenever the company
6 2 enters into agreements with other automobile glass dealers to
6 3 provide glass replacement or repair services or glass products
6 4 for the insurer.
6 5 For the purposes of the bill, "market price" means either the
6 6 price agreed upon between the insurer and the policyholder or
6 7 the service provider, or the price that is reasonable within
6 8 the market of the local area where the repair or replacement is
6 9 being performed. The market price cannot be less than the cost
6 10 of the repair or replacement to the service provider.

LSB 5190YH (4) 83
av/nh

House File 2113 - Introduced

HOUSE FILE
BY HANSON

A BILL FOR

An Act relating to the use of headlamps when a motor vehicle's windshield wipers are in use and making a penalty applicable.

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

TLSB 5509HH (2) 83
dea/nh

House File 2113 - Introduced continued

PAG LIN

1 1 Section 1. Section 321.235A, subsection 3, Code 2009, is
1 2 amended to read as follows:
1 3 3. A person shall not operate an electric personal assistive
1 4 mobility device at the times specified in section 321.384,
1 5 subsection 1 unless the person or the electric personal
1 6 assistive mobility device is equipped with a headlight visible
1 7 from the front of the electric personal assistive mobility
1 8 device and at least one red reflector visible from the rear of
1 9 the electric personal assistive mobility device.
1 10 Sec. 2. Section 321.384, Code 2009, is amended to read as
1 11 follows:
1 12 321.384 When lighted lamps required.
1 13 1. a. ~~Every~~ A motor vehicle ~~upon~~ operated on a highway
1 14 ~~within the state,~~ shall display lighted headlamps as provided
1 15 in section 321.415 at any time from sunset to sunrise, and at
1 16 such other times when conditions such as fog, snow, sleet,
1 17 or rain provide insufficient lighting to render clearly
1 18 discernible persons and vehicles on the highway at a distance
1 19 of five hundred feet ahead, ~~shall display lighted headlamps as~~
1 20 ~~provided in section 321.415,~~ subject to exceptions under this
1 21 chapter with respect to parked vehicles ~~as hereinafter stated~~.
1 22 ~~2.~~ b. ~~Whenever~~ A requirement ~~is hereinafter declared~~
1 23 ~~as to~~ regarding the distance from which certain lamps and
1 24 devices shall render objects visible or within which such
1 25 lamps or devices shall be visible, ~~said provisions shall~~
1 26 ~~apply~~ applies during the times stated in ~~subsection 1 of this~~
1 27 ~~section upon~~ paragraph "a", on a straight, level, unlighted
1 28 highway under normal atmospheric conditions unless a different
1 29 time or condition is expressly stated.
1 30 2. A motor vehicle operated on a highway shall display
1 31 lighted headlamps as provided in section 321.415 at any
1 32 time the motor vehicle's windshield wipers are in continuous
1 33 operation, subject to exceptions under this chapter with
1 34 respect to parked vehicles. This subsection does not apply to
1 35 a motor vehicle equipped with alternate road=lighting equipment

House File 2113 - Introduced continued

2 1 as described in section 321.418.
2 2 Sec. 3. Section 321.392, unnumbered paragraph 1, Code 2009,
2 3 is amended to read as follows:
2 4 Every motor truck, and every trailer or semitrailer of over
2 5 three thousand pounds gross weight, shall be equipped with the
2 6 following lighting devices and reflectors in addition to other
2 7 requirements of this chapter, and such devices shall be lighted
2 8 at the times mentioned in section 321.384, subsection 1.
2 9 Sec. 4. Section 321.394, Code 2009, is amended to read as
2 10 follows:
2 11 321.394 Lamp or flag on projecting load.
2 12 Whenever the load upon any vehicle extends to the rear four
2 13 feet or more beyond the bed or body of such vehicle there
2 14 shall be displayed at the extreme rear end of the load, at the
2 15 times specified in section 321.384, subsection 1, a red light
2 16 or lantern plainly visible from a distance of at least five
2 17 hundred feet to the sides and rear. The red light or lantern
2 18 required under this section shall be in addition to the red
2 19 rear light required upon every vehicle. At any other time
2 20 there shall be displayed at the extreme rear end of such load a
2 21 red flag or cloth not less than sixteen inches square.
2 22 Sec. 5. Section 321.395, Code 2009, is amended to read as
2 23 follows:
2 24 321.395 Lamps on parked vehicles.
2 25 Whenever a vehicle is parked or stopped upon a roadway
2 26 or shoulder adjacent to the roadway, outside of a business
2 27 district whether attended or unattended during the times
2 28 mentioned in section 321.384, subsection 1, such vehicle shall
2 29 be equipped with one or more lamps which shall exhibit a white
2 30 or amber light on the roadway side visible from a distance
2 31 of five hundred feet to the front of such vehicle and a red
2 32 light visible from a distance of five hundred feet to the
2 33 rear, except that local authorities may provide by ordinance
2 34 or resolution that no lights need be displayed upon any such
2 35 vehicle when stopped or parked in accordance with local parking

House File 2113 - Introduced continued

3 1 regulations upon a highway where there is sufficient light to
3 2 reveal any person or object within a distance of five hundred
3 3 feet upon such highway. Any lighted headlamps upon a parked
3 4 vehicle shall be depressed or dimmed.
3 5 Sec. 6. Section 321.397, Code 2009, is amended to read as
3 6 follows:
3 7 321.397 Lamps on bicycles.
3 8 Every bicycle shall be equipped with a lamp on the front
3 9 exhibiting a white light, at the times specified in section
3 10 321.384, subsection 1, visible from a distance of at least
3 11 three hundred feet to the front and with a lamp on the rear
3 12 exhibiting a red light visible from a distance of three hundred
3 13 feet to the rear; except that a red reflector may be used in
3 14 lieu of a rear light. A peace officer riding a police bicycle
3 15 is not required to use either front or rear lamps if duty so
3 16 requires.
3 17 Sec. 7. Section 321.398, Code 2009, is amended to read as
3 18 follows:
3 19 321.398 Lamps on other vehicles and equipment.
3 20 All vehicles, including animal=drawn vehicles and including
3 21 those referred to in section 321.383 not hereinbefore
3 22 specifically required to be equipped with lamps, shall at the
3 23 times specified in section 321.384, subsection 1, be equipped
3 24 with at least one lighted lamp or lantern exhibiting a white
3 25 light visible from a distance of five hundred feet to the front
3 26 of such vehicle and, except for animal=drawn vehicles, with a
3 27 lamp or lantern exhibiting a red light visible from a distance
3 28 of five hundred feet to the rear. Animal=drawn vehicles shall
3 29 be equipped with a flashing amber light visible from a distance
3 30 of five hundred feet to the rear of the vehicle during the time
3 31 specified in section 321.384, subsection 1.
3 32 Sec. 8. Section 321.405, Code 2009, is amended to read as
3 33 follows:
3 34 321.405 Self=illumination.
3 35 All mechanical signal devices shall be self=illuminated when

House File 2113 - Introduced continued

in use at the times mentioned in section 321.384, subsection 1.
Sec. 9. Section 321.418, Code 2009, is amended to read as follows:
321.418 Alternate road=lighting equipment.
Any motor vehicle may be operated under the conditions specified in section 321.384, subsection 1, when equipped with two lighted lamps upon the front thereof capable of revealing persons and objects seventy=five feet ahead in lieu of lamps required in sections 321.409 and 321.415, or section 321.417, provided, however, that at no time shall it be operated at a speed in excess of twenty miles per hour.

EXPLANATION

This bill amends Code section 321.384 to require that a motor vehicle's headlamps be lighted at any time when the motor vehicle's windshield wipers are in continuous operation. The requirement is an addition to current law, which requires lighted headlamps from sunset to sunrise and when conditions such as fog, snow, sleet, or rain provide insufficient lighting to clearly see 500 feet ahead.

Because several existing Code sections refer to the times specified in Code section 321.384, the bill makes conforming amendments to limit the scope of the new requirement. As a result, the bill does not affect current provisions relating to the use of lighting on personal assistive mobility devices, bicycles, animal=drawn vehicles, parked vehicles, slow=moving vehicles, motor vehicles equipped with alternate road=lighting equipment, and implements of husbandry; the use of clearance and identification lights on motor trucks, trailers, and semitrailers; the use of lamps or flags on projecting loads; or the use of self=illuminated signal devices.

Pursuant to current law, a violation of motor vehicle headlamp requirements is a simple misdemeanor punishable by a scheduled fine of $20.

LSB 5509HH (2) 83
dea/nh

House File 2114 - Introduced

HOUSE FILE
BY PETTENGILL, SCHULTZ, WINDSCHITL, S. OLSON, DEYOE, DE BOEF, UPMEYER, SANDS, SODERBERG, ALONS, and SCHULTE

A BILL FOR

An Act updating the Code references to the Internal Revenue Code and including effective date and retroactive applicability provisions.

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

House File 2114 - Introduced continued

PAG LIN

1 1 Section 1. Section 422.3, subsection 5, Code 2009, is
1 2 amended to read as follows:
1 3 5. "Internal Revenue Code" means the Internal Revenue Code
1 4 of 1954, prior to the date of its redesignation as the Internal
1 5 Revenue Code of 1986 by the Tax Reform Act of 1986, or means
1 6 the Internal Revenue Code of 1986 as amended to and including
1 7 January 1, ~~2008~~ 2009.
1 8 Sec. 2. Section 422.7, subsection 53, Code Supplement 2009,
1 9 is amended by striking the subsection.
1 10 Sec. 3. Section 422.9, subsection 2, paragraph i, Code
1 11 Supplement 2009, is amended to read as follows:
1 12 i. The deduction for state sales and use taxes is allowable
1 13 only if the taxpayer elected to deduct the state sales and use
1 14 taxes in lieu of state income taxes under section 164 of the
1 15 Internal Revenue Code. A deduction for state sales and use
1 16 taxes is not allowed if the taxpayer has taken the deduction
1 17 for state income taxes or claimed the standard deduction under
1 18 section 63 of the Internal Revenue Code. This paragraph
1 19 applies to taxable years beginning after December 31, 2003, and
1 20 before January 1, ~~2006~~ 2010.
1 21 Sec. 4. Section 422.9, subsection 3, paragraph b, Code
1 22 Supplement 2009, is amended to read as follows:
1 23 b. The Iowa net operating loss remaining after being carried
1 24 back as required in paragraph "a", ~~or~~ "d", or "e", or if not
1 25 required to be carried back shall be carried forward twenty
1 26 taxable years.
1 27 Sec. 5. Section 422.9, subsection 3, Code Supplement 2009,
1 28 is amended by adding the following new paragraph:
1 29 NEW PARAGRAPH. e. Notwithstanding paragraph "a", for
1 30 a taxpayer who has a qualified disaster loss as defined in
1 31 section 172(b)(1)(J) of the Internal Revenue Code, including
1 32 modifications prescribed by rule by the director, the Iowa
1 33 qualified disaster loss is a net operating loss which may be
1 34 carried back five taxable years prior to the taxable year of
1 35 the loss.

House File 2114 - Introduced continued

2 1 Sec. 6. Section 422.9, Code Supplement 2009, is amended by
2 2 adding the following new subsection:
2 3 NEW SUBSECTION. 9. In determining the amount of deduction
2 4 for federal income tax under subsection 1 or subsection 2,
2 5 paragraph "b", for tax years beginning in the 2009 calendar
2 6 year, if a refund is attributable to the receipt of an advance
2 7 refund pursuant to the federal Recovery Rebates and Economic
2 8 Stimulus for the American People Act of 2008, Pub. L. No.
2 9 110=185, the amount of the deduction for the tax year shall not
2 10 be adjusted by the amount of the advance refund, and the amount
2 11 of the advance refund shall not be taxable under this division.
2 12 Sec. 7. Section 422.32, subsection 7, Code Supplement 2009,
2 13 is amended to read as follows:
2 14 7. "Internal Revenue Code" means the Internal Revenue Code
2 15 of 1954, prior to the date of its redesignation as the Internal
2 16 Revenue Code of 1986 by the Tax Reform Act of 1986, or means
2 17 the Internal Revenue Code of 1986 as amended to and including
2 18 January 1, ~~2008~~ 2009.
2 19 Sec. 8. Section 422.35, subsection 11, paragraph b, Code
2 20 Supplement 2009, is amended to read as follows:
2 21 b. An Iowa net operating loss for a tax year beginning on or
2 22 after January 1, 2009, or an Iowa net operating loss remaining
2 23 after being carried back as required in paragraph "a", ~~or~~ "f",
2 24 or "h" shall be carried forward twenty taxable years.
2 25 Sec. 9. Section 422.35, subsection 11, Code Supplement
2 26 2009, is amended by adding the following new paragraph:
2 27 NEW PARAGRAPH. h. Notwithstanding paragraph "a", for
2 28 a taxpayer who has a qualified disaster loss as defined in
2 29 section 172(b)(1)(J) of the Internal Revenue Code, including
2 30 modifications prescribed by rule by the director, the Iowa
2 31 qualified disaster loss is a net operating loss which may be
2 32 carried back five taxable years prior to the taxable year of
2 33 the loss.
2 34 Sec. 10. Section 422.35, subsection 24, Code Supplement
2 35 2009, is amended by striking the subsection.

House File 2114 - Introduced continued

3 1 Sec. 11. RETROACTIVE APPLICABILITY.
3 2 1. The sections of this Act amending Code sections 422.3,
3 3 422.9, subsection 3, 422.32, and 422.35, subsection 11, apply
3 4 retroactively to January 1, 2008, for tax years beginning on
3 5 or after that date.
3 6 2. The sections of this Act amending Code sections 422.7,
3 7 subsection 53, 422.9, subsection 2, and 422.35, subsection 24,
3 8 apply retroactively to December 31, 2007, for tax years ending
3 9 after that date.
3 10 3. The section of this Act enacting section 422.9,
3 11 subsection 9, applies retroactively to January 1, 2009, for tax
3 12 years beginning in the 2009 calendar year.
3 13 Sec. 12. EFFECTIVE DATE. This Act, being deemed of
3 14 immediate importance, takes effect upon enactment.
3 15 EXPLANATION
3 16 This bill updates references in Code sections 422.3 and
3 17 422.32 to the Internal Revenue Code, making certain federal
3 18 income tax revisions enacted by Congress in 2008 applicable for
3 19 purposes of the corporate and individual income taxes and the
3 20 franchise tax.
3 21 The bill amends certain sections of the individual and
3 22 corporate income taxes relating to the computation of net
3 23 income. Current law specifically provides deductions for the
3 24 increased expensing allowances allowed under section 179 of the
3 25 Internal Revenue Code. Because the bill couples Iowa law with
3 26 federal law for purposes of individual and corporate income
3 27 taxes, these deductions are no longer necessary.
3 28 In certain circumstances, current law provides an itemized
3 29 deduction from net income for state sales and use taxes in
3 30 lieu of a deduction for income taxes. This deduction was only
3 31 available for taxable years beginning after December 31, 2003,
3 32 and before January 1, 2006. The bill extends this deduction to
3 33 taxable years beginning before January 1, 2010.
3 34 The bill provides that advance refunds provided under the
3 35 federal Economic Stimulus Act of 2008, but not received until

House File 2114 - Introduced continued

4 1 2009, are not subject to tax and do not reduce the amount
4 2 of federal tax liability deductible for purposes of the Iowa
4 3 individual income tax.
4 4 The bill contains a number of retroactive applicability
4 5 provisions: (1) the section of the bill relating to advance
4 6 refunds under the federal Economic Stimulus Act of 2008 applies
4 7 retroactively to January 1, 2009, for tax years beginning in
4 8 the 2009 calendar year; (2) the sections of the bill relating
4 9 to the increased expensing allowance and the continued itemized
4 10 deduction for state sales and use taxes apply retroactively to
4 11 December 31, 2007, for tax years ending after that date; (3)
4 12 all other sections of the bill apply retroactively to January
4 13 1, 2008, for tax years beginning on or after that date.
4 14 The bill takes effect upon enactment.

LSB 5279YH (6) 83
tw/sc

House File 2115 - Introduced

HOUSE FILE
BY ROBERTS

A BILL FOR

An Act eliminating the corporate income tax and including effective date and retroactive applicability provisions.
BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 5367YH (5) 83
tw/sc

House File 2115 - Introduced continued

PAG LIN

1 1 Section 1. REPEAL. Sections 422.34, 422.34A, 422.36,
1 2 422.37, 422.38, 422.39, 422.40, and 422.41, Code 2009, are
1 3 repealed.
1 4 Sec. 2. REPEAL. Sections 422.32, 422.33, and 422.35, Code
1 5 Supplement 2009, are repealed.
1 6 Sec. 3. CODE EDITOR DIRECTIVE. The Code editor is directed
1 7 to remove division III of chapter 422 and to correct internal
1 8 references and other appropriate references in the Code, and in
1 9 any enacted Iowa Acts as necessary, to the division, and the
1 10 sections in the division, repealed by this Act.
1 11 Sec. 4. EFFECTIVE UPON ENACTMENT AND RETROACTIVE
1 12 APPLICABILITY. This Act, being deemed of immediate importance,
1 13 takes effect upon enactment and applies retroactively to
1 14 January 1, 2010, for tax years beginning on or after that date.
1 15 EXPLANATION
1 16 This bill repeals the business tax on corporations, also
1 17 known as the corporate income tax, and directs the Code editor
1 18 to make conforming changes to the Code.
1 19 The bill takes effect upon enactment and applies
1 20 retroactively to January 1, 2010, for tax years beginning on
1 21 or after that date.
LSB 5367YH (5) 83
tw/sc

House File 2116 - Introduced

HOUSE FILE
BY WENTHE, BURT, FICKEN,
BEARD, KEARNS, HUNTER,
WILLEMS, and MASCHER

A BILL FOR

An Act relating to access to and security of employee personnel files.

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

TLSB 5570YH (6) 83
ak/rj

House File 2116 - Introduced continued

PAG LIN

1 1 Section 1. Section 8A.456, subsection 1, Code 2009, is
1 2 amended to read as follows:
1 3 1. An employee or former employee, as defined in section
1 4 91B.0A, subject to the provisions of this subchapter shall
1 5 have access to the employee's ~~personal~~ or former employee's
1 6 personnel file.
1 7 Sec. 2. NEW SECTION. 91B.0A Definitions.
1 8 As used in this chapter:
1 9 1. "Employee" means as defined in section 91A.2.
1 10 2. "Employer" means as defined in section 91A.2.
1 11 3. "Former employee" means an individual who was employed by
1 12 the employer, receiving wages, salary, or other compensation
1 13 from the employer.
1 14 Sec. 3. Section 91B.1, Code 2009, is amended to read as
1 15 follows:
1 16 91B.1 Files == access by employees.
1 17 1. An employee~~, as defined in section 91A.2,~~ or a former
1 18 employee shall have access to and shall be permitted to obtain
1 19 a copy of the employee's or former employee's personnel file
1 20 maintained by the ~~employee's~~ employer, ~~as defined in section~~
1 21 ~~91A.2,~~ including but not limited to performance evaluations,
1 22 disciplinary records, and other information concerning
1 23 employer=employee relations.
1 24 2. However, an employee's access to a personnel file is
1 25 subject to all of the following:
1 26 a. The employer and employee or former employee shall
1 27 agree on the time ~~the employee may have~~ for access to the
1 28 ~~employee's~~ personnel file, and a representative of the employer
1 29 may be present.
1 30 b. An employee or former employee shall not have access to
1 31 employment references written for the employee.
1 32 c. An employer may charge a reasonable fee for each page
1 33 of a copy made by the employer for an employee or former
1 34 employee of an item in the ~~employee's~~ personnel file. For
1 35 purposes of this paragraph, "reasonable fee" means an amount

House File 2116 - Introduced continued

equivalent to an amount charged per page for copies made by a commercial copying business.

Sec. 4. Section 91B.2, Code 2009, is amended to read as follows:

91B.2 Information provided by employers about current or former employees == immunity.

1. An employer or an employer's representative who, upon request by or authorization of ~~a current~~ an employee or former employee or upon request made by a person who in good faith is believed to be a representative of a prospective employer of ~~a current~~ an employee or former employee, provides work=related information about ~~a current~~ an employee or former employee, is immune from civil liability unless the employer or the employer's representative acted unreasonably in providing the work=related information.

2. For purposes of this section, an employer acts unreasonably if any of the following are present:

a. The work=related information violates a civil right of the ~~current~~ employee or former employee.

b. The work=related information knowingly is provided to a person who has no legitimate and common interest in receiving the work=related information.

c. The work=related information is not relevant to the inquiry being made, is provided with malice, or is provided with no good faith belief that it is true.

~~3. For purposes of this section, "employer" and "employee" are defined as provided in section 91A.2.~~

EXPLANATION

This bill relates to access to and security of employee personnel files.

The bill defines "former employee" and provides employees and former employees with equal access to a personnel file with an employer in Code section 91B.1.

The bill modifies the language in Code sections 8A.456 and 91B.2 so that the defined terms of "employee" and "former

House File 2116 - Introduced continued

3 1 employee" are used equally in reference to the security of
3 2 personnel information.
LSB 5570YH (6) 83
ak/rj

House File 2117 - Introduced

HOUSE FILE
BY T. OLSON

A BILL FOR

An Act concerning payments for certain dental care services including fee schedules for dental services and assignment of dental care coverage benefits.

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

TLSB 5832HH (5) 83
av/nh

House File 2117 - Introduced continued

PAG LIN

1 1 Section 1. NEW SECTION. 514C.3B Dental coverage == fee
1 2 schedules.
1 3 1. A contract between a dental plan and a dentist for the
1 4 provision of services to covered individuals under the plan
1 5 shall not require that a dentist provide services to those
1 6 covered individuals at a fee set by the dental plan unless such
1 7 services are covered services under the dental plan.
1 8 2. A person or entity providing third=party administrator
1 9 services shall not make available any dentists in its dentist
1 10 network to a dental plan that does any of the following:
1 11 a. Sets fees for dental services that are not covered
1 12 services.
1 13 b. Sets fees for dental services that exceed the maximum fee
1 14 for dental services covered by the dental plan.
1 15 3. For the purposes of this section:
1 16 a. "Covered services" means services reimbursed under the
1 17 dental plan.
1 18 b. "Dental plan" means any policy or contract of insurance
1 19 which provides for coverage of dental services not in
1 20 connection with a medical plan that provides for the coverage
1 21 of medical services.
1 22 Sec. 2. NEW SECTION. 514C.3C Assignment of dental care
1 23 coverage benefits.
1 24 1. A carrier as defined in section 513B.2; an organized
1 25 delivery system authorized under 1993 Iowa Acts, ch. 158,
1 26 and licensed by the director of public health; or a plan
1 27 established pursuant to chapter 509A for public employees,
1 28 shall not do either of the following:
1 29 a. Prohibit the assignment of dental care coverage benefits
1 30 to a dental care provider by a covered individual.
1 31 b. Refuse to directly reimburse a dental care provider
1 32 pursuant to a valid assignment of dental care coverage benefits
1 33 after receipt of written notice of the assignment.
1 34 2. An assignment of benefits as described in this section
1 35 shall not affect or limit the payment of benefits otherwise

House File 2117 - Introduced continued

2 1 payable under a dental care benefit contract, policy, or plan
2 2 and a covered individual shall not be otherwise penalized for
2 3 making such an assignment of benefits.
2 4 3. A payment of benefits made under a dental care benefit
2 5 contract, policy, or plan prior to receipt of written notice
2 6 of assignment of the benefits shall be without prejudice to
2 7 the payor. This section shall not be construed to prevent the
2 8 reconciliation of erroneous or duplicate payments made.
2 9 4. For the purposes of this section, unless the context
2 10 otherwise requires:
2 11 a. "Assignment of benefits" means the transfer of dental
2 12 care coverage reimbursement benefits or other rights under an
2 13 insurance contract, policy, or plan by a covered individual to
2 14 a dental care provider.
2 15 b. "Dental care provider" means a dentist, dental hygienist,
2 16 or dental assistant registered or licensed to practice under
2 17 chapter 153.
2 18 EXPLANATION
2 19 This bill creates new Code section 514C.3B which prohibits
2 20 a dental plan from setting fee schedules for participating
2 21 dentists for the provision of dental services that are not
2 22 covered by the plan. The bill also prohibits a third=party
2 23 administrator from making a dentist in its provider network
2 24 available to a dental plan that sets fees for services that are
2 25 not covered or sets fees for dental services that exceed the
2 26 maximum fee for dental services covered by the dental plan.
2 27 For the purposes of new Code section 514C.3B, a "covered
2 28 service" is a service reimbursed under the applicable dental
2 29 plan. A "dental plan" is any policy or contract of insurance
2 30 which provides for coverage of dental services not in
2 31 connection with a medical plan which provides for the coverage
2 32 of medical services.
2 33 The bill also creates new Code section 514C.3C which
2 34 prohibits a carrier, organized delivery system, or plan for
2 35 public employees from refusing to allow a covered individual to

House File 2117 - Introduced continued

3 1 assign payment of dental care coverage benefits to dental care
3 2 provider, or from refusing to directly reimburse a dental care
3 3 provider, pursuant to a valid assignment of such benefits upon
3 4 receipt of written notice of the assignment.
LSB 5832HH (5) 83
av/nh

House File 2118 - Introduced

HOUSE FILE
BY SCHULTE, MAY,
WINDSCHITL, L. MILLER,
RAYHONS, DRAKE,
HAGENOW, WAGNER,
SODERBERG, DEYOE,
WATTS, RAECKER,
SWEENEY, CHAMBERS,
HUSEMAN, ALONS,
KOESTER, FORRISTALL,
S. OLSON, SANDS,
DOLECHECK, UPMEYER,
PAULSEN, and GRASSLEY

A BILL FOR

An Act requiring state employees to pay a portion of health insurance premium costs and including applicability provisions.

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

TLSB 5469YH (10) 83
ec/nh

House File 2118 - Introduced continued

PAG LIN

1 1 Section 1. NEW SECTION. 8A.440 Group health insurance
1 2 premium costs.
1 3 1. A state employee excluded from collective bargaining as
1 4 provided in chapter 20 who is a member of a state group health
1 5 insurance plan for employees of the state established under
1 6 chapter 509A shall pay at least forty dollars per month of the
1 7 total premium for such insurance.
1 8 2. Collective bargaining agreements entered into pursuant
1 9 to chapter 20 for state employees shall provide that a state
1 10 employee covered by that agreement who is a member of a
1 11 state group health insurance plan for employees of the state
1 12 established under chapter 509A shall pay at least forty dollars
1 13 per month of the total premium for such insurance.
1 14 Sec. 2. APPLICABILITY. The provision of this Act enacting
1 15 section 8A.440, subsection 2, applies to collective bargaining
1 16 agreements entered into on or after the effective date of this
1 17 Act.
1 18 EXPLANATION
1 19 This bill requires state employees included or excluded from
1 20 collective bargaining as provided in Code chapter 20 to pay
1 21 at least $40 per month of the total premium for state group
1 22 health insurance. The bill provides that the requirement
1 23 made applicable to state employees covered by a collective
1 24 bargaining agreement applies to collective bargaining
1 25 agreements entered into on or after the effective date of the
1 26 bill. Current law does not specify a minimum required premium
1 27 payment.
LSB 5469YH (10) 83
ec/nh

House File 2119 - Introduced

HOUSE FILE
BY RAECKER, ALONS, ANDERSON, ARNOLD, BAUDLER, CHAMBERS, COWNIE, DE BOEF, DEYOE, DOLECHECK, DRAKE, FORRISTALL, GRASSLEY, HAGENOW, HEATON, HELLAND, HORBACH, HUSEMAN, KAUFMANN, KOESTER, LUKAN, MAY, L.MILLER, S. OLSON, PAULSEN, PETTENGILL, RANTS, RAYHONS, ROBERTS, SANDS, SCHULTE, SCHULTZ, SODERBERG, SORENSON, STRUYK, SWEENEY, TJEPKES, TYMESON, UPMEYER, VAN ENGELENHOVEN, WAGNER, WATTS, WINDSCHITL, and WORTHAN

A BILL FOR

An Act establishing an organized system of reviews and ongoing repeal dates for programs and projects administered by executive branch departments.

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

TLSB 5174YH (4) 83
jp/rj

House File 2119 - Introduced continued

PAG LIN

1 1 Section 1. NEW SECTION. 8.71 Ongoing program review ==
1 2 repeal dates.
1 3 1. The general assembly finds that a regular review of
1 4 the programs and projects administered by state government is
1 5 necessary to determine whether each program and project is
1 6 effectively and efficiently meeting the needs for which created
1 7 and whether the needs remain in place. The general assembly
1 8 further finds that a regular, systematic review process can
1 9 identify the programs and projects that are no longer relevant
1 10 or functioning at a desirable level and can eliminate or
1 11 reorganize those programs and projects so that state resources
1 12 can be used most effectively or diverted to other priorities.
1 13 2. The committees on state government of the senate
1 14 and house of representatives shall propose legislation for
1 15 consideration by the Eighty=fourth General Assembly, 2011
1 16 Session, providing a staggered schedule for establishing an
1 17 automatic repeal date for each program or project administered
1 18 by a department of state government over the succeeding
1 19 five=year period. The committees on state government shall
1 20 consult with the office of the governor and the department
1 21 of management in formulating the staggered schedule and the
1 22 office and department shall cooperate in providing necessary
1 23 information requested by either committee. The repeal date
1 24 provisions shall be implemented in a manner so that any program
1 25 or project that is reauthorized by law is again subject to
1 26 automatic repeal five years after reauthorization.
1 27 EXPLANATION
1 28 This bill addresses regular review of programs and projects
1 29 administered by executive branch departments by providing for
1 30 implementation of an organized system of ongoing repeal dates
1 31 for the programs and projects. Code section 8.2 defines the
1 32 term "department" to mean any executive department, commission,
1 33 board, institution, bureau, office, or other agency of the
1 34 state government, that uses, expends, or receives any state
1 35 funds.

House File 2119 - Introduced continued

2 1 New Code section 8.71 states legislative findings as to
2 2 the purposes for performing a regular review of programs and
2 3 projects. The committees on state government of the senate and
2 4 house of representatives are directed to propose legislation
2 5 for the Eighty=fourth General Assembly, 2011 Session, providing
2 6 a staggered schedule for establishing an automatic repeal
2 7 date for each program or project administered by a department
2 8 over the succeeding five=year period. The committees on
2 9 state government are required to consult with the office of
2 10 the governor and the department of management in formulating
2 11 the staggered schedule and the office and the department are
2 12 required to cooperate in providing information requested by
2 13 either committee. The repeal date provisions are required to
2 14 be implemented in a manner so that any program or project that
2 15 is reauthorized by law is again subject to automatic repeal
2 16 five years after reauthorization.
LSB 5174YH (4) 83
jp/rj

House File 2120 - Introduced

HOUSE FILE
BY ABDUL-SAMAD

A BILL FOR

An Act relating to nuisances and providing remedies and making a penalty applicable.

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

TLSB 5036YH (13) 83
jm/rj

House File 2120 - Introduced continued

PAG LIN

1 1 Section 1. Section 657.1, subsection 1, Code 2009, is
1 2 amended to read as follows:
1 3 1. Whatever is injurious to health, indecent, or
1 4 unreasonably offensive to the senses, or an obstruction to
1 5 the free use of property, so as essentially to interfere
1 6 unreasonably with the comfortable enjoyment of life or
1 7 property, is a nuisance, and a ~~civil action by ordinary~~
~~1 8 proceedings~~ petition for abatement may be brought pursuant to
1 9 section 657A.2A to ~~enjoin and~~ abate the nuisance and to recover
1 10 damages sustained on account of the nuisance.
1 11 Sec. 2. Section 657.2, Code 2009, is amended by adding the
1 12 following new subsection:
1 13 NEW SUBSECTION. 6A. a. Real property related to multiple
1 14 arrests, where the facts and circumstances that lead to each
1 15 arrest are wholly unrelated and occurred or partially occurred
1 16 on or within the real property but where the arrest itself need
1 17 not have actually occurred on or within the real property.
1 18 b. As used in this subsection:
1 19 (1) "Arrest" means an arrest related to a nuisance
1 20 established by local ordinance.
1 21 (2) "Multiple arrests" means any of the following:
1 22 (a) Two or more arrests occurring within a twelve=month
1 23 period related to a single=family home, multiple dwelling=unit
1 24 building, or a vacant structure or building.
1 25 (b) Two or more arrests occurring within a twelve=month
1 26 period related to the grounds of any real property comprising
1 27 a single=family home, multiple dwelling=unit building, or a
1 28 vacant structure or building.
1 29 (c) One or more arrests occurring within a twelve=month
1 30 period related to a single=family home, multiple dwelling=unit
1 31 building, or a vacant structure or building, and one or more
1 32 arrests occurring within a twelve=month period related to the
1 33 real property comprising the single=family home, multiple
1 34 dwelling complex of buildings, or a vacant structure or
1 35 building.

House File 2120 - Introduced continued

2 1 (3) "Multiple dwelling=unit building" means a single
2 2 building containing two or more housing units.
2 3 (4) "Multiple dwelling complex of buildings" means two or
2 4 more buildings together containing two or more housing units
2 5 owned or leased by the same entity.
2 6 Sec. 3. NEW SECTION. 657.2A Petition.
2 7 1. A petition for abatement of a nuisance listed under
2 8 section 657.2 may be filed in the district court of the county
2 9 in which the property is located, by the city in which the
2 10 property is located, by the county if the property is located
2 11 outside the limits of a city, by a neighboring landowner, or
2 12 by a duly organized nonprofit corporation located in the city
2 13 or county in which the property in question is located and
2 14 which has community betterment as one of its corporate goals.
2 15 Service on the owner shall be by personal service or if service
2 16 cannot be made, it may be made by posting the notice in a
2 17 conspicuous place on the property and by publication.
2 18 2. If a petition filed pursuant to this chapter alleges that
2 19 a property is a nuisance or contains a nuisance, the city, the
2 20 county if the property is located outside the limits of a city,
2 21 a neighboring landowner, or a nonprofit corporation may apply
2 22 for an injunction requiring the owner of the property to abate
2 23 the nuisance. The court shall conduct a hearing no earlier
2 24 than twenty days after written notice of the application for
2 25 an injunction and of the date and time of the hearing is served
2 26 upon the owner of the property. Notice of the hearing shall be
2 27 served in the manner provided in subsection 1.
2 28 3. If the court finds at the hearing that the property is
2 29 a nuisance, the court shall issue an injunction requiring the
2 30 owner to abate the nuisance, or another order that the court
2 31 considers necessary or appropriate to abate the nuisance.
2 32 4. In a proceeding under this chapter, if the court makes
2 33 the finding described in subsection 3 and that the owner
2 34 of the property has been afforded reasonable opportunity
2 35 to abate the nuisance but has refused or failed to do so,

House File 2120 - Introduced continued

3 1 the court may proceed under sections 657.3 through 657.7,
3 2 or as an alternative remedy the court may proceed with the
3 3 receivership provisions under sections 657A.3 through 657A.10
3 4 and cause notice of the findings to be served upon the owner,
3 5 each mortgagee or other lienholder of record, and other known
3 6 interested persons, and shall order the persons served to
3 7 show cause why a receiver should not be appointed to perform
3 8 work and to furnish material that reasonably may be required
3 9 to abate the nuisance. For purposes of proceeding under the
3 10 receivership provisions under sections 657A.3 through 657A.10,
3 11 a "nuisance" under this section shall be considered a "public
3 12 nuisance" under sections 657A.3 through 657A.10. The notice
3 13 shall be served in the manner provided in subsection 1.
3 14 5. In a proceeding under this chapter, if the court
3 15 determines the property is not a nuisance the court shall
3 16 dismiss the petition and may require the petitioner to pay the
3 17 owner's reasonable attorney fees actually incurred.
3 18 Sec. 4. Section 657A.1, subsection 7, Code 2009, is amended
3 19 to read as follows:
3 20 7. "Public nuisance" means a building that is a menace to
3 21 the public health, welfare, or safety, or that is structurally
3 22 unsafe, unsanitary, or not provided with adequate safe egress,
3 23 or that constitutes a fire hazard, or is otherwise dangerous to
3 24 human life, or that in relation to the existing use constitutes
3 25 a hazard to the public health, welfare, or safety by reason
3 26 of inadequate maintenance, dilapidation, obsolescence, or
3 27 abandonment. "Public nuisance" also means a nuisance under
3 28 section 657.2.
3 29 EXPLANATION
3 30 This bill specifies a legal process to abate certain
3 31 nuisances.
3 32 The bill creates a nuisance for multiple arrests that occur
3 33 on the same property.
3 34 The bill defines "arrest" to mean an arrest related to a
3 35 nuisance established by a local ordinance.

House File 2120 - Introduced continued

4 1 The bill defines "multiple arrests" within a twelve=month
4 2 period to include the following: two or more arrests related
4 3 to a single=family home, multiple dwelling=unit building, or a
4 4 vacant structure or building; two or more arrests related to
4 5 the real property comprising a single=family home, multiple
4 6 dwelling=unit building, or a vacant structure or building; or
4 7 one or more arrests related to a single=family home, multiple
4 8 dwelling=unit building, or a vacant structure or building,
4 9 and one or more arrests on the real property comprising a
4 10 single=family home, multiple dwelling complex of buildings, or
4 11 a vacant structure or building.
4 12 The bill also defines a "multiple dwelling=unit building" to
4 13 mean a single building containing two or more housing units.
4 14 The bill defines a "multiple dwelling complex of buildings"
4 15 to mean two or more buildings together containing two or more
4 16 housing units owned or leased by the same entity.
4 17 In order for real property to be established as a nuisance,
4 18 the facts and circumstances that lead to an arrest must
4 19 occur or partially occur on the real property subject to
4 20 the provisions of the bill but it is not necessary for the
4 21 arrest to actually occur on such property. The facts and
4 22 circumstances for each arrest must also be wholly unrelated.
4 23 The bill establishes a legal process to abate a nuisance for
4 24 all nuisances listed in Code section 657.2 including nuisances
4 25 related to multiple arrests on a property. Under the bill,
4 26 a petition for abatement of a nuisance may be filed by a
4 27 city, county, a neighboring landowner, or by a duly organized
4 28 nonprofit corporation located in the city or county where the
4 29 property containing the nuisance is located and which has
4 30 community betterment as one of its goals.
4 31 Under the bill, if the petition for abatement contains
4 32 an application for an injunction requiring the owner of the
4 33 property to abate the nuisance, the court shall conduct a
4 34 hearing on the application for an injunction no earlier than 20
4 35 days after notice of the application is served upon the owner

House File 2120 - Introduced continued

5 1 of the property.
5 2 If the court finds the property is a nuisance, the bill
5 3 requires the court to issue an injunction requiring the owner
5 4 to abate the nuisance, or allows the court to consider other
5 5 orders necessary to abate the nuisance.
5 6 Under the bill, if the court finds a property is a nuisance
5 7 and the owner of the property has had a reasonable time to
5 8 abate the nuisance but has failed to abate the nuisance, two
5 9 remedies are available to the court.
5 10 First, the court may proceed with the remedies available
5 11 to the court that exist in Code sections 657.3 through 657.7,
5 12 including prosecuting the owner for committing an aggravated
5 13 misdemeanor.
5 14 Second, as an alternative remedy, the court may proceed
5 15 under the receivership provisions in Code sections 657A.3
5 16 through 657A.10. Under the receivership provisions, the
5 17 court shall notify all interested parties in the property and
5 18 order the parties to show cause why a receiver should not be
5 19 appointed to perform the work or provide the materials to abate
5 20 the nuisance. If a receiver is appointed, the receiver may
5 21 take possession and control of the property, incur costs to
5 22 abate the nuisance, and be reimbursed for the costs to abate
5 23 the nuisance.
5 24 If the court determines the property is not a nuisance under
5 25 the bill, the petitioner may be required to pay the attorney
5 26 fees incurred by the owner defending the property.
LSB 5036YH (13) 83
jm/rj

House File 2121 - Introduced

HOUSE FILE
BY FREVERT

A BILL FOR

An Act relating to modification of a spousal support order based on duration of the order.

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

TLSB 5911HH (9) 83
pf/nh

House File 2121 - Introduced continued

PAG LIN

1 1 Section 1. Section 598.21A, subsection 1, unnumbered
1 2 paragraph 1, Code 2009, is amended to read as follows:
1 3 Upon every judgment of annulment, dissolution, or separate
1 4 maintenance, the court may grant an order requiring support
1 5 payments to either party for a limited or indefinite length
1 6 of time. However, any order requiring support payments for
1 7 ten years or more shall be subject to modification pursuant
1 8 to section 598.21C at each ten=year interval of duration.
1 9 The court may grant the order after considering all of the
1 10 following:
1 11 Sec. 2. Section 598.21C, Code Supplement 2009, is amended by
1 12 adding the following new subsection:
1 13 NEW SUBSECTION. 7A. Additional criteria for modification
1 14 of spousal support order. In addition to the criteria for
1 15 modification of a spousal support order based on a substantial
1 16 change in circumstances as specified pursuant to subsection
1 17 1, a spousal support order requiring support payments for ten
1 18 years or more shall be subject to modification at each ten=year
1 19 interval of duration.
1 20 EXPLANATION
1 21 This bill provides that any order requiring spousal support
1 22 payments for 10 years or more shall be subject to modification
1 23 at each 10=year interval of duration. Current law provides
1 24 for modification of a spousal support order on the basis of a
1 25 substantial change in circumstances as specified in the Code.

House File 2122 - Introduced

HOUSE FILE
BY RANTS

A BILL FOR

An Act relating to the residency restrictions for a sex offender, and making penalties applicable.
BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 5143YH (5) 83
jm/rj

House File 2122 - Introduced continued

PAG LIN

1 1 Section 1. Section 692A.101, subsection 2, Code Supplement
1 2 2009, is amended to read as follows:
1 3 2. a. "Aggravated offense against a minor" means a
1 4 conviction for any of the following offenses, if such offense
1 5 was committed against a minor, or otherwise involves a minor:
1 6 ~~a.~~ (1) Sexual abuse in the first degree in violation of
1 7 section 709.2.
1 8 ~~b.~~ (2) Sexual abuse in the second degree in violation of
1 9 section 709.3.
1 10 ~~c.~~ (3) Sexual abuse in the third degree in violation
1 11 of section 709.4, except for a violation of section 709.4,
1 12 subsection 2, paragraph "c", subparagraph (4).
1 13 b. Any offense specified in the laws of another jurisdiction
1 14 or prosecuted in federal, military, or foreign court, that is
1 15 comparable to an offense listed in section 692A.102 shall be
1 16 considered an aggravated offense against a minor if such an
1 17 offense was committed against a minor or otherwise involves a
1 18 minor.
1 19 EXPLANATION
1 20 This bill relates to residency restrictions for a sex
1 21 offender.
1 22 The bill provides that any conviction for an offense
1 23 specified in the laws of another jurisdiction or any conviction
1 24 for an offense prosecuted in federal, military, or foreign
1 25 court, that is comparable to any offense listed in Code section
1 26 692A.102 as a tier I, II, or III offense shall be considered an
1 27 aggravated offense against a minor if the offense was against a
1 28 minor or otherwise involved a minor.
1 29 A person convicted of an aggravated offense against a minor
1 30 is subject to the sex offender residency restrictions under
1 31 Code section 692A.114.
1 32 Current law specifies that the residency restrictions apply
1 33 to a person convicted of sexual abuse in the first degree in
1 34 violation of Code section 709.2, sexual abuse in the second
1 35 degree in violation of Code section 709.3, and sexual abuse in

House File 2122 - Introduced continued

2 1 the third degree in violation of Code section 709.4, except for
2 2 a violation of Code section 709.4(2)(c)(4).
2 3 A person who violates the residency restrictions commits
2 4 an aggravated misdemeanor for a first offense and a class "D"
2 5 felony for a second or subsequent offense.
LSB 5143YH (5) 83
jm/rj

House File 2123 - Introduced

HOUSE FILE
BY TYMESON

A BILL FOR

An Act relating to placement of a combat veteran in a mental health or substance abuse facility as part of a criminal sentence.

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

TLSB 5038YH (3) 83
jm/nh

House File 2123 - Introduced continued

PAG LIN

1 1 Section 1. NEW SECTION. 901.11 Combat veteran presentence
1 2 hearing == sentence.
1 3 1. In the case of any person convicted of a misdemeanor
1 4 or felony, who is eligible for probation, and who otherwise
1 5 would be sentenced to jail or committed to the custody of the
1 6 director of the department of corrections, who alleges that
1 7 the offense was committed as a result of posttraumatic stress
1 8 disorder, substance abuse, or psychological problems stemming
1 9 from service in a combat theater in the United States military,
1 10 the court shall hold a presentence hearing to determine whether
1 11 the defendant was a member of the military forces of the United
1 12 States who served in combat and shall assess whether the
1 13 defendant suffers from posttraumatic stress disorder, substance
1 14 abuse, or psychological problems as a result of the service.
1 15 2. If the court determines at the presentence hearing the
1 16 defendant is suffering from posttraumatic stress disorder,
1 17 substance abuse, or psychological problems stemming from
1 18 service in a combat theater in the United States military,
1 19 the court may order the defendant placed in a mental health
1 20 or substance abuse facility in this state or in another
1 21 jurisdiction, that is considered an established treatment
1 22 program which has a history of successfully treating combat
1 23 veterans who suffer from posttraumatic stress disorder,
1 24 substance abuse, or psychological problems as a result of the
1 25 service.
1 26 3. If the defendant at the presentence hearing is
1 27 able to prove admittance to a facility that has a history
1 28 of successfully treating combat veterans who suffer
1 29 from posttraumatic stress disorder, substance abuse, or
1 30 psychological problems as a result of their combat service, the
1 31 court may proceed with sentencing and sentence the defendant
1 32 pursuant to section 901.5 and this section.
1 33 4. If the court determines the defendant was not a member
1 34 of the military forces of the United States who served in
1 35 combat, or does not suffer from posttraumatic stress disorder,

House File 2123 - Introduced continued

2 1 substance abuse, or psychological problems as a result of the
2 2 service, or determines placement under subsection 2 is not in
2 3 the best interests of the person, the court shall proceed with
2 4 sentencing as provided in section 901.5.
2 5 EXPLANATION
2 6 This bill relates to placement of a combat veteran in a
2 7 mental health or substance abuse facility as part of a criminal
2 8 sentence.
2 9 Under the bill, if a person who is eligible for probation,
2 10 and who otherwise would be sentenced to jail or committed
2 11 to the custody of the director of the department of
2 12 corrections, alleges that the offense was committed as a
2 13 result of posttraumatic stress disorder, substance abuse,
2 14 or psychological problems stemming from service in a combat
2 15 theater in the United States military, the court shall hold
2 16 a presentence hearing to determine whether the defendant
2 17 was a member of the military forces of the United States
2 18 who served in combat and shall assess whether the defendant
2 19 suffers from posttraumatic stress disorder, substance abuse, or
2 20 psychological problems as a result of the service.
2 21 The bill provides that if the court determines at the
2 22 presentence hearing that such conditions are met, the court
2 23 may order the defendant placed at a mental health or substance
2 24 abuse facility that has a history of successfully treating
2 25 combat veterans who suffer from posttraumatic stress disorder,
2 26 substance abuse, or psychological problems as a result of the
2 27 service, if the person is able to prove admittance at such a
2 28 facility.
2 29 Under the bill, if the court determines the conditions were
2 30 not met, or determines placement is not in the best interests
2 31 of the person, the court shall proceed with sentencing.
LSB 5038YH (3) 83
jm/nh

House Joint Resolution 2004 - Introduced

HOUSE JOINT RESOLUTION
BY HAGENOW

HOUSE JOINT RESOLUTION

A Joint Resolution proposing an amendment to the Constitution of the State of Iowa providing for a state general fund expenditure limitation.

BE IT RESOLVED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5486YH (3) 83
jp/sc

House Joint Resolution 2004 - Introduced continued

PAG LIN

1 1 Section 1. The following amendment to the Constitution of
1 2 the State of Iowa is proposed:
1 3 The Constitution of the State of Iowa is amended by adding
1 4 the following new section to new Article XIII:
1 5 ARTICLE XIII.
1 6 EXPENDITURE LIMITATION.
1 7 General fund expenditure limitation.SECTION 1.
1 8 1. For the purposes of this section:
1 9 a. "Adjusted revenue estimate" means the most recent revenue
1 10 estimate determined before January 1, or a later and lesser
1 11 revenue estimate determined before adjournment of the regular
1 12 session of the General Assembly, for the general fund for the
1 13 following fiscal year as determined by a revenue estimating
1 14 conference which shall be established by the General Assembly
1 15 by law, adjusted by subtracting estimated refunds payable from
1 16 that estimated revenue and adding any available surplus in
1 17 accordance with subsection 6. However, if the General Assembly
1 18 holds an extraordinary session prior to the commencement of the
1 19 fiscal year to which the revenue estimate applies and before
1 20 or during the extraordinary session the revenue estimating
1 21 conference determines a lesser revenue estimate, the lesser
1 22 estimate shall be used for the adjusted revenue estimate.
1 23 b. "General fund" means the principal operating fund of the
1 24 state which shall be established by the General Assembly by
1 25 law.
1 26 c. "New revenues" means moneys which are received by the
1 27 state due to increased tax rates or fees or newly created
1 28 taxes or fees over and above those moneys which are received
1 29 due to state taxes or fees which are in effect as of January
1 30 1 following the most recent meeting of the state revenue
1 31 estimating conference. "New revenues" also includes moneys
1 32 received by the general fund due to new transfers over
1 33 and above those moneys received by the general fund due to
1 34 transfers which are in effect as of January 1 following the
1 35 most recent meeting of the state revenue estimating conference.

House Joint Resolution 2004 - Introduced continued

2 1 The state revenue estimating conference shall determine the
2 2 eligibility of transfers to the general fund which are to be
2 3 considered as new revenue in determining the state general fund
2 4 expenditure limitation.
2 5 2. A state general fund expenditure limitation is created
2 6 and calculated in subsection 3, for each fiscal year beginning
2 7 on or after July 1 following the effective date of this
2 8 section.
2 9 3. Except as otherwise provided in this section, the state
2 10 general fund expenditure limitation for a fiscal year shall be
2 11 ninety=nine percent of the adjusted revenue estimate.
2 12 4. The state general fund expenditure limitation shall be
2 13 used by the Governor in the preparation and approval of the
2 14 budget and by the General Assembly in the budget process.
2 15 5. If a new revenue source is proposed, the budget revenue
2 16 projection used for that new revenue source for the period
2 17 beginning on the effective date of the new revenue source and
2 18 ending in the fiscal year in which the source is included in
2 19 the adjusted revenue estimate shall be ninety=five percent
2 20 of the amount remaining after subtracting estimated refunds
2 21 payable from the projected revenue from that source. If a new
2 22 revenue source is established and implemented, the original
2 23 state general fund expenditure limitation amount provided for
2 24 in subsection 3 shall be readjusted to include ninety=five
2 25 percent of the estimated revenue from that source.
2 26 6. Any surplus existing at the end of a fiscal year which
2 27 exceeds ten percent of the adjusted revenue estimate of
2 28 that fiscal year shall be included in the adjusted revenue
2 29 estimate for the following fiscal year. Any surplus equal to
2 30 ten percent or less of the adjusted revenue estimate of the
2 31 fiscal year may be included in the adjusted revenue estimate
2 32 for the following fiscal year if approved in a bill receiving
2 33 the affirmative votes of at least three=fifths of the whole
2 34 membership of each house of the General Assembly. For purposes
2 35 of this section, "surplus" means the cumulative excess of

House Joint Resolution 2004 - Introduced continued

3 1 revenues and other financing sources over expenditures and
3 2 other financing uses for the general fund at the end of a
3 3 fiscal year.
3 4 7. a. The scope of the state general fund expenditure
3 5 limitation under subsection 3 shall not include federal funds,
3 6 donations, constitutionally dedicated moneys, and moneys in
3 7 expenditures from a state retirement system.
3 8 b. The scope of the state general fund expenditure
3 9 limitation under subsection 3 shall include any portion of
3 10 an appropriation subject to a state general fund expenditure
3 11 limitation for a previous fiscal year that remains authorized
3 12 for expenditure in the fiscal year to which the expenditure
3 13 limitation under subsection 3 is applicable.
3 14 8. The Governor shall submit and the General Assembly shall
3 15 pass a budget which does not exceed the state general fund
3 16 expenditure limitation. The Governor shall not approve or
3 17 disapprove appropriation bills or items of appropriation bills
3 18 passed by the General Assembly in a manner that would cause
3 19 the final budget approved by the Governor to exceed the state
3 20 general fund expenditure limitation.
3 21 9. The Governor shall not submit and the General Assembly
3 22 shall not pass a budget which in order to balance assumes
3 23 reversion of any part of the total of the appropriations
3 24 included in the budget.
3 25 10. The state shall use consistent standards, in accordance
3 26 with generally accepted accounting principles, for all state
3 27 budgeting and accounting purposes.
3 28 11. The General Assembly shall enact laws to implement this
3 29 section.
3 30 Sec. 2. REFERRAL AND PUBLICATION. The foregoing proposed
3 31 amendment to the Constitution of the State of Iowa is referred
3 32 to the General Assembly to be chosen at the next general
3 33 election for members of the General Assembly, and the Secretary
3 34 of State is directed to cause it to be published for three

House Joint Resolution 2004 - Introduced continued

4 1 consecutive months previous to the date of that election as
4 2 provided by law.
4 3 EXPLANATION
4 4 This joint resolution proposes an amendment to the
4 5 Constitution of the State of Iowa relating to state budgets.
4 6 The amendment provides for a state general fund expenditure
4 7 limitation. The amount of the limitation is 99 percent of the
4 8 adjusted revenue estimate. The amendment defines adjusted
4 9 revenue estimate and requires that that estimate be determined
4 10 by a revenue estimating conference which is to be created by
4 11 the general assembly by law. The amendment requires that the
4 12 expenditure limitation be used by the governor in preparation
4 13 of the governor's budget and by the general assembly in the
4 14 budget process. The governor is prohibited from approving or
4 15 disapproving of appropriations in a manner that would cause the
4 16 final budget approved by the governor to exceed the expenditure
4 17 limitation.
4 18 The amendment also provides that, if a new revenue source is
4 19 established and implemented, 95 percent of the estimate of that
4 20 new revenue shall be included in the expenditure limitation.
4 21 The amendment also requires that the amount of any surplus
4 22 which exceeds an amount equal to 10 percent of the adjusted
4 23 revenue estimate be included in the adjusted revenue estimate
4 24 for the following fiscal year. Any surplus which is equal
4 25 to 10 percent or less of the amount of the adjusted revenue
4 26 estimate may be included in the following year's adjusted
4 27 revenue estimate if inclusion is approved in a bill by a
4 28 three=fifths majority of each house of the general assembly.
4 29 The amendment provides that certain revenues such as federal
4 30 funds are not within the scope of the expenditure limitation.
4 31 The scope does encompass any portion of an appropriation
4 32 previously subject to an expenditure limitation which remains
4 33 authorized for expenditure in the fiscal year to which the
4 34 expenditure limitation being addressed applies.
4 35 The amendment also requires the state to use generally

House Joint Resolution 2004 - Introduced continued

5 1 accepted accounting principles for state budgeting and
5 2 accounting purposes. The amendment provides that the general
5 3 assembly shall enact laws to implement the amendment.
5 4 The resolution, if adopted, will be referred to the next
5 5 general assembly. If the next general assembly adopts the
5 6 resolution, the amendment will be submitted to the voters for
5 7 ratification.
LSB 5486YH (3) 83
jp/sc

House Joint Resolution 2005 - Introduced

HOUSE JOINT RESOLUTION
BY RAECKER, ALONS, ANDERSON, ARNOLD, BAUDLER, CHAMBERS, COWNIE, DE BOEF, DEYOE, DOLECHECK, DRAKE, FORRISTALL, GRASSLEY, HAGENOW, HEATON, HELLAND, HORBACH, HUSEMAN, KAUFMANN, KOESTER, LUKAN, MAY, L. MILLER, S. OLSON, PAULSEN, PETTENGILL, RANTS, RAYHONS, ROBERTS, SANDS, SCHULTE, SCHULTZ, SODERBERG, SORENSON, STRUYK, SWEENEY, TJEPKES, TYMESON, UPMEYER, VAN ENGELENHOVEN, WAGNER, WATTS, WINDSCHITL, and WORTHAN

HOUSE JOINT RESOLUTION

A Joint Resolution proposing an amendment to the Constitution of the State of Iowa relating to state budgeting by creating a state general fund expenditure limitation and requiring authorization for certain bonds.

BE IT RESOLVED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5164YH (6) 83
jp/sc

House Joint Resolution 2005 - Introduced continued

PAG LIN

1 1 Section 1. The following amendment to the Constitution of
1 2 the State of Iowa is proposed:
1 3 The Constitution of the State of Iowa is amended by adding
1 4 the following new section to new Article XIII:
1 5 ARTICLE XIII.
1 6 EXPENDITURE LIMITATION.
1 7 General fund expenditure limitation.SECTION 1.
1 8 1. For the purposes of this section:
1 9 a. "Adjusted revenue estimate" means the most recent revenue
1 10 estimate determined before January 1, or a later and lesser
1 11 revenue estimate determined before adjournment of the regular
1 12 session of the General Assembly, for the general fund for the
1 13 following fiscal year as determined by a revenue estimating
1 14 conference which shall be established by the General Assembly
1 15 by law, adjusted by subtracting estimated refunds payable from
1 16 that estimated revenue and adding any available surplus in
1 17 accordance with subsection 6. However, if the General Assembly
1 18 holds an extraordinary session prior to the commencement of the
1 19 fiscal year to which the revenue estimate applies and before
1 20 or during the extraordinary session the revenue estimating
1 21 conference determines a lesser revenue estimate, the lesser
1 22 estimate shall be used for the adjusted revenue estimate.
1 23 b. "General fund" means the principal operating fund of the
1 24 state which shall be established by the General Assembly by
1 25 law.
1 26 c. "New revenues" means moneys which are received by the
1 27 state due to increased tax rates or fees or newly created
1 28 taxes or fees over and above those moneys which are received
1 29 due to state taxes or fees which are in effect as of January
1 30 1 following the most recent meeting of the state revenue
1 31 estimating conference. "New revenues" also includes moneys
1 32 received by the general fund due to new transfers over
1 33 and above those moneys received by the general fund due to
1 34 transfers which are in effect as of January 1 following the
1 35 most recent meeting of the state revenue estimating conference.

House Joint Resolution 2005 - Introduced continued

2 1 The state revenue estimating conference shall determine the
2 2 eligibility of transfers to the general fund which are to be
2 3 considered as new revenue in determining the state general fund
2 4 expenditure limitation.
2 5 2. A state general fund expenditure limitation is created
2 6 and calculated in subsection 3, for each fiscal year beginning
2 7 on or after July 1 following the effective date of this
2 8 section.
2 9 3. Except as otherwise provided in this section, the state
2 10 general fund expenditure limitation for a fiscal year shall be
2 11 ninety=nine percent of the adjusted revenue estimate.
2 12 4. The state general fund expenditure limitation shall be
2 13 used by the Governor in the preparation and approval of the
2 14 budget and by the General Assembly in the budget process.
2 15 5. If a new revenue source is proposed, the budget revenue
2 16 projection used for that new revenue source for the period
2 17 beginning on the effective date of the new revenue source and
2 18 ending in the fiscal year in which the source is included in
2 19 the adjusted revenue estimate shall be ninety=five percent
2 20 of the amount remaining after subtracting estimated refunds
2 21 payable from the projected revenue from that source. If a new
2 22 revenue source is established and implemented, the original
2 23 state general fund expenditure limitation amount provided for
2 24 in subsection 3 shall be readjusted to include ninety=five
2 25 percent of the estimated revenue from that source.
2 26 6. Any surplus existing at the end of a fiscal year which
2 27 exceeds ten percent of the adjusted revenue estimate of
2 28 that fiscal year shall be included in the adjusted revenue
2 29 estimate for the following fiscal year. Any surplus equal to
2 30 ten percent or less of the adjusted revenue estimate of the
2 31 fiscal year may be included in the adjusted revenue estimate
2 32 for the following fiscal year if approved in a bill receiving
2 33 the affirmative votes of at least three=fifths of the whole
2 34 membership of each house of the General Assembly. For purposes
2 35 of this section, "surplus" means the cumulative excess of

House Joint Resolution 2005 - Introduced continued

3 1 revenues and other financing sources over expenditures and
3 2 other financing uses for the general fund at the end of a
3 3 fiscal year.
3 4 7. If a bill or joint resolution provides for new revenue or
3 5 appropriations bonding authority, or an expansion of existing
3 6 revenue or appropriations bonding authority, which bonds are
3 7 funded in whole or in part from revenues from the general
3 8 fund or from another portion of the state treasury, the bill
3 9 or joint resolution shall not become law unless approved by
3 10 the affirmative votes of at least two=thirds of the whole
3 11 membership of each house of the General Assembly. In addition,
3 12 the state general fund expenditure limitation for the initial
3 13 or subsequent fiscal year to which the bill or joint resolution
3 14 applies shall include any appropriations of such revenues for
3 15 the fiscal year.
3 16 8. The scope of the state general fund expenditure
3 17 limitation under subsection 3 shall not include federal funds,
3 18 donations, constitutionally dedicated moneys, and moneys in
3 19 expenditures from a state retirement system.
3 20 9. The Governor shall submit and the General Assembly shall
3 21 pass a budget which does not exceed the state general fund
3 22 expenditure limitation. The Governor shall not approve or
3 23 disapprove appropriation bills or items of appropriation bills
3 24 passed by the General Assembly in a manner that would cause
3 25 the final budget approved by the Governor to exceed the state
3 26 general fund expenditure limitation.
3 27 10. The Governor shall not submit and the General Assembly
3 28 shall not pass a budget which in order to balance assumes
3 29 reversion of any part of the total of the appropriations
3 30 included in the budget.
3 31 11. The state shall use consistent standards, in accordance
3 32 with generally accepted accounting principles, for all state
3 33 budgeting and accounting purposes.
3 34 12. The General Assembly shall enact laws to implement this
3 35 section.

House Joint Resolution 2005 - Introduced continued

4 1 Sec. 2. REFERRAL AND PUBLICATION. The foregoing proposed
4 2 amendment to the Constitution of the State of Iowa is referred
4 3 to the General Assembly to be chosen at the next general
4 4 election for members of the General Assembly, and the Secretary
4 5 of State is directed to cause it to be published for three
4 6 consecutive months previous to the date of that election as
4 7 provided by law.
4 8 EXPLANATION
4 9 This joint resolution proposes an amendment to the
4 10 Constitution of the State of Iowa relating to state budgets and
4 11 authorization for certain bonds.
4 12 The amendment creates a state general fund expenditure
4 13 limitation. The amount of the limitation is 99 percent of the
4 14 adjusted revenue estimate. The amendment defines adjusted
4 15 revenue estimate and requires that that estimate be determined
4 16 by a revenue estimating conference which is to be created by
4 17 the general assembly by law. The amendment requires that the
4 18 expenditure limitation be used by the governor in preparation
4 19 of the governor's budget and by the general assembly in the
4 20 budget process. The governor is prohibited from approving or
4 21 disapproving of appropriations in a manner that would cause the
4 22 final budget approved by the governor to exceed the expenditure
4 23 limitation.
4 24 The amendment also provides that, if a new revenue source is
4 25 established and implemented, 95 percent of the estimate of that
4 26 new revenue shall be included in the expenditure limitation.
4 27 The amendment also requires that the amount of any surplus
4 28 which exceeds an amount equal to 10 percent of the adjusted
4 29 revenue estimate be included in the adjusted revenue estimate
4 30 for the following fiscal year. Any surplus which is equal
4 31 to 10 percent or less of the amount of the adjusted revenue
4 32 estimate may be included in the following year's adjusted
4 33 revenue estimate if inclusion is approved in a bill by a
4 34 three=fifths majority of each house of the general assembly.
4 35 The amendment requires that enactment of a bill or joint

House Joint Resolution 2005 - Introduced continued

5 1 resolution providing for new or expanded authority to issue
5 2 revenue or appropriations bonds funded in whole or in part from
5 3 revenues from the general fund or from another portion of the
5 4 state treasury requires a two=thirds majority of each house of
5 5 the general assembly. In addition, the appropriations of such
5 6 revenues are required to be included in the state general fund
5 7 expenditure limitation for each applicable fiscal year.
5 8 The amendment also requires the state to use generally
5 9 accepted accounting principles for state budgeting and
5 10 accounting purposes. The amendment provides that the general
5 11 assembly shall enact laws to implement the amendment.
5 12 The resolution, if adopted, will be referred to the next
5 13 general assembly. If the next general assembly adopts the
5 14 resolution, the amendment will be submitted to the voters for
5 15 ratification.
LSB 5164YH (6) 83
jp/sc

House Resolution 104 - Introduced

PAG LIN

HOUSE RESOLUTION NO.
BY SWEENEY, WINDSCHITL, ALONS, GAYMAN, ISENHART, ARNOLD, WHITEAD, BUKTA, KEARNS, FICKEN, VAN ENGELENHOVEN, WATTS, and CHAMBERS

1 1 A Resolution to honor the Blue Star Mothers of America,
1 2 Inc.
1 3 WHEREAS, the Blue Star Mothers of America, Inc., was
1 4 founded as a patriotic service organization on February
1 5 2, 1942, to unite mothers who had sons or daughters in
1 6 the United States armed forces; and
1 7 WHEREAS, the nonpartisan, nonsectarian, and
1 8 nondiscriminatory nonprofit organization was chartered
1 9 by the Congress of the United States in 1960; and
1 10 WHEREAS, persons eligible for membership in the
1 11 organization include mothers and stepmothers who have
1 12 sons or daughters who are currently serving in the
1 13 United States military or who are honorably discharged
1 14 veterans; and
1 15 WHEREAS, the work of the Blue Star Mothers of
1 16 America, Inc., includes providing support for
1 17 active duty service personnel and their families,
1 18 promoting patriotism, and assisting various veterans
1 19 organizations such as the American Gold Star
1 20 Mothers; and
1 21 WHEREAS, the work of the Blue Star Mothers of
1 22 America, Inc., is increasingly important with more
1 23 than 450,000 members of the United States Army Reserve
1 24 components having been called to active service around
1 25 the world since 2001; and
1 26 WHEREAS, the dedication, sacrifice, and hard work
1 27 of the devoted members of the Blue Star Mothers of
1 28 America, Inc., merit recognition; and

House Resolution 104 - Introduced continued

2 1 WHEREAS, the Blue Star Service flag is the official
2 2 banner authorized by the United States Department
2 3 of Defense for display by families who have members
2 4 serving in the United States armed forces during a
2 5 period of war or armed conflict the nation may be
2 6 engaged in for the duration of such hostilities; and
2 7 WHEREAS, the Blue Star Service flag was designed and
2 8 patented by World War I Army Captain Robert L. Queisser
2 9 of the 5th Ohio Infantry, who had two sons serving
2 10 on the front lines and the flag quickly became an
2 11 unofficial symbol of a child in service; NOW THEREFORE,
2 12 BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES, That
2 13 the House of Representatives recognizes and celebrates
2 14 the history and contributions of Blue Star Mothers of
2 15 America, Inc., and honor their sacrifice and dedication
2 16 to our nation.

LSB 5891HH (4) 83
jr/nh

House Study Bill 594

SENATE/HOUSE FILE
BY (PROPOSED GOVERNOR?S BILL)

A BILL FOR

An Act providing for a retirement incentive program for state employees and including effective date provisions.
BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 5589XL (7) 83
ec/rj

House Study Bill 594 continued

PAG LIN

1 1 Section 1. 2010 STATE EMPLOYEE RETIREMENT INCENTIVE
1 2 PROGRAM.
1 3 1. Definitions. As used in this section, unless the context
1 4 provides otherwise:
1 5 a. "Eligible employee" means an employee who has filed
1 6 a completed application for benefits with the Iowa public
1 7 employees' retirement system created in chapter 97B in which
1 8 the employee's intended first month of entitlement, as defined
1 9 in section 97B.1A, is no later than July 2010.
1 10 b. "Employee" means an employee, as defined by section
1 11 97B.1A, who is employed within the executive branch of this
1 12 state, including an employee of the department of justice.
1 13 However, "employee" does not mean an employee of a judicial
1 14 district department of correctional services, an employee of
1 15 the state board of regents, an elected official, or an employee
1 16 eligible for the sick leave conversion program as described in
1 17 section 70A.23, subsection 4.
1 18 c. "Employer" means a department, agency, board, or
1 19 commission within the executive branch of the state that
1 20 employs individuals.
1 21 d. "Health insurance premium benefit" means the amount
1 22 representing the monthly premium cost of an affordable group
1 23 health care plan offered by the state, as determined by the
1 24 department of administrative services, providing coverage to
1 25 the participant and, if applicable, the participant's spouse
1 26 for the applicable period of coverage.
1 27 e. "Participant" means a person who timely submits an
1 28 election to participate, is accepted to participate, and does
1 29 participate, in the state employee retirement incentive program
1 30 established under this section.
1 31 f. "Program" means the state employee retirement incentive
1 32 program established under this section.
1 33 g. "Years of service incentive benefit" means an amount equal
1 34 to the entire value of an eligible employee's accumulated but
1 35 unused vacation plus, for eligible employees with at least ten

House Study Bill 594 continued

2 1 years of state employment, one thousand dollars for each year
2 2 of state employment up to a maximum of twenty=five years of
2 3 state employment.
2 4 2. Program eligibility. To become a participant in the
2 5 program, an eligible employee shall do all of the following:
2 6 a. Submit by April 15, 2010, a written application, on
2 7 forms prescribed by the department of administrative services,
2 8 seeking participation in the program.
2 9 b. Acknowledge in writing the employee's agreement to
2 10 voluntarily terminate employment in exchange for the state
2 11 employee retirement incentive program as provided in this
2 12 section.
2 13 c. Agree to waive all rights to file suit against the state
2 14 of Iowa, including all of its departments, agencies, and other
2 15 subdivisions, based on state or federal claims arising out of
2 16 the employment relationship.
2 17 d. Acknowledge, in writing, that participation in the
2 18 program waives any right to accept any employment with the
2 19 state other than as an elected official on or after the date
2 20 the eligible employee separates from employment.
2 21 e. Agree to separate from employment with the state no later
2 22 than June 1, 2010.
2 23 3. Participant acceptance. An eligible employee shall
2 24 be accepted to participate in the program if the following
2 25 conditions are met:
2 26 a. The department of administrative services determines that
2 27 the eligible employee meets the requirements to be eligible to
2 28 participate in the program.
2 29 b. The department of management determines that authorizing
2 30 the eligible employee to participate in the program will
2 31 generate sufficient savings to the state based upon criteria
2 32 established by the department.
2 33 4. Program benefits. Upon acceptance to participate in the
2 34 program and separation from employment with the state no later
2 35 than June 1, 2010, a participant shall receive the following

House Study Bill 594 continued

3 1 benefits:
3 2 a. During September 2010, and each September thereafter for
3 3 a total of five years, the state shall pay to the participant,
3 4 or the participant's beneficiary, an amount equal to twenty
3 5 percent of the years of service incentive benefit for that
3 6 participant.
3 7 b. For the period of time commencing with the first month
3 8 in which a participant is ineligible for or exhausts the
3 9 participant's available remaining value of sick leave used
3 10 to pay the state share for the participant's continuation of
3 11 state group health insurance coverage as provided in section
3 12 70A.23, subsection 3, and ending five years from the date
3 13 the participant separates from employment with the state as
3 14 provided in this section, the participant, or the participant's
3 15 surviving spouse, shall be entitled to receive a health
3 16 insurance premium benefit to be used by the participant or the
3 17 participant's beneficiary to pay the premium cost for eligible
3 18 state group health insurance. The department of administrative
3 19 services shall determine what health insurance plans constitute
3 20 eligible state group health insurance for purposes of this
3 21 paragraph "b".
3 22 5. Vacancies and reemployment.
3 23 a. An employer shall not fill a position vacancy created
3 24 as a result of employee participation in the program without
3 25 approval from the department of management.
3 26 b. An employer shall not offer permanent part=time
3 27 employment, permanent full=time employment, or temporary
3 28 employment to a participant.
3 29 6. Program administration.
3 30 a. The department of administrative services shall
3 31 administer the program and shall adopt administrative rules
3 32 to administer the program. The department of administrative
3 33 services and the department of management may adopt rules on an
3 34 emergency basis under section 17A.4, subsection 3, and section
3 35 17A.5, subsection 2, paragraph "b", to implement this section

House Study Bill 594 continued

4 1 and the rules shall be effective immediately upon filing unless
4 2 a later date is specified in the rules.
4 3 b. Records of the Iowa public employees' retirement system
4 4 shall be released for the purposes of administering and
4 5 monitoring the program subject to the requirements of section
4 6 97B.17, subsection 5.
4 7 Sec. 2. EFFECTIVE UPON ENACTMENT. This Act, being deemed of
4 8 immediate importance, takes effect upon enactment.
4 9 EXPLANATION
4 10 This bill establishes a state employee retirement incentive
4 11 program.
4 12 The bill establishes a state employee retirement incentive
4 13 program for eligible employees of the executive branch of
4 14 the state, including employees of the department of justice
4 15 (office of attorney general). Employees of a judicial district
4 16 department of correctional services, the state board of
4 17 regents, an elected official, or an employee eligible for an
4 18 enhanced sick leave conversion program under Code section
4 19 70A.23(4) are excluded from participating in the program.
4 20 The program shall be administered by the department of
4 21 administrative services. The bill permits eligible executive
4 22 branch employees who have completed an application for benefits
4 23 under the Iowa public employees' retirement system (IPERS) with
4 24 an intended first month of entitlement of no later than July
4 25 2010 to separate from service with the state and receive a
4 26 benefit under the program. To receive the incentive benefit,
4 27 an eligible employee must submit an application to participate
4 28 in the program by April 15, 2010, be accepted to participate
4 29 in the program by the departments of administrative services
4 30 and management, separate from state employment by June 1,
4 31 2010, and acknowledge the employee's ineligibility to return
4 32 to employment with the state.
4 33 The bill provides that the benefit provided to an eligible
4 34 employee who participates in the program is an amount equal to
4 35 the entire value of the eligible employee's accumulated but

House Study Bill 594 continued

5 1 unused vacation plus, if the employee has at least 10 years
5 2 of state employment, $1,000 for each year of state employment
5 3 up to 25 years. The bill provides that this amount shall be
5 4 payable in five equal installments each year during September
5 5 beginning in September 2010. In addition, the bill provides
5 6 that a participant in the program, or the participant's
5 7 surviving spouse, shall receive a health insurance premium
5 8 benefit to pay the premium cost for eligible state group
5 9 health insurance for five years following the participant's
5 10 termination from state employment. However, the bill provides
5 11 that a participant shall receive the health insurance premium
5 12 benefit only when the participant is no longer eligible for,
5 13 or exhausts, the participant's available remaining value of
5 14 sick leave used to pay the state share for the participant's
5 15 continuation of state group health insurance coverage as
5 16 provided in Code section 70A.23, subsection 3.
5 17 The bill further provides that an employer shall not fill
5 18 vacancies created by employees participating in the program
5 19 except upon approval of the department of management. In
5 20 addition, the bill provides that an employer shall not hire a
5 21 participant in the program for any employment.
5 22 The bill takes effect upon enactment.
LSB 5589XL (7) 83
ec/rj

House Study Bill 595

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

A BILL FOR

An Act relating to annual motor vehicle registration fees for older=model multipurpose vehicles and certain vehicles equipped for a person with a disability or used by a person who relies on a wheelchair.

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

TLSB 5410DP (6) 83
dea/nh

House Study Bill 595 continued

PAG LIN

1 1 Section 1. Section 321.109, subsection 1, Code 2009, is
1 2 amended to read as follows:
1 3 1. a. The annual fee for all motor vehicles including
1 4 vehicles designated by manufacturers as station wagons, ~~1993~~
~~1 5 and subsequent model year~~ multipurpose vehicles, and 2010 and
1 6 subsequent model year motor trucks with an unladen weight of
1 7 ten thousand pounds or less, except motor trucks registered
1 8 under section 321.122, business=trade trucks, special trucks,
1 9 motor homes, ambulances, hearses, motorcycles, and motorized
1 10 bicycles, ~~and 1992 and older model year multipurpose~~
~~1 11 vehicles,~~ shall be equal to one percent of the value as
1 12 fixed by the department plus forty cents for each one hundred
1 13 pounds or fraction thereof of weight of vehicle, as fixed
1 14 by the department. The weight of a motor vehicle, fixed by
1 15 the department for registration purposes, shall include the
1 16 weight of a battery, heater, bumpers, spare tire, and wheel.
1 17 Provided, however, that for any new vehicle purchased in
1 18 this state by a nonresident for removal to the nonresident's
1 19 state of residence, the purchaser may make application to the
1 20 county treasurer in the county of purchase for a transit plate
1 21 for which a fee of ten dollars shall be paid. And provided,
1 22 however, that for any used vehicle held by a registered dealer
1 23 and not currently registered in this state, or for any vehicle
1 24 held by an individual and currently registered in this state,
1 25 when purchased in this state by a nonresident for removal to
1 26 the nonresident's state of residence, the purchaser may make
1 27 application to the county treasurer in the county of purchase
1 28 for a transit plate for which a fee of three dollars shall
1 29 be paid. The county treasurer shall issue a nontransferable
1 30 certificate of registration for which no refund shall be
1 31 allowed~~;~~, and the transit plates shall be void thirty days
1 32 after issuance. Such purchaser may apply for a certificate
1 33 of title by surrendering the manufacturer's or importer's
1 34 certificate or certificate of title, duly assigned as provided
1 35 in this chapter. In this event, the treasurer in the county

House Study Bill 595 continued

2 1 of purchase shall, when satisfied with the genuineness and
2 2 regularity of the application, and upon payment of a fee of
2 3 twenty dollars, issue a certificate of title in the name and
2 4 address of the nonresident purchaser delivering the title
2 5 to the owner. If there is a security interest noted on the
2 6 title, the county treasurer shall mail to the secured party an
2 7 acknowledgment of the notation of the security interest. The
2 8 county treasurer shall not release a security interest that
2 9 has been noted on a title issued to a nonresident purchaser
2 10 as provided in this paragraph. The application requirements
2 11 of section 321.20 apply to a title issued as provided in this
2 12 subsection, except that a natural person who applies for a
2 13 certificate of title shall provide either the person's social
2 14 security number, passport number, or driver's license number,
2 15 whether the license was issued by this state, another state, or
2 16 another country. ~~The provisions of this subsection relating to~~
~~2 17 multipurpose vehicles are effective for all 1993 and subsequent~~
~~2 18 model years. The annual registration fee for multipurpose~~
~~2 19 vehicles that are 1992 model years and older shall be in~~
~~2 20 accordance with section 321.124.~~
2 21 b. The annual registration fee shall be sixty dollars for a
2 22 vehicle~~, otherwise subject to paragraph "a",~~ with permanently
2 23 installed equipment manufactured for and necessary to assist a
2 24 person with a disability who is either the owner or lessee of
2 25 the vehicle or a member of the owner's or lessee's household
2 26 in entry and exit of the vehicle or ~~for such a vehicle~~ if the
2 27 ~~vehicle's~~ owner or lessee of the vehicle or a member of the
2 28 ~~vehicle~~ owner's or lessee's household uses a wheelchair as the
2 29 only means of mobility ~~shall be sixty dollars~~. This paragraph
2 30 applies only to vehicles that are otherwise subject to
2 31 paragraph "a" and to motor trucks with an unladen weight of ten
2 32 thousand pounds or less that are otherwise subject to section
2 33 321.122. For purposes of this paragraph, "uses a wheelchair"
2 34 does not include use of a wheelchair due to a temporary injury
2 35 or medical condition.

House Study Bill 595 continued

3 1 Sec. 2. Section 321.124, subsection 3, Code 2009, is amended
3 2 to read as follows:
3 3 3. The annual registration fee for motor homes ~~and 1992 and~~
~~3 4 older model years for multipurpose vehicles~~ is as follows:
3 5 a. For class A motor homes with a list price of eighty
3 6 thousand dollars or more as certified to the department by the
3 7 manufacturer, four hundred dollars for registration each year
3 8 through five model years and three hundred dollars for each
3 9 succeeding registration.
3 10 b. For class A motor homes with a list price of forty
3 11 thousand dollars or more but less than eighty thousand dollars
3 12 as certified to the department by the manufacturer, two hundred
3 13 dollars for registration each year through five model years and
3 14 one hundred fifty dollars for each succeeding registration.
3 15 c. For class A motor homes with a list price of twenty
3 16 thousand dollars or more but less than forty thousand dollars
3 17 as certified to the department by the manufacturer, one hundred
3 18 forty dollars for the first five registrations and one hundred
3 19 five dollars for each succeeding registration.
3 20 d. For class A motor homes with a list price of less than
3 21 twenty thousand dollars as certified to the department by the
3 22 manufacturer, one hundred twenty dollars for registration each
3 23 year through five model years and eighty=five dollars for each
3 24 succeeding registration.
3 25 e. For a class A motor home which is a passenger=carrying
3 26 bus which has been registered at least five times as a motor
3 27 truck and which has been converted, modified, or altered
3 28 to provide temporary living quarters, ninety dollars for
3 29 registration each year through ten model years and sixty=five
3 30 dollars for each succeeding registration. In computing the
3 31 number of registrations, the registrations shall be cumulative
3 32 beginning with the registration of the class A motor home
3 33 as a motor truck prior to its conversion, modification, or
3 34 alteration to provide temporary living quarters.
3 35 f. For class B motor homes, ninety dollars for registration

House Study Bill 595 continued

4 1 each year through five model years and sixty=five dollars for
4 2 each succeeding registration.
4 3 g. For class C motor homes, one hundred ten dollars for
4 4 registration each year through five model years and eighty
4 5 dollars for each succeeding registration.
4 6 ~~h. For multipurpose vehicles in accordance with the~~
~~4 7 following:~~
4 8 ~~(1) Two hundred dollars for registration for the first and~~
~~4 9 second model years.~~
4 10 ~~(2) One hundred seventy=five dollars for registration for~~
~~4 11 the third and fourth model years.~~
4 12 ~~(3) One hundred fifty dollars for registration for the fifth~~
~~4 13 model year.~~
4 14 ~~(4) Seventy=five dollars for registration for the sixth~~
~~4 15 model year.~~
4 16 ~~(5) Fifty=five dollars for registration for each succeeding~~
~~4 17 model year.~~
4 18 ~~(6) The annual registration fee for a multipurpose vehicle~~
~~4 19 with permanently installed equipment manufactured for and~~
~~4 20 necessary to assist a person with a disability who is either~~
~~4 21 the owner or a member of the owner's household in entry and~~
~~4 22 exit of the vehicle or for a multipurpose vehicle if the~~
~~4 23 vehicle's owner or a member of the vehicle owner's household~~
~~4 24 uses a wheelchair as the only means of mobility shall be~~
~~4 25 sixty dollars. For purposes of this subparagraph, "uses a~~
~~4 26 wheelchair" does not include use of a wheelchair due to a~~
~~4 27 temporary injury or medical condition.~~
4 28 ~~The registration fees required by this lettered paragraph~~
~~4 29 are applicable to all 1992 and older model years for~~
~~4 30 multipurpose vehicles beginning January 1, 1993. The~~
~~4 31 registration fees for multipurpose vehicles that are 1993 and~~
~~4 32 subsequent model years shall be in accordance with section~~
~~4 33 321.109.~~
4 34 ~~For purposes of determining that portion of the annual~~
~~4 35 registration fee which is based upon the value of the~~

~~House Study Bill 595 continued~~

~~5 1 multipurpose vehicle, sixty percent of the annual fee is~~
~~5 2 attributable to the value of the vehicle.~~
5 3 EXPLANATION
5 4 This bill eliminates a disparity in the annual registration
5 5 fees for older multipurpose vehicles. Under existing law,
5 6 a flat fee schedule applies for 1992 model year and older
5 7 multipurpose vehicles, and fees based on weight and value apply
5 8 for 1993 and subsequent model year multipurpose vehicles.
5 9 Under the flat fee schedule, the annual fee is $55 for a
5 10 1992 model year or older multipurpose vehicle, but under the
5 11 weight and value system, the annual fee is $50 for a 1993
5 12 or subsequent model year multipurpose vehicle that is 12
5 13 model years old or older. The bill strikes the obsolete flat
5 14 fee schedule and treats all multipurpose vehicles the same,
5 15 thereby reducing the annual fee for a 1992 model year or older
5 16 multipurpose vehicle to $50.
5 17 The bill revises existing provisions that establish an
5 18 annual registration fee of $60 for a vehicle equipped to assist
5 19 a person with a disability to enter and exit the vehicle if
5 20 the person with a disability is the owner of the vehicle or a
5 21 member of the owner's household. The $60 fee also applies if
5 22 the owner of the vehicle or a member of the owner's household
5 23 uses a wheelchair as the only means of mobility and use of
5 24 the wheelchair is not due to a temporary injury or condition.
5 25 The bill extends the $60 fee to lessees as well as owners.
5 26 In addition, the bill extends the $60 fee to motor trucks
5 27 registered as business=trade trucks and older model trucks
5 28 which are otherwise subject to a fee based on the combined
5 29 gross weight of the vehicle or combination of vehicles.
5 30 Currently, only 2010 and subsequent model year motor trucks
5 31 with a combined gross weight of 10,000 pounds or less that are
5 32 registered for a fee based on weight and value are eligible for
5 33 the $60 fee.
LSB 5410DP (6) 83
dea/nh

House Study Bill 596

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

A BILL FOR

An Act relating to conducting court hearings by video conference.

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

TLSB 5710HC (3) 83
jm/nh

House Study Bill 596 continued

PAG LIN

1 1 Section 1. Section 602.4201, subsection 1, Code Supplement
1 2 2009, is amended to read as follows:
1 3 1. The supreme court may prescribe all rules of pleading,
1 4 practice, evidence, and procedure, and the forms of process,
1 5 writs, and notices, for all proceedings in all courts of
1 6 this state, for the purposes of simplifying the proceedings
1 7 and promoting the speedy determination of litigation upon
1 8 its merits. The supreme court may also prescribe rules
1 9 allowing judicial officers, at the discretion of the judicial
1 10 officer, to conduct hearings using video conferencing to meet
1 11 statutory in=person requirements. The rules prescribing video
1 12 conferencing shall allow a party to make an application to the
1 13 court requesting the hearing be in the presence of the judicial
1 14 officer.
1 15 EXPLANATION
1 16 This bill relates to conducting court hearings by video
1 17 conference.
1 18 Under the bill, the supreme court may prescribe rules
1 19 allowing a judicial officer, at the discretion of such officer,
1 20 to conduct hearings using video conferencing to meet statutory
1 21 in=person requirements. If a judicial officer orders a hearing
1 22 by video conferencing, the rules shall allow a party to make an
1 23 application requesting the hearing be in the presence of the
1 24 judicial officer.
LSB 5710HC (3) 83
jm/nh

House Study Bill 597

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

A BILL FOR

An Act relating to judgment liens on homesteads.
BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 5181YC (2) 83
rh/nh

House Study Bill 597 continued

PAG LIN

1 1 Section 1. Section 624.23, subsection 2, Code 2009, is
1 2 amended to read as follows:
1 3 2. a. Judgment liens described in subsection 1 do not
1 4 ~~remain a lien upon~~ attach to real estate of the defendant,
1 5 ~~platted~~ occupied as a homestead pursuant to ~~section~~
~~1 6 561.4,~~ chapter 561, except as provided in section 561.21 or if
1 7 the real estate claimed as a homestead exceeds the limitations
1 8 prescribed in sections 561.1 through 561.3.
1 9 b. A claim of lien against real estate claimed as a
1 10 homestead is barred unless execution is levied within thirty
1 11 days of the time the defendant, ~~or~~ the defendant's agent,
1 12 or a person with an interest in the real estate has served
1 13 written demand on the owner of the judgment. The demand
1 14 shall state that the lien and all benefits derived from the
1 15 lien as to the real estate ~~platted as~~ alleged to be or to
1 16 have been a homestead shall be forfeited unless the owner
1 17 of the judgment levies execution against that real estate
1 18 within thirty days from the date of service of the demand.
1 19 The demand shall contain an affidavit setting forth facts
1 20 indicating why the judgment is not believed to be a lien
1 21 against the real estate. A warranty of title by a former
1 22 occupying homeowner in a conveyance for value constitutes a
1 23 claim of exemption against all judgments against the current
1 24 homeowner or the current homeowner's spouse not specifically
1 25 exempted in the conveyance. Written demand shall be served
1 26 in any manner authorized for service of original notice under
1 27 the Iowa rules of civil procedure or in a manner provided
1 28 in section 654.4A, subsections 1 through 3. A copy of the
1 29 written demand and proof of service of the written demand
1 30 shall be ~~recorded~~ filed in the ~~office of the county recorder~~
~~1 31 of the county where the real estate platted as a homestead is~~
~~1 32 located~~ court file of the case in which the judgment giving
1 33 rise to the alleged lien was entered.
1 34 c. A party serving a written demand under this subsection
1 35 may obtain an immediate court order releasing the claimed lien

House Study Bill 597 continued

2 1 by posting with the clerk of court a cash bond in an amount of
2 2 at least one hundred twenty=five percent of the outstanding
2 3 balance owed on the judgment. A copy of the court order shall
2 4 be served along with a written demand under this subsection.
2 5 Thereafter, any execution on the judgment shall be against the
2 6 bond, subject to all claims and defenses which the moving party
2 7 had against the execution against the real estate, including
2 8 but not limited to a lack of equity in the property to support
2 9 the lien in its proper priority. The bond shall be released
2 10 by the clerk of court upon demand of its principal or surety
2 11 if no execution is ordered on the judgment within thirty days
2 12 of completion of service of the written demand under this
2 13 subsection.
2 14 EXPLANATION
2 15 This bill specifies that a judgment lien does not attach to
2 16 real estate claimed as a homestead except as provided in Code
2 17 section 561.21 (certain prior debts, certain debts created by
2 18 written contract, certain home improvement debts, and if there
2 19 is no survivor or issue, certain debts to which the homestead
2 20 might have been subject to if it had never been held as a
2 21 homestead) or if the real estate claimed as a homestead exceeds
2 22 the physical limitations prescribed in Code sections 561.1
2 23 through 561.3.
2 24 The bill provides that a warranty of title by a former
2 25 occupying homeowner in a conveyance for value constitutes a
2 26 claim of exemption against all judgments against the current
2 27 homeowner or the current homeowner's spouse not specifically
2 28 exempted in the conveyance.
2 29 The bill provides that a claim of lien against a homestead
2 30 is barred unless execution is levied within 30 days of the
2 31 time the defendant, the defendant's agent, or a person with an
2 32 interest in the real estate has served written demand on the
2 33 owner of the judgment accompanied by an affidavit setting forth
2 34 facts indicating why the judgment is not believed to be a lien
2 35 against the real estate. The written demand shall be served in

House Study Bill 597 continued

3 1 any manner authorized for service of original notice under the
3 2 Iowa rules of civil procedure or in a manner provided in Code
3 3 section 654.4A, subsections 1 through 3 (service of process
3 4 procedures relating to in rem relief).
3 5 The bill provides that a party serving a written demand
3 6 under the bill may obtain an immediate court order releasing
3 7 the claimed lien by posting a cash bond in an amount of at least
3 8 125 percent of the outstanding balance owed on the judgment.
3 9 Thereafter, any execution on the judgment shall be against the
3 10 bond, subject to all claims and defenses which the moving party
3 11 had against the execution against the real estate, including
3 12 but not limited to a lack of equity in the property to support
3 13 the lien in its proper priority. The bill requires the bond
3 14 to be released by the clerk of court upon demand of the bond's
3 15 principal or surety if no execution is ordered on the judgment
3 16 within 30 days of completion of service of the written demand
3 17 under the bill.
LSB 5181YC (2) 83
rh/nh

House Study Bill 598

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

A BILL FOR

An Act relating to the rights of a donee created by an anatomical gift .

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

TLSB 5836HC (4) 83
av/nh

House Study Bill 598 continued

PAG LIN

1 1 Section 1. Section 144C.10, subsection 4, Code 2009, is
1 2 amended to read as follows:
1 3 4. The rights of a donee created by an anatomical gift
1 4 pursuant to ~~section 142C.11~~ chapter 142C are superior to the
1 5 authority of a designee under a declaration executed pursuant
1 6 to this chapter.
1 7 EXPLANATION
1 8 This bill makes a technical change to clarify that the
1 9 rights of a donee created by an anatomical gift pursuant to the
1 10 revised uniform anatomical gift act contained in Code chapter
1 11 142C are superior to the authority of a designee named in a
1 12 declaration under the final disposition act contained in Code
1 13 chapter 144C.
LSB 5836HC (4) 83
av/nh

House Study Bill 599

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

A BILL FOR

1 An Act modifying the definition of assault.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 5187YC (2) 83
jm/nh

House Study Bill 599 continued

PAG LIN

1 1 Section 1. Section 708.1, subsections 1 and 2, Code 2009,
1 2 are amended to read as follows:
1 3 1. Any act which ~~is intended~~ a reasonable person would
1 4 expect to cause pain or injury to, or which ~~is intended~~ a
1 5 reasonable person would expect to result in physical contact
1 6 which will be insulting or offensive to another, coupled with
1 7 the apparent ability to execute the act.
1 8 2. Any voluntary act which ~~is intended~~ a reasonable person
1 9 would expect to place another in fear of immediate physical
1 10 contact which will be painful, injurious, insulting, or
1 11 offensive, coupled with the apparent ability to execute the
1 12 act.
1 13 EXPLANATION
1 14 This bill modifies the definition of assault. Under the
1 15 bill, an assault is defined as any act which a reasonable
1 16 person would expect to cause pain or injury to, or which a
1 17 reasonable person would expect to result in physical contact
1 18 which will be insulting or offensive to another, coupled with
1 19 the apparent ability to execute the act. Currently assault is
1 20 defined as such acts which are intended to cause pain or injury
1 21 or to result in such physical contact.
1 22 Under the bill, an assault is also defined as any voluntary
1 23 act which a reasonable person would expect to place another
1 24 in fear of immediate physical contact which will be painful,
1 25 injurious, insulting, or offensive, coupled with the apparent
1 26 ability to execute the act. Currently, such assault is defined
1 27 as such an act which is intended to place another in such fear.
1 28 The changes in the bill are in response to Iowa supreme court
1 29 cases State v. Heard, 636 N.W.2d 227 (Iowa 2001) and State v.
1 30 Bedard, 668 N.W.2d 598 (Iowa 2003).
LSB 5187YC (2) 83
jm/nh

Iowa General Assembly
Daily Bills, Amendments & Study Bills
January 21, 2010

House Study Bill 600

HOUSE FILE
BY (PROPOSED COMMITTEE ON
EDUCATION BILL BY
CHAIRPERSON WENDT)

A BILL FOR

An Act allowing special education pupils to qualify for supplementary weighting in the senior year plus program.
BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 5117HC (1) 83
ak/sc

House Study Bill 600 continued

PAG LIN

1 1 Section 1. Section 257.11, subsection 8, Code Supplement
1 2 2009, is amended to read as follows:
1 3 8. Pupils ineligible. A pupil eligible for the weighting
1 4 plan provided in section 256B.9 is not eligible for
1 5 supplementary weighting pursuant to this section, except
1 6 for participation in programs under chapter 261E. A pupil
1 7 attending an alternative program or an at=risk pupils' program,
1 8 including alternative high school programs, is not eligible for
1 9 supplementary weighting under subsection 2.
1 10 EXPLANATION
1 11 This bill allows pupils who qualify for special education
1 12 supplementary weighting provided in Code section 256B.9 to also
1 13 qualify for supplementary weighting that may be provided by
1 14 programs in Code chapter 261E, the senior year plus program.
LSB 5117HC (1) 83
ak/sc

House Study Bill 601

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

A BILL FOR

An Act relating to the issuance of a protective order or approval of a consent agreement in a domestic abuse case and providing for a study.

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

TLSB 5840HC (3) 83
rh/rj

House Study Bill 601 continued

PAG LIN

1 1 Section 1. Section 236.5, subsection 2, Code Supplement
1 2 2009, is amended to read as follows:
1 3 2. a. An order for counseling, a protective
1 4 order, or approved consent agreement shall be for a
1 5 ~~fixed~~ three=year period ~~of time not to exceed one year~~. ~~The~~
1 6 During the three=year period, the court may ~~amend or extend~~
1 7 terminate its order or a consent agreement at any time after
1 8 one year from the issuance of the order or approval of the
1 9 consent agreement upon a petition filed by ~~either party~~ the
1 10 defendant and after notice and hearing. In such a case, the
1 11 defendant has the burden of proving the defendant no longer
1 12 poses a threat to the safety of the victim, persons residing
1 13 with the victim, or members of the victim's family.
1 14 b. After the three=year period, the court may extend
1 15 and amend its order or a consent agreement at any time upon
1 16 the filing of a petition by either party and after notice
1 17 and hearing. The court may extend ~~the~~ and amend its order
1 18 if the court, after hearing at which the defendant has the
1 19 opportunity to be heard, finds that the defendant continues to
1 20 pose a threat to the safety of the victim, persons residing
1 21 with the victim, or members of the victim's immediate family.
1 22 At the time of the extension, the parties need not meet the
1 23 requirement in section 236.2, subsection 2, paragraph "d",
1 24 that the parties lived together during the last year if the
1 25 parties met the requirements of section 236.2, subsection 2,
1 26 paragraph "d", at the time of the original order. The number of
1 27 extensions that can be granted by the court is not limited.
1 28 Sec. 2. DOMESTIC ABUSE LEGISLATIVE INTERIM STUDY ==
1 29 PROTECTIVE ORDERS. The legislative council is requested to
1 30 establish an interim committee to study issues relating to
1 31 domestic abuse and the issuance and enforcement of protective
1 32 orders. The interim committee shall submit a report of its
1 33 findings and recommendations to the general assembly not later
1 34 than January 1, 2011.

House Study Bill 601 continued

EXPLANATION

This bill relates to the issuance of an order or consent agreement in a domestic abuse case and provides for a study.

The bill extends the period of time that a court may issue an order for counseling, a protective order, or an approved consent agreement from one year to three years upon a finding that a defendant has engaged in domestic abuse. During the three=year period, the court may terminate the order or consent agreement at any time after one year from the issuance of the order or consent agreement upon a petition filed by the defendant and after notice and hearing. In such a case, the defendant has the burden of proving the defendant no longer poses a threat to the safety of the victim, persons residing with the victim, or members of the victim's family. After the three=year period, the court may extend and amend its order or a consent agreement at any time upon petition filed by either party and after notice and hearing.

Current law provides that upon a finding that a defendant has engaged in domestic abuse, an order for counseling, a protective order, or an approved consent agreement shall be issued by the court for up to one year and the court may amend or extend the order or consent agreement at any time upon petition by either party.

The bill requests the legislative council to establish an interim committee to study issues relating to domestic abuse and the issuance and enforcement of protective orders. The interim committee shall submit a report of its findings and recommendations to the general assembly not later than January 1, 2011.

LSB 5840HC (3) 83
rh/rj

Iowa General Assembly
Daily Bills, Amendments & Study Bills
January 21, 2010

House Study Bill 602

SENATE/HOUSE FILE
BY (PROPOSED OFFICE OF
ENERGY INDEPENDENCE
BILL)

A BILL FOR

An Act relating to the utilization of energy by authorizing the establishment of an energy finance program to finance certain energy improvements, and providing a penalty.
BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 5241XD (5) 83
rn/sc

House Study Bill 602 continued

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1 1 Section 1. Section 331.441, subsection 2, paragraph b,
1 2 Code Supplement 2009, is amended by adding the following new
1 3 subparagraph:
1 4 NEW SUBPARAGRAPH. (20) The establishment or funding of
1 5 an energy finance program to finance energy improvements in a
1 6 county pursuant to chapter 385.
1 7 Sec. 2. Section 384.24, subsection 3, Code Supplement 2009,
1 8 is amended by adding the following new paragraph:
1 9 NEW PARAGRAPH. y. The establishment or funding of an energy
1 10 finance program to finance energy improvements within a city
1 11 pursuant to chapter 385.
1 12 Sec. 3. NEW SECTION. 385.1 Legislative findings == purpose.
1 13 The general assembly finds all of the following:
1 14 1. Renewable energy production and energy efficiency
1 15 improvements to residential, commercial, and industrial real
1 16 property, are necessary to address the issue of energy bill
1 17 stabilization.
1 18 2. The initial investment required to make residential,
1 19 commercial, or industrial real property more energy=efficient
1 20 or to utilize renewable energy prevents many property owners
1 21 from making such improvements. To make energy improvements
1 22 more affordable and to promote their installation, it is
1 23 necessary to authorize an alternative procedure for owners of a
1 24 residence or business to finance such improvements.
1 25 3. The general assembly declares that a public purpose
1 26 shall be served by authorizing cities and counties to establish
1 27 energy finance programs and authorizing the governing body
1 28 of any city or county to assist property owners in financing
1 29 the installation of renewable energy improvements and energy
1 30 efficiency improvements by offering financial terms that are
1 31 beneficial to the property owner.
1 32 Sec. 4. NEW SECTION. 385.2 Definitions.
1 33 As used in this chapter, unless the context otherwise
1 34 requires:
1 35 1. "Energy analysis" means a written report summarizing the

House Study Bill 602 continued

2 1 results of a physical inspection of a residential, commercial,
2 2 or industrial building conducted by a public utility or other
2 3 agency or entity approved by the office. The report shall
2 4 document deficiencies in energy efficiency operation and
2 5 recommend specified energy improvements.
2 6 2. "Energy improvement" means the installation of one
2 7 or more appliances or heating and cooling systems, physical
2 8 alteration to a building, or installation of a renewable energy
2 9 production facility which has been identified in an energy
2 10 analysis as improving the energy=efficient operation of a
2 11 building or as decreasing the amount of energy consumed by that
2 12 building, or both.
2 13 3. "Office" means the office of energy independence
2 14 established in section 469.2.
2 15 Sec. 5. NEW SECTION. 385.3 Energy finance program
2 16 established.
2 17 1. A city or county may adopt an ordinance establishing an
2 18 energy finance program in order to allow the city or county
2 19 to offer to assess to residential, commercial, or industrial
2 20 property within the city or county the cost of purchasing or
2 21 installing energy improvements. The office shall advise cities
2 22 and counties in administering the program.
2 23 2. An energy finance program shall be limited to energy
2 24 improvements that will be permanently affixed to real property
2 25 that has already been developed or upon which buildings have
2 26 already been constructed. Property owners participating in the
2 27 program may receive funding for the improvements in advance
2 28 of installation, or as a reimbursement of amounts expended by
2 29 the property owner for completed installations. However, the
2 30 amount advanced or reimbursed shall not exceed the total amount
2 31 identified in the petition submitted by the property owner
2 32 pursuant to section 385.6.
2 33 3. Petitions for participation in an energy finance program
2 34 adopted by a city or county may be submitted, considered,
2 35 and approved or denied either individually or aggregated by

House Study Bill 602 continued

3 1 neighborhood, district, region, or other basis.
3 2 Sec. 6. NEW SECTION. 385.4 Resolution of intent.
3 3 1. The governing body of a city or county may not consider
3 4 an ordinance establishing an energy finance program until
3 5 after the governing body has adopted a resolution of intent
3 6 indicating or including the following:
3 7 a. That the city or county considers it in the public
3 8 interest to finance the installation of energy improvements.
3 9 b. That the city or county proposes to make special
3 10 assessment financing or other financing available to property
3 11 owners seeking to install or make energy improvements.
3 12 c. A nonexclusive list of examples of energy improvements
3 13 which may be included in the proposed ordinance and financed
3 14 pursuant to the program.
3 15 d. A brief description of the proposed arrangements for
3 16 financing the program.
3 17 2. The city or county shall hold a public hearing on the
3 18 resolution at which interested persons may inquire about or
3 19 object to the proposed program. Notice of the hearing shall
3 20 be published as provided in section 331.305 or 362.3, as
3 21 applicable.
3 22 Sec. 7. NEW SECTION. 385.5 Program requirements ==
3 23 ordinance.
3 24 1. An ordinance establishing an energy finance program
3 25 shall include the following regarding implementation of the
3 26 program:
3 27 a. A schedule for packaging assessments for program finance
3 28 purposes and city council or board of supervisors approval.
3 29 b. A method for prioritizing approved applications in the
3 30 event the number of applications received for a year exceeds
3 31 program funds.
3 32 c. Energy analysis requirements.
3 33 2. After adoption of an ordinance establishing an energy
3 34 finance program, a plan for raising a capital amount required
3 35 to pay for work performed pursuant to contractual assessments

House Study Bill 602 continued

4 1 shall be established by a city or county. A city or county
4 2 shall be authorized to advance funds available to it from any
4 3 source, including the sale of bonds as provided in section
4 4 385.11 and in section 331.441 or 384.24, as applicable. The
4 5 plan shall specify the source of financing contemplated by the
4 6 city or county. The plan shall also provide for a reserve
4 7 fund and for apportionment of all or any portion of the costs
4 8 incidental to financing, administration, and collection of the
4 9 special assessments between or among property owners and the
4 10 city or county.
4 11 3. The ordinance establishing an energy finance program
4 12 shall provide for the establishment of an energy finance
4 13 program fund into which bond proceeds and other funds to be
4 14 utilized in administering the program shall be deposited.
4 15 4. If a county has adopted a countywide ordinance, a city
4 16 cannot adopt an ordinance establishing an energy finance
4 17 program applicable to that portion of the city located within
4 18 the county.
4 19 Sec. 8. NEW SECTION. 385.6 Petition by property owners.
4 20 1. The office shall develop and make available to a city or
4 21 county that has established an energy finance program petitions
4 22 for distribution to prospective program participants.
4 23 2. Program participation shall be initiated solely by
4 24 petition of the property owner, or by a representative of
4 25 several related or adjoining lots or parcels who has obtained
4 26 written permission and a copy of an energy analysis from each
4 27 owner. If a property is in the name of more than one owner, the
4 28 petition shall be signed by each owner.
4 29 3. The petition shall state that a copy of a completed
4 30 energy analysis shall be required for participation in the
4 31 program and must be attached to the petition. The petition
4 32 shall contain space for the printed name, signature, and
4 33 address of the petitioner. For each petitioner, the petition
4 34 shall contain space for identification of energy improvements
4 35 identified in the energy analysis for which energy finance

House Study Bill 602 continued

5 1 program financing is sought, a cost estimate for each
5 2 improvement so identified, and a proposed time frame within
5 3 which the improvements shall be undertaken and completed.
5 4 4. Within thirty days following submission of a petition
5 5 and accompanying energy analysis, a petitioner shall receive
5 6 notification from the city or county of approval pending
5 7 adoption of a resolution pursuant to section 385.7 by the city
5 8 council or county board of supervisors, or of denial of the
5 9 petition. Following adoption of a resolution, an approved
5 10 petitioner shall receive notification from the city or county
5 11 regarding funding amounts, authorization to purchase directly
5 12 any equipment and materials for the installation of energy
5 13 improvements and to contract directly for such installation,
5 14 and verification requirements regarding completion of
5 15 improvements.
5 16 5. Special assessments for energy improvements shall be
5 17 levied only upon the free and willing consent of the owner of
5 18 each lot or parcel on which an assessment is levied at the time
5 19 of levy.
5 20 Sec. 9. NEW SECTION. 385.7 Resolution and filing.
5 21 1. Approved petitions, whether submitted on an individual
5 22 or aggregate basis, shall be grouped either by date of approval
5 23 or property location, identified by legal description, and
5 24 submitted to a city council or county board of supervisors in
5 25 the form of a resolution for approval by majority vote.
5 26 2. An adopted resolution shall be forwarded to the city
5 27 clerk, or the county auditor in the case of a county, along
5 28 with a schedule including a description and parcel number of
5 29 each lot, the name of the property owner, and the total amount
5 30 to be assessed to each lot. In counties in which taxes are
5 31 collected in two or more places, certification shall be to the
5 32 office of county treasurer where the special assessments are
5 33 collected. The county treasurer shall preserve the resolution
5 34 and schedule as a part of the records of the office until the
5 35 city clerk or county auditor certifies the final assessment

House Study Bill 602 continued

6 1 schedule as provided in section 385.8 or certifies that the
6 2 petition has been abandoned.
6 3 Sec. 10. NEW SECTION. 385.8 Adoption of schedule.
6 4 1. Within ten days after filing of the resolution and
6 5 schedule pursuant to section 385.7, a city council or county
6 6 board of supervisors shall meet, consider, and adopt or amend
6 7 and adopt, by resolution, a final assessment schedule. The
6 8 resolution must:
6 9 a. Confirm and levy assessments.
6 10 b. State the number of annual installments, not exceeding
6 11 fifteen, into which assessments of one hundred dollars or more
6 12 are divided.
6 13 c. Provide for interest on all unpaid installments at a rate
6 14 not exceeding that permitted by chapter 74A.
6 15 d. State the time when assessments are payable.
6 16 e. Direct the city clerk or county auditor, as appropriate,
6 17 to certify the final schedule to the treasurer of each county
6 18 in which the assessed property is located.
6 19 2. The city clerk or county auditor shall send written
6 20 notice by regular mail to each property owner whose petition
6 21 has been approved and whose property has been included on the
6 22 schedule. The notice shall contain all the information and
6 23 statements required to be included in notices under section
6 24 384.60, subsection 2.
6 25 3. The county treasurer shall enter on the county system the
6 26 amounts to be assessed against each lot, as certified.
6 27 Sec. 11. NEW SECTION. 385.9 Installments due == lien
6 28 created.
6 29 1. Special assessments levied by a city or county pursuant
6 30 to this chapter shall be levied and collected in the same
6 31 manner as provided in section 384.65 for public improvement
6 32 special assessments levied by a city.
6 33 2. From the date of filing of certification of the
6 34 resolution and schedule pursuant to section 385.7, the special
6 35 assessments with all interest become and remain a lien on the

House Study Bill 602 continued

7 1 benefited property until paid, and have equal precedence with
7 2 ordinary taxes, and are not divested by any judicial sale.
7 3 Sec. 12. NEW SECTION. 385.10 Payment to county treasurer.
7 4 Assessments levied and certified under this chapter,
7 5 including installments and interest, are payable at the office
7 6 of the county treasurer of the county where the property
7 7 assessed is located, except that assessments may be paid
7 8 in full or in part and without interest within thirty days
7 9 after the date of certification, at the office of the county
7 10 treasurer, if the property being assessed is located in an
7 11 unincorporated area, or the city clerk, if the property being
7 12 assessed is located in an incorporated area.
7 13 Sec. 13. NEW SECTION. 385.11 Bonds issued.
7 14 1. After certification of the final assessment schedule, a
7 15 city or county may, by resolution, authorize and issue bonds in
7 16 anticipation of the collection of unpaid special assessments.
7 17 However, the total principal amount of bonds issued may not
7 18 exceed the total amount of unpaid special assessments.
7 19 2. All special assessment bonds are negotiable, must state
7 20 on their face that they are issued under the provisions of this
7 21 chapter, and are payable as to both principal and interest from
7 22 the proceeds of the special assessments. Such bonds may bear
7 23 interest at a rate not exceeding that permitted by chapter
7 24 74A payable annually or semiannually, must mature serially
7 25 on December 1 of the years in which any of the principal is
7 26 scheduled to become due, and may contain a provision that the
7 27 city or county reserves the right and option of calling and
7 28 redeeming any or all of the bonds prior to maturity on any
7 29 interest payment date or within forty=five days thereafter
7 30 upon the terms specified therein. Such bonds must be called
7 31 "improvement bonds", must designate the general type of
7 32 improvement or improvements for which issued, and may be issued
7 33 in any denomination. The bonds must be named in a way to
7 34 distinguish them from other improvement bonds of the city or
7 35 county, and to designate the property specially assessed for

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8 1 the improvement. Improvement bonds issued for any one levy
8 2 must bear the same date and be divided into as many series as
8 3 there are years in which installments of the special assessment
8 4 mature, and each series must be as nearly equal in amount as
8 5 practicable.
8 6 3. The proceeds of the special assessments and interest
8 7 collected thereon must be used and applied by the city or
8 8 county to the payment of the interest on the bonds and to
8 9 the retirement of the principal as rapidly as proceeds are
8 10 collected. Such bonds and coupons do not make the city or
8 11 county liable in any way, except for the proper application of
8 12 special assessments. If interest becomes due on any of the
8 13 bonds when there is no fund from which to pay it, the council
8 14 or board of supervisors may make a temporary loan for payment
8 15 of the interest, which loan must be repaid from the special
8 16 assessments and interest pledged to secure the bonds, but in
8 17 case of purchase by the city or county at tax sale of the
8 18 property on which a special assessment under this chapter is
8 19 levied, from the general fund.
8 20 4. Special assessment bonds issued under this section
8 21 must be sold at public or private sale in the manner provided
8 22 by chapter 75, and may not be sold for less than par value
8 23 with accrued interest from date to the time of delivery. The
8 24 proceeds of the sale must be applied to the payment of the
8 25 cost of financing the energy improvements approved under this
8 26 chapter.
8 27 5. Any excess of proceeds from special assessments
8 28 remaining after all of the bonds have been paid with interest
8 29 may be credited to the energy finance program fund established
8 30 pursuant to ordinance or returned to the applicable property
8 31 owners on a proportionate basis.
8 32 6. Cities or counties may issue refunding bonds to pay off
8 33 and take up special assessment bonds issued pursuant to this
8 34 chapter, or to refund any part thereof, as follows:
8 35 a. Refunding bonds must substantially conform to the

House Study Bill 602 continued

9 1 provisions of this chapter, and the face value is limited to
9 2 the amount of the unpaid special assessments with the interest
9 3 thereon of the particular issue of bonds to be refunded.
9 4 b. Refunding bonds or their proceeds may be used only to pay
9 5 improvement bonds taken up.
9 6 c. The expense of refunding bonds must be paid out of the
9 7 energy finance program fund of the city or county.
9 8 d. When refunding bonds are issued to pay improvement
9 9 bonds, all special assessments and sinking funds applicable to
9 10 the payment of the improvement bonds previously issued must
9 11 be applied in the same manner and to the same extent to the
9 12 payment of the refunding bonds, and all the powers and duties
9 13 to levy and to carry special assessments and taxes, to create
9 14 liens upon property, and to establish sinking funds in respect
9 15 to the bonds previously issued continue until refunding bonds
9 16 are paid.
9 17 e. The city or county shall collect the special assessment
9 18 out of which the refunding bonds are payable and hold the
9 19 proceeds in trust for the payment of the refunding bonds, but
9 20 it is not liable except for the proper application of the
9 21 assessments.
9 22 7. No action shall be brought questioning the legality
9 23 of the bonds authorized by this section from and after sixty
9 24 days from the date the bonds are ordered issued by the city or
9 25 county.
9 26 Sec. 14. NEW SECTION. 385.12 Verification == penalty.
9 27 1. The office shall determine an inspection procedure to
9 28 be utilized by a city or county upon completion of an energy
9 29 improvement financed pursuant to the energy finance program.
9 30 2. The city council or board of supervisors may impose a
9 31 civil penalty against a property owner for failure to complete
9 32 an energy improvement for which a petition was submitted by the
9 33 property owner and approved and financing was received. The
9 34 penalty may be in an amount up to but not exceeding the amount
9 35 of financing received.

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10 1 Sec. 15. NEW SECTION. 385.13 Report.
10 2 The results of the program including but not limited to the
10 3 number of petitions received, the number of petitions approved,
10 4 types of energy improvements for which special assessments are
10 5 sought, and average special assessment size, shall be submitted
10 6 by a city or county participating in the program to the office
10 7 by December 1 annually. The office shall make available on its
10 8 internet site all information received under this subsection.
10 9 Sec. 16. Section 403.19, subsection 2, Code 2009, is amended
10 10 to read as follows:
10 11 2. That portion of the taxes each year in excess of such
10 12 amount shall be allocated to and when collected be paid into
10 13 a special fund of the municipality to pay the principal of
10 14 and interest on loans, moneys advanced to, or indebtedness,
10 15 whether funded, refunded, assumed, or otherwise, including
10 16 bonds issued under the authority of section 403.9, subsection
10 17 1, incurred by the municipality to finance or refinance, in
10 18 whole or in part, an urban renewal project within the area,
10 19 ~~and~~ to provide assistance for low and moderate income family
10 20 housing as provided in section 403.22, and to provide funding
10 21 for an energy finance program adopted pursuant to chapter 385
10 22 with regard to property within the urban renewal area, except
10 23 that taxes for the regular and voter=approved physical plant
10 24 and equipment levy of a school district imposed pursuant to
10 25 section 298.2 and taxes for the payment of bonds and interest
10 26 of each taxing district must be collected against all taxable
10 27 property within the taxing district without limitation by the
10 28 provisions of this subsection. However, all or a portion of
10 29 the taxes for the physical plant and equipment levy shall be
10 30 paid by the school district to the municipality if the auditor
10 31 certifies to the school district by July 1 the amount of such
10 32 levy that is necessary to pay the principal and interest
10 33 on bonds issued by the municipality to finance an urban
10 34 renewal project, which bonds were issued before July 1, 2001.
10 35 Indebtedness incurred to refund bonds issued prior to July 1,

House Study Bill 602 continued

11 1 2001, shall not be included in the certification. Such school
11 2 district shall pay over the amount certified by November 1
11 3 and May 1 of the fiscal year following certification to the
11 4 school district. Unless and until the total assessed valuation
11 5 of the taxable property in an urban renewal area exceeds the
11 6 total assessed value of the taxable property in such area as
11 7 shown by the last equalized assessment roll referred to in
11 8 subsection 1, all of the taxes levied and collected upon the
11 9 taxable property in the urban renewal area shall be paid into
11 10 the funds for the respective taxing districts as taxes by
11 11 or for the taxing districts in the same manner as all other
11 12 property taxes. When such loans, advances, indebtedness, and
11 13 bonds, if any, and interest thereon, have been paid, all moneys
11 14 thereafter received from taxes upon the taxable property in
11 15 such urban renewal area shall be paid into the funds for the
11 16 respective taxing districts in the same manner as taxes on all
11 17 other property. In those instances where a school district
11 18 has entered into an agreement pursuant to section 279.64 for
11 19 sharing of school district taxes levied and collected from
11 20 valuation described in this subsection and released to the
11 21 school district, the school district shall transfer the taxes
11 22 as provided in the agreement.
11 23 EXPLANATION
11 24 This bill authorizes cities and counties to establish an
11 25 energy finance program to finance energy improvements for the
11 26 benefit of property owners within the city or county.
11 27 The bill defines an "energy improvement" as the installation
11 28 of one or more appliances or heating and cooling systems,
11 29 physical alteration to a building, or installation of a
11 30 renewable energy production facility which has been identified
11 31 in an energy analysis as improving the energy=efficient
11 32 operation of a building or as decreasing the amount of energy
11 33 consumed by that building, or both. The bill defines an
11 34 "energy analysis" as a written report summarizing the results
11 35 of a physical inspection of a residential, commercial, or

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12 1 industrial building conducted by a public utility or other
12 2 agency or entity approved by the office of energy independence
12 3 documenting deficiencies in energy efficiency operation and
12 4 recommending specified energy improvements.
12 5 Pursuant to the program, a city or county may offer to assess
12 6 to residential, commercial, or industrial property within the
12 7 city or county the cost of purchasing or installing energy
12 8 improvements. The office of energy independence shall serve in
12 9 an advisory capacity. The bill states that the program shall
12 10 be limited to energy improvements that will be permanently
12 11 affixed to real property which has already been developed
12 12 or upon which buildings have already been constructed, and
12 13 that property owners participating in the program may receive
12 14 advance funding for the improvements or reimbursement after the
12 15 fact.
12 16 The bill provides that the governing body of a city or county
12 17 initiates participation in the program by adopting a resolution
12 18 of intent indicating that it is in the public interest to
12 19 finance the installation of energy improvements, that special
12 20 assessment financing or other financing shall be available to
12 21 property owners, examples of energy improvements which may be
12 22 financed and a brief description of financing arrangements.
12 23 The bill provides for notice regarding the time and place of a
12 24 public hearing on the resolution.
12 25 The bill directs a city or county wishing to establish
12 26 an energy finance program to adopt an ordinance which
12 27 shall include a schedule for packaging assessments for
12 28 program finance purposes and city council or county board
12 29 of supervisors approval, a method for prioritizing approved
12 30 applications, and energy analysis requirements. After adoption
12 31 of the ordinance, the city or county is also directed to
12 32 establish a plan for raising the capital to pay for work
12 33 performed pursuant to the special assessments and shall be
12 34 authorized to advance funds available to it from any source.
12 35 The bill states that if a county has adopted a countywide

House Study Bill 602 continued

13 1 ordinance, a city cannot adopt an ordinance in that portion of
13 2 the city located within the county.
13 3 The bill provides that the office shall develop petitions
13 4 for use by property owners applying for the program, informing
13 5 the property owner of the need to complete an energy analysis,
13 6 containing space for property owner identifying information and
13 7 for a listing of energy improvements and cost estimates for
13 8 which a special assessment is sought, and requesting a proposed
13 9 time frame within which the improvements shall be undertaken
13 10 and completed. Program participation shall be initiated solely
13 11 by petition of the property owner or by a representative of
13 12 several related or adjoining lots or parcels who has obtained
13 13 written permission, a petition signature, and a copy of an
13 14 energy analysis from each owner. The bill provides that within
13 15 30 days following submission of a petition and accompanying
13 16 energy analysis, a petitioner shall receive notification
13 17 from the city or county of approval or denial, and that if
13 18 approved the petitioner shall receive subsequent notification
13 19 regarding funding amounts, authorization to purchase directly
13 20 any equipment and materials for the installation of energy
13 21 improvements and to contract directly for such installation,
13 22 and verification requirements regarding completion of
13 23 improvements.
13 24 The bill provides that approved petitions, whether submitted
13 25 on an individual or aggregate basis, shall be grouped either
13 26 by date of approval or property location, identified by legal
13 27 description, and submitted to a city council or county board
13 28 of supervisors in the form of a resolution for approval by
13 29 majority vote. The bill directs a city council or county board
13 30 of supervisors to forward an approved resolution to the city
13 31 clerk or county auditor, along with a schedule including a
13 32 description and parcel number of each lot, the name of the
13 33 property owner, the valuation of each lot as determined by the
13 34 council, and the total amount proposed to be assessed to each
13 35 lot.

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14 1 The bill then specifies procedures for adoption of the
14 2 schedule by the city council or county board of supervisors,
14 3 certification to the county treasurer, and property owner
14 4 notification provisions. The bill provides that the special
14 5 assessments shall be levied and collected in the same manner as
14 6 provided in Code section 384.65 for public improvement special
14 7 assessments levied by a city. Bonding provisions are set forth
14 8 which closely correspond to provisions applicable to special
14 9 assessment bonds authorized in Code section 384.68.
14 10 The bill authorizes utilization of tax increment financing
14 11 moneys to fund special assessments under the program
14 12 for property in an urban renewal area, and includes the
14 13 establishment of the energy finance program within the
14 14 definition of "essential corporate purpose" and "essential
14 15 county purpose" contained in Code chapters 384 and 331,
14 16 respectively, and applicable to the issuance of general
14 17 obligation bonds.
14 18 The bill requires the office of energy independence to
14 19 determine an inspection procedure to verify completion of an
14 20 energy improvement financed pursuant to the program. The
14 21 office is also required to make available on its internet site
14 22 the results of the program based upon information required
14 23 to be submitted on an annual basis by a city or county
14 24 participating in the program.
14 25 The bill provides that a city or county may impose a civil
14 26 penalty in an amount not to exceed the amount financed for
14 27 failure to complete an energy improvement for which a petition
14 28 was submitted and approved and financing was received.
LSB 5241XD (5) 83
rn/sc

House Study Bill 603

HOUSE FILE
BY (PROPOSED COMMITTEE ON
PUBLIC SAFETY BILL BY
CHAIRPERSON LYKAM)

A BILL FOR

An Act relating to eluding or attempting to elude a marked law enforcement vehicle, and providing a penalty.
BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 5808HC (3) 83
jm/nh

House Study Bill 603 continued

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1 1 Section 1. Section 321.279, subsection 2, Code 2009, is
1 2 amended to read as follows:
1 3 2. a. The driver of a motor vehicle commits an aggravated
1 4 misdemeanor if the driver willfully fails to bring the motor
1 5 vehicle to a stop or otherwise eludes or attempts to elude a
1 6 marked official law enforcement vehicle that is driven by a
1 7 uniformed peace officer after being given a visual and audible
1 8 signal as provided in this section and in doing so exceeds the
1 9 speed limit by twenty=five miles per hour or more.
1 10 b. The driver of a motor vehicle commits an aggravated
1 11 misdemeanor if the driver willfully fails to bring the motor
1 12 vehicle to a stop or otherwise eludes or attempts to elude a
1 13 marked official law enforcement vehicle that is driven by a
1 14 uniformed peace officer after being given a visual and audible
1 15 signal as provided in this section and in doing so endangers
1 16 the safety or property of another driver of a motor vehicle,
1 17 pedestrian, bicyclist, or real property owner or lessee, other
1 18 than a peace officer acting within the official capacity of the
1 19 officer.
1 20 Sec. 2. IMPLEMENTATION OF ACT. Section 25B.2, subsection
1 21 3, shall not apply to this Act.
1 22 EXPLANATION
1 23 This bill relates to eluding or attempting to elude a marked
1 24 law enforcement vehicle.
1 25 The bill provides that a driver of a motor vehicle commits an
1 26 aggravated misdemeanor if the driver willfully fails to bring
1 27 the motor vehicle to a stop or otherwise eludes or attempts to
1 28 elude a marked official law enforcement vehicle that is driven
1 29 by a uniformed peace officer after being given a visual and
1 30 audible signal and in doing so endangers the safety or property
1 31 of another driver of a motor vehicle, pedestrian, bicyclist,
1 32 or real property owner or lessee, other than a peace officer
1 33 acting within the official capacity of the officer.
1 34 An aggravated misdemeanor is punishable by confinement for
1 35 no more than two years and a fine of at least $625 but not more

House Study Bill 603 continued

2 1 than $6,250.
2 2 The bill may include a state mandate as defined in Code
2 3 section 25B.3. The bill makes inapplicable Code section 25B.2,
2 4 subsection 3, which would relieve a political subdivision from
2 5 complying with a state mandate if funding for the cost of
2 6 the state mandate is not provided or specified. Therefore,
2 7 political subdivisions are required to comply with any state
2 8 mandate included in the bill.
LSB 5808HC (3) 83
jm/nh

Iowa General Assembly
Daily Bills, Amendments & Study Bills
January 21, 2010

House Study Bill 604

HOUSE FILE
BY (PROPOSED COMMITTEE ON PUBLIC SAFETY BILL BY CHAIRPERSON LYKAM)

A BILL FOR

An Act providing for the treatment of animals other than agricultural animals, by providing for a regulation of commercial establishments, providing for fees, providing penalties, and including effective date provisions.
BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 6171YC (9) 83
da/rj

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1 1 Section 1. Section 162.1, Code 2009, is amended to read as
1 2 follows:
1 3 162.1 ~~Policy~~ Purpose and scope.
1 4 1. The purpose of this chapter is to do all of the
1 5 following:
1 6 ~~1.~~ a. ~~To insure~~ Insure that all dogs and cats handled by
1 7 ~~boarding kennels, commercial kennels, commercial breeders,~~
1 8 ~~dealers, and public auctions~~ pet establishments are provided
1 9 with humane care and treatment ~~by regulating~~.
1 10 b. Regulate the transportation, sale, purchase, housing,
1 11 care, handling, and treatment of ~~such animals~~ dogs and cats by
1 12 persons ~~or organizations~~ engaged in transporting, buying, or
1 13 selling them ~~and to provide~~.
1 14 c. Provide that all vertebrate animals consigned to pet
1 15 shops are provided humane care and treatment by regulating the
1 16 transportation, sale, purchase, housing, care, handling, and
1 17 treatment of such animals by pet shops.
1 18 ~~2.~~ d. ~~To authorize~~ Authorize the sale, trade, or adoption
1 19 of only those animals which appear to be free of infectious or
1 20 communicable disease.
1 21 ~~3.~~ e. ~~To protect~~ Protect the public from zoonotic disease.
1 22 2. This chapter does not apply to livestock as defined
1 23 in section 717.1 or any other agricultural animal used in
1 24 agricultural production as provided in chapter 717A.
1 25 Sec. 2. Section 162.2, Code Supplement 2009, is amended by
1 26 adding the following new subsections:
1 27 NEW SUBSECTION. 4A. "Animal Welfare Act" means the
1 28 federal Animal Welfare Act, 7 U.S.C. ch. 54, and regulations
1 29 promulgated by the United States department of agriculture and
1 30 published in 9 C.F.R. ch. 1.
1 31 NEW SUBSECTION. 4B. "Authorization" means a state license,
1 32 certificate of registration, or permit issued or renewed by the
1 33 department to a commercial establishment as provided in section
1 34 162.2A.
1 35 NEW SUBSECTION. 6A. "Commercial establishment" or

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2 1 "establishment" means an animal shelter, boarding kennel,
2 2 commercial breeder, commercial kennel, dealer, pet shop, pound,
2 3 public auction, or research facility.
2 4 NEW SUBSECTION. 8A. "Department" means the department of
2 5 agriculture and land stewardship.
2 6 NEW SUBSECTION. 9A. "Federal license" means a license
2 7 issued by the United States department of agriculture to a
2 8 person classified as a dealer or exhibitor pursuant to the
2 9 federal Animal Welfare Act.
2 10 NEW SUBSECTION. 9B. "Federal licensee" means a person to
2 11 whom a federal license as a dealer or exhibitor is issued.
2 12 NEW SUBSECTION. 10A. "Permittee" means a commercial
2 13 breeder, dealer, or public auction to whom a permit is issued
2 14 by the department as a federal licensee pursuant to section
2 15 162.2A.
2 16 NEW SUBSECTION. 15A. "Registrant" means a pound, animal
2 17 shelter, or research facility to whom a certificate of
2 18 registration is issued by the department pursuant to section
2 19 162.2A.
2 20 NEW SUBSECTION. 16A. "State fiscal year" means the fiscal
2 21 year described in section 3.12.
2 22 NEW SUBSECTION. 16B. "State licensee" means any of the
2 23 following:
2 24 a. A boarding kennel, commercial kennel, or pet shop to whom
2 25 a state license is issued by the department pursuant to section
2 26 162.2A.
2 27 b. A commercial breeder, dealer, or public auction to whom
2 28 a state license is issued in lieu of a permit by the department
2 29 pursuant to section 162.2A.
2 30 Sec. 3. Section 162.2, subsection 6, Code Supplement 2009,
2 31 is amended to read as follows:
2 32 6. "Commercial breeder" means a person, engaged in the
2 33 business of breeding dogs or cats, who sells, exchanges,
2 34 or leases dogs or cats in return for consideration, or who
2 35 offers to do so, whether or not the animals are raised,

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3 1 trained, groomed, or boarded by the person. A person who
3 2 owns or harbors three or fewer breeding males or females is
3 3 not a commercial breeder. ~~However, a person who breeds or~~
~~3 4 harbors more than three breeding male or female greyhounds~~
~~3 5 for the purposes of using them for pari=mutuel racing shall~~
~~3 6 be considered a commercial breeder irrespective of whether~~
~~3 7 the person sells, leases, or exchanges the greyhounds for~~
~~3 8 consideration or offers to do so.~~
3 9 Sec. 4. Section 162.2, subsection 13, Code Supplement 2009,
3 10 is amended to read as follows:
3 11 13. "Pound" ~~or "dog pound"~~ means a facility for the
3 12 prevention of cruelty to animals operated by the state, a
3 13 municipal corporation, or other political subdivision of the
3 14 state for the purpose of impounding or harboring seized stray,
3 15 homeless, abandoned or unwanted dogs, cats or other animals; or
3 16 a facility operated for such a purpose under a contract with
3 17 any municipal corporation or incorporated society.
3 18 Sec. 5. NEW SECTION. 162.2A Application, issuance, and
3 19 renewal of authorizations.
3 20 1. The department shall provide for the operation
3 21 of a commercial establishment by issuing or renewing an
3 22 authorization, including any of the following:
3 23 a. A certificate of registration for a pound, animal,
3 24 shelter, or research facility.
3 25 b. A state license for a boarding kennel, commercial kennel,
3 26 or pet shop.
3 27 c. A state license or permit for a commercial breeder,
3 28 dealer, or public auction. A federal licensee must apply for
3 29 and be issued either a permit or a state license in lieu of a
3 30 permit.
3 31 2. A person must be issued a separate state license,
3 32 certificate of registration, or permit for each commercial
3 33 establishment owned or operated by the person.
3 34 3. A person must apply for the issuance or renewal of an
3 35 authorization on forms and according to procedures required by

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4 1 rules adopted by the department. The application shall contain
4 2 information required by the department, including but not
4 3 limited to all of the following:
4 4 a. The person's name.
4 5 b. The person's principal office or place of business.
4 6 c. The name, address, and type of establishment covered by
4 7 the authorization.
4 8 d. The beginning and end of the person's fiscal year.
4 9 e. The gross amount received by the person from the sales
4 10 of dogs and cats during the person's last fiscal year. The
4 11 department in cooperation with the department of revenue may
4 12 adopt rules providing a formula for a pet shop selling animals
4 13 and merchandise to estimate the gross amount received by the
4 14 pet shop from the sale of vertebrate animals.
4 15 4. An authorization expires at the end of the commercial
4 16 establishment's fiscal year, and must be renewed by the
4 17 department on or before that date.
4 18 5. The department shall transfer information contained in
4 19 an application to the department of revenue as necessary to
4 20 ensure that the department of revenue may collect necessary
4 21 sales tax revenue from commercial establishments.
4 22 Sec. 6. NEW SECTION. 162.2B Fees.
4 23 The department shall establish, assess, and collect fees as
4 24 provided in this section.
4 25 1. A commercial establishment shall pay authorization fees
4 26 to the department for the issuance or renewal of a certificate
4 27 of registration, state license, or permit.
4 28 a. For the issuance or renewal of a certificate of
4 29 registration provided to:
4 30 (1) An animal shelter ..... No fee
4 31 (2) A publicly owned pound ..... No fee
4 32 (3) A privately owned pound $15
4 33 (4) A research facility ..... No fee
4 34 b. For the issuance or renewal of a state license provided
4 35 to:

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5 1 (1) A boarding kennel $150
5 2 (2) A commercial kennel $150
5 3 c. The amount of the fees required to be paid for the
5 4 issuance or renewal of a state license to a pet shop and
5 5 for the issuance or renewal of a state license or permit to
5 6 a commercial breeder, dealer, or public auction shall be
5 7 established by rules adopted by the department. The rules
5 8 shall to every extent practicable be based on the schedule for
5 9 fees assessed by the United States department of agriculture
5 10 when accepting an application or issuing or renewing a
5 11 class "A" dealer's license under the Animal Welfare Act.
5 12 The department may require that a federal licensee produce
5 13 information on forms used by the United States department of
5 14 agriculture when issuing or renewing a permit or state license.
5 15 2. Notwithstanding subsection 1, before the end of each
5 16 state fiscal year, the department shall, if necessary, adopt
5 17 rules to establish or adjust the amount of the fees required to
5 18 be paid by state licensees and permittees during the next state
5 19 fiscal year. The department shall determine the amount of the
5 20 fees based on the number of full=time equivalent positions
5 21 authorized by the general assembly to administer and enforce
5 22 this chapter. However, a state licensee or permittee shall not
5 23 pay less than fifty dollars. The amount of the adjusted fees
5 24 shall take effect on July 1 or thirty days after the effective
5 25 date of the Act authorizing the number of full=time equivalent
5 26 positions, whichever is later. A state licensee or permittee
5 27 shall pay the adjusted amount when renewing an authorization.
5 28 3. The department shall retain all fees that it collected
5 29 under this section. If necessary to administer and enforce
5 30 this chapter, the department may temporarily exceed and draw
5 31 more than the amount received from the payment of fees during
5 32 any time during a state fiscal year and subsequently incur
5 33 a negative cash balance. However, the total amount of fees
5 34 received by the department in the state fiscal year must be
5 35 equal to or greater than the negative balance at the close of

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6 1 the state fiscal year.
6 2 Sec. 7. Section 162.3, Code 2009, is amended by striking the
6 3 section and inserting in lieu thereof the following:
6 4 162.3 Operation of a pound == certificate of registration.
6 5 A pound shall only operate pursuant to a certificate of
6 6 registration issued or renewed by the department as provided
6 7 in section 162.2A. A pound may sell dogs or cats under its
6 8 control, if sales are allowed by the department. The pound
6 9 shall maintain records as required by the department in order
6 10 for the department to ensure the pound's compliance with the
6 11 provisions of this chapter.
6 12 Sec. 8. Section 162.4, Code 2009, is amended by striking the
6 13 section and inserting in lieu thereof the following:
6 14 162.4 Operation of an animal shelter == certificate of
6 15 registration.
6 16 An animal shelter shall only operate pursuant to a
6 17 certificate of registration issued or renewed by the department
6 18 as provided in section 162.2A. An animal shelter may sell dogs
6 19 or cats if sales are allowed by the department. The animal
6 20 shelter facility shall maintain records as required by the
6 21 department in order for the department to ensure the animal
6 22 shelter's compliance with the provisions of this chapter.
6 23 Sec. 9. NEW SECTION. 162.4A Operation of a research
6 24 facility == certificate of registration.
6 25 A research facility shall only operate pursuant to a
6 26 certificate of registration issued by the department as
6 27 provided in section 162.2A. The research facility shall
6 28 maintain records as required by the department in order for the
6 29 department to ensure the research facility's compliance with
6 30 the provisions of this chapter. A research facility shall not
6 31 purchase a dog or cat from a commercial establishment that does
6 32 not have a valid authorization.
6 33 Sec. 10. Section 162.5, Code 2009, is amended by striking
6 34 the section and inserting in lieu thereof the following:
6 35 162.5 Operation of a pet shop == state license.

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7 1 A pet shop shall only operate pursuant to a state license
7 2 issued or renewed by the department pursuant to section
7 3 162.2A. The pet shop shall maintain records as required by the
7 4 department in order for the department to ensure the pet shop's
7 5 compliance with the provisions of this chapter. A pet shop
7 6 shall not purchase a dog or cat from a commercial establishment
7 7 that does not have a valid authorization.
7 8 Sec. 11. NEW SECTION. 162.5A Operation of a boarding kennel
7 9 == state license.
7 10 A boarding kennel shall only operate pursuant to a state
7 11 license issued by the department as provided in section 162.2A.
7 12 The boarding kennel shall maintain records as required by
7 13 the department in order for the department to ensure the
7 14 boarding kennel's compliance with the provisions of this
7 15 chapter. A boarding kennel shall not purchase a dog or cat
7 16 from a commercial establishment that does not have a valid
7 17 authorization.
7 18 Sec. 12. Section 162.6, Code 2009, is amended by striking
7 19 the section and inserting in lieu thereof the following:
7 20 162.6 Operation of a commercial kennel == state license or
7 21 permit.
7 22 A commercial kennel shall only operate pursuant to a state
7 23 license issued or renewed by the department as provided in
7 24 section 162.2A. A commercial kennel shall maintain records
7 25 as required by the department in order for the department to
7 26 ensure the commercial kennel's compliance with the provisions
7 27 of this chapter. A commercial kennel shall not purchase a dog
7 28 or cat from a commercial establishment that does not have a
7 29 valid authorization.
7 30 Sec. 13. Section 162.7, Code 2009, is amended by striking
7 31 the section and inserting in lieu thereof the following:
7 32 162.7 Operation of a dealer == state license or permit.
7 33 A dealer shall only operate pursuant to a state license,
7 34 or a permit, issued or renewed by the department as provided
7 35 in section 162.2A. A dealer who is a state licensee shall

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8 1 maintain records as required by the department in order for the
8 2 department to ensure compliance with the provisions of this
8 3 chapter. A dealer who is a permittee may, but is not required
8 4 to maintain records. A dealer shall not purchase a dog or cat
8 5 from a commercial establishment that does not have a valid
8 6 authorization.
8 7 Sec. 14. Section 162.8, Code 2009, is amended by striking
8 8 the section and inserting in lieu thereof the following:
8 9 162.8 Operation of a commercial breeder == state license or
8 10 permit.
8 11 A commercial breeder shall only operate pursuant to a state
8 12 license, or a permit, issued or renewed by the department
8 13 as provided in section 162.2A. A commercial breeder who is
8 14 a state licensee shall maintain records as required by the
8 15 department in order for the department to ensure the commercial
8 16 breeder's compliance with the provisions of this chapter. A
8 17 commercial breeder who is a permittee may but is not required
8 18 to maintain records. A commercial breeder shall not purchase a
8 19 dog or cat from a commercial establishment that does not have
8 20 a valid authorization.
8 21 Sec. 15. NEW SECTION. 162.9A Operation of a public auction
8 22 == state license or permit.
8 23 A public auction shall only operate pursuant to a state
8 24 license, or a permit, issued or renewed by the department
8 25 as provided in section 162.2A. A public auction which is
8 26 a state licensee shall maintain records as required by the
8 27 department in order for the department to ensure the public
8 28 auction's compliance with the provisions of this chapter. A
8 29 public auction which is a permittee may but is not required to
8 30 maintain records. A public auction shall not purchase a dog or
8 31 cat from a commercial establishment that does not have a valid
8 32 authorization.
8 33 Sec. 16. NEW SECTION. 162.10A Commercial establishments ==
8 34 standard of care.
8 35 1. a. A commercial establishment shall provide for a

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9 1 standard of care that ensures that an animal in its possession
9 2 or under its control is not lacking any of the following:
9 3 (1) Adequate feed, adequate water, housing facilities,
9 4 sanitary control, or grooming practices, if such lack causes
9 5 adverse health or suffering.
9 6 (2) Veterinary care.
9 7 b. A commercial establishment, other than a research
9 8 facility or pet shop, shall provide for the standard of care
9 9 for dogs and cats in its possession or under its control, and a
9 10 research facility or pet shop shall provide for the standard of
9 11 care for invertebrate animals in its possession or under its
9 12 control.
9 13 2. a. Except as provided in paragraph "b", a commercial
9 14 establishment shall comply with rules that the department
9 15 adopts to implement subsection 1. A commercial establishment
9 16 shall be regulated under this paragraph "a" unless the person is
9 17 a permittee as provided in paragraph "b".
9 18 b. A permittee is not required to comply with rules that
9 19 the department adopts to implement subsection 1. However, a
9 20 permittee meets the standard of care required in subsection
9 21 1 if it complies with rules adopted by the department to
9 22 implement that subsection as provided in paragraph "a". A
9 23 permittee may meet that standard of care without complying
9 24 with the department's rules. A finding by the United States
9 25 department of agriculture that a permittee complies with the
9 26 Animal Welfare Act is not conclusive when determining that the
9 27 permittee provides a standard of care required in subsection 1.
9 28 3. A commercial establishment fails to provide for a
9 29 standard of care as provided in subsection 1, if the commercial
9 30 establishment commits abuse as described in section 717B.2,
9 31 neglect as described in section 717B.3, or torture as provided
9 32 in section 717B.3A.
9 33 Sec. 17. NEW SECTION. 162.10B Commercial establishments ==
9 34 inspecting state licensees and registrants.
9 35 The department may inspect the commercial establishment of

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10 1 a registrant or state licensee by entering onto its business
10 2 premises at any time during normal working hours. The
10 3 department may inspect records required to be maintained by the
10 4 state licensee or registrant as provided in this chapter. If
10 5 the owner or person in charge of the commercial establishment
10 6 refuses admittance, the department may obtain an administrative
10 7 search warrant issued under section 808.14.
10 8 Sec. 18. NEW SECTION. 162.10C Commercial establishments
10 9 == monitoring permittees.
10 10 1. The department may monitor the commercial establishment
10 11 of a permittee by entering onto its business premises at
10 12 any time during normal working hours. The department shall
10 13 monitor the commercial establishment for the limited purpose of
10 14 determining whether the permittee is providing for a standard
10 15 of care required for permittees under section 162.10A. If
10 16 the owner or person in charge of the commercial establishment
10 17 refuses admittance, the department may obtain an administrative
10 18 search warrant issued under section 808.14.
10 19 2. In order to enter onto the business premises of a
10 20 permittee's commercial establishment, the department must have
10 21 reasonable cause to suspect that the permittee is not providing
10 22 for the standard of care required for permittees under section
10 23 162.10A. Reasonable cause must be supported by any of the
10 24 following:
10 25 a. An oral or written complaint received by the department
10 26 by a person. The complainant must provide the complainant's
10 27 name and address and telephone number. Notwithstanding chapter
10 28 22, the department's record of a complaint is confidential,
10 29 unless any of the following apply:
10 30 (1) The results of the monitoring are used in a contested
10 31 case proceeding as provided in chapter 17A or in a judicial
10 32 proceeding.
10 33 (2) The record is sought in discovery in any administrative,
10 34 civil, or criminal case.
10 35 (3) The department's record of a complaint is filed by a

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11 1 person other than an individual.
11 2 b. A report prepared by a person employed by the United
11 3 States department of agriculture that requires a permittee to
11 4 take action necessary to correct a breach of standard of care
11 5 required of federal licensees by the Animal Welfare Act or of
11 6 permittees by section 162.10A.
11 7 3. When carrying out this section, the department may
11 8 cooperate with the United States department of agriculture.
11 9 The department shall report any findings resulting in an
11 10 enforcement action under section 162.10D to the United States
11 11 department of agriculture.
11 12 Sec. 19. NEW SECTION. 162.10D Commercial establishments
11 13 == disciplinary actions.
11 14 1. The department may take disciplinary action against a
11 15 person by suspending or revoking the person's authorization for
11 16 violating a provision of this chapter or chapter 717B, or who
11 17 commits an unlawful practice under section 714.16.
11 18 2. The department may require that an owner, operator, or
11 19 employee of a commercial establishment subject to disciplinary
11 20 action under subsection 1 to complete a continuing education
11 21 program as a condition for retaining an authorization.
11 22 This section does not prevent a person from voluntarily
11 23 participating in a continuing education program.
11 24 3. The department shall administer the continuing education
11 25 program by either providing direct instruction or selecting
11 26 persons to provide such instruction. The department is not
11 27 required to compensate persons for providing the instruction,
11 28 and may require attendees to pay reasonable fees necessary to
11 29 compensate the department providing the instruction or a person
11 30 selected by the department to provide the instruction. The
11 31 department shall, to every extent possible, select persons to
11 32 provide the instruction by consulting with organizations that
11 33 represent commercial establishments, including but not limited
11 34 to the Iowa pet breeders association.
11 35 4. The department shall establish the criteria for a

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12 1 continuing education program which shall include at least three
12 2 and not more than eight hours of instruction. The department
12 3 shall provide for the program's beginning and ending dates.
12 4 However, a person must complete the program in twelve months
12 5 or less.
12 6 Sec. 20. Section 162.11, subsections 1 through 3, Code 2009,
12 7 are amended by striking the subsections.
12 8 Sec. 21. Section 162.11, Code 2009, is amended by adding the
12 9 following new subsection:
12 10 NEW SUBSECTION. 6. This chapter does not apply to a person
12 11 who owns, breeds, transports, or keeps a greyhound dog for
12 12 pari=mutuel wagering at a racetrack as provided in chapter 99D.
12 13 Sec. 22. NEW SECTION. 162.12A Civil penalties.
12 14 1. The department shall establish, impose, and assess civil
12 15 penalties for violations of this chapter. The department may
12 16 by rule establish a schedule of civil penalties for violations
12 17 of this chapter.
12 18 2. a. Except as provided in paragraph "b", a person who
12 19 operates a commercial establishment is subject to a civil
12 20 penalty of not more than one thousand dollars per violation.
12 21 In the case of a continuing violation, each day of the
12 22 continuing violation is a separate violation.
12 23 b. A person qualifying under this paragraph shall be subject
12 24 to a civil penalty of not more than one hundred dollars per day
12 25 for failing to apply for or obtain a current authorization. In
12 26 order to qualify under this paragraph "b", the person must be
12 27 any of the following:
12 28 (1) A boarding kennel or commercial kennel that keeps fewer
12 29 than six dogs or cats during a twelve=month period.
12 30 (2) A commercial breeder who owns or possesses fewer than
12 31 six breeding male or female dogs or cats.
12 32 (3) A dealer who buys for resale or sells or exchanges fewer
12 33 than six dogs or cats as a principal or agent.
12 34 Sec. 23. Section 162.13, Code 2009, is amended to read as
12 35 follows:

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13 1 162.13 ~~Penalties~~ Criminal penalties == confiscation.
13 2 1. ~~Operation of a pound, animal shelter, pet shop, boarding~~
~~13 3 kennel, commercial kennel, research facility, or public~~
~~13 4 auction, or dealing in dogs or cats, or both, either as a~~
~~13 5 dealer or a commercial breeder, without a currently valid~~
~~13 6 license or a certificate of registration is~~ A person who
13 7 operates a commercial establishment without an authorization
13 8 issued or renewed by the department as required in section
13 9 162.2A is guilty of a simple misdemeanor and each day of
13 10 operation is a separate offense.
13 11 2. The failure of ~~any pound, research facility, animal~~
~~13 12 shelter, pet shop, boarding kennel, commercial kennel,~~
~~13 13 commercial breeder, public auction, or dealer, to adequately~~
~~13 14 house, feed, or water dogs, cats, or vertebrate animals in~~
~~13 15 the person's or facility's possession or custody~~ a person
13 16 who owns or operates a commercial establishment to meet the
13 17 standard of care required in section 162.10A, subsection 1, is
13 18 a simple misdemeanor. The animals are subject to seizure and
13 19 impoundment and may be sold or destroyed as provided by rules
13 20 which shall be adopted by the department pursuant to chapter
13 21 17A. The rules shall provide for the destruction of an animal
13 22 by a humane method, including by euthanasia.
13 23 3. The failure of a person who owns or operates a commercial
13 24 establishment to meet the requirements of this section is
13 25 also cause for the suspension or revocation ~~or suspension~~
~~13 26 of license or registration after public hearing~~ of the
13 27 person's authorization as provided in section 162.10D. ~~The~~
~~13 28 commission of an act declared to be an unlawful practice under~~
~~13 29 section 714.16 or prohibited under chapter 717 or 717B, by~~
~~13 30 a person licensed or registered under this chapter is cause~~
~~13 31 for revocation or suspension of the license or registration~~
~~13 32 certificate.~~
13 33 4. Dogs, cats, and other ~~vertebrates~~ vertebrate
13 34 animals upon which euthanasia is permitted by law may be
13 35 destroyed by a person subject to this chapter or chapter 169,

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14 1 by a humane method, including euthanasia, as provided by rules
14 2 which shall be adopted by the department pursuant to chapter
14 3 17A.
14 4 5. It is unlawful for a dealer to knowingly ship a diseased
14 5 animal. A dealer violating this paragraph is subject to a
14 6 fine not exceeding one hundred dollars. Each diseased animal
14 7 shipped in violation of this paragraph is a separate offense.
14 8 Sec. 24. Section 162.16, Code 2009, is amended by striking
14 9 the section and inserting in lieu thereof the following:
14 10 162.16 Rules.
14 11 The department shall adopt rules and promulgate forms
14 12 necessary to administer and enforce the provisions of this
14 13 chapter.
14 14 Sec. 25. REPEAL. Section 167.18, Code Supplement 2009, is
14 15 repealed.
14 16 Sec. 26. CURRENT DEPARTMENTAL RULES. This Act does not
14 17 diminish the authority of the department of agriculture and
14 18 land stewardship to regulate different types of commercial
14 19 establishments as provided in 21 IAC ch. 67.
14 20 Sec. 27. ISSUANCE OF PERMITS. This Act does not require
14 21 a commercial establishment that has been issued or renewed a
14 22 certificate of registration to be issued a permit earlier than
14 23 required in section 162.2A for the renewal of a permit. The
14 24 person shall hold the certificate of registration in the same
14 25 manner as a permit pursuant to this Act.
14 26 Sec. 28. EFFECTIVE UPON ENACTMENT. This Act, being deemed
14 27 of immediate importance, takes effect upon enactment.
14 28 EXPLANATION
14 29 GENERAL. This bill provides for the regulation of
14 30 commercial establishments that possess or control animals,
14 31 other than animals used for an agricultural purpose, by the
14 32 department of agriculture and land stewardship. Under current
14 33 law an animal shelter, pound, or research facility must obtain
14 34 a certificate of registration; a pet shop, boarding kennel, or
14 35 commercial kennel must obtain a state license; and a commercial

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15 1 breeder, dealer, and public auction must obtain a certificate
15 2 of registration because they are federally licensed. The bill
15 3 provides that a commercial breeder, dealer, and public auction
15 4 must obtain a permit instead of a certificate of registration.
15 5 All of these documents are referred to as authorizations.
15 6 AUTHORIZATION. The bill provides that a commercial
15 7 establishment must pay a fee for being issued or renewed an
15 8 authorization. The bill does not change the fees required to
15 9 be paid by registrants, but establishes an increased fee for
15 10 boarding kennels and commercial kennels. It also requires
15 11 the department to adopt rules to establish and adjust fees
15 12 imposed on federal licenses issued a permit based on a schedule
15 13 of fees required to be paid by dealers to the United States
15 14 department of agriculture. The department is required to
15 15 adjust the fees for each new fiscal year based on the costs
15 16 of administering and enforcing the regulations, according
15 17 to full=time equivalent positions authorized by the general
15 18 assembly. It also provides that due to the fluctuation in fees
15 19 the department may temporarily operate in a deficit.
15 20 PURCHASE OF DOGS AND CATS BY UNAUTHORIZED COMMERCIAL
15 21 ESTABLISHMENTS. The bill prohibits a pet shop, dealer,
15 22 commercial breeder, or public auction from purchasing a dog or
15 23 cat from an unauthorized commercial establishment.
15 24 STANDARD OF CARE. The bill requires that commercial
15 25 establishments must operate pursuant to an authorization and
15 26 requires registrants and state licensees to maintain records.
15 27 The bill provides for a general standard of care for all
15 28 commercial establishments. The commercial establishment must
15 29 ensure that an animal in its possession or under its control is
15 30 not lacking adequate feed, adequate water, housing facilities,
15 31 sanitary control, grooming practices affecting the health of
15 32 the animal, or veterinary care. A registrant or state licensee
15 33 must comply with departmental rules. A permittee may meet the
15 34 standard of care without complying with the departmental rules.
15 35 It may also fail to meet the standard of care even though it

House Study Bill 604 continued

16 1 passes a federal inspection.
16 2 ENTERING ONTO THE BUSINESS PREMISES. The bill provides
16 3 that the department may inspect a registrant or state licensee
16 4 by entering onto its business premises and may inspect its
16 5 records. The department may monitor a permittee by entering
16 6 onto its business premises for the limited purpose of
16 7 determining whether the permittee is providing for the required
16 8 standard of care. In order to enter onto the premises,
16 9 the department must have reasonable cause supported by an
16 10 oral or written complaint or a report filed by the United
16 11 States department of agriculture. The bill provides for the
16 12 confidentiality of complaints filed by individuals unless they
16 13 are relevant to an administrative or court proceeding.
16 14 DISCIPLINARY ACTIONS. The bill provides that the department
16 15 may take disciplinary action against a commercial establishment
16 16 by suspending or revoking the commercial establishment's
16 17 authorization. The department may require that an owner,
16 18 operator, or employee of a commercial establishment complete
16 19 a continuing education program which is supervised by the
16 20 department but may be administered by a person selected by the
16 21 department.
16 22 EXCEPTIONS. The bill eliminates provisions that exempted
16 23 federal licensees from regulations. It creates a new exception
16 24 for a person who breeds, transports, or keeps a greyhound dog
16 25 for pari=mutuel wagering at a racetrack.
16 26 PENALTIES. The bill authorizes the department to establish,
16 27 impose, and assess civil penalties for violations of the bill's
16 28 provisions. Generally, a civil penalty is up to $1,000 per
16 29 each day of a violation with an exception for small commercial
16 30 establishments which have not obtained an authorization. The
16 31 civil penalty is $100 per day for a boarding kennel, commercial
16 32 kennel, commercial breeder, or dealer whose business involves
16 33 fewer than six dogs or cats. Generally a person who violates
16 34 the bill's provisions is guilty of a simple misdemeanor. The
16 35 bill provides that a person falsifying an application is guilty

House Study Bill 604 continued

17 1 of the same offense. A simple misdemeanor is punishable by
17 2 confinement for no more than 30 days or a fine of at least $65
17 3 but not more than $625 or by both.
17 4 RULES. The bill authorizes the department to adopt rules
17 5 necessary to administer and enforce the bill's provisions. It
17 6 eliminates a provision that provides the department cannot
17 7 adopt rules more stringent than federal regulations.
17 8 CURRENT DEPARTMENTAL RULES. The bill provides that it
17 9 does not diminish the authority of the department to regulate
17 10 different types of commercial establishments as provided in its
17 11 rules.
17 12 EFFECTIVE DATE. The bill takes effect upon enactment.

LSB 6171YC (9) 83
da/rj

House Study Bill 605

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

A BILL FOR

An Act relating to the criminal offense of simulated public intoxication.

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

TLSB 5222IC (5) 83
jm/nh

House Study Bill 605 continued

PAG LIN

1 1 Section 1. Section 123.46, subsection 2, Code 2009, is
1 2 amended to read as follows:
1 3 2. A person shall not use or consume alcoholic liquor, wine,
1 4 or beer upon the public streets or highways. A person shall
1 5 not use or consume alcoholic liquor in any public place except
1 6 premises covered by a liquor control license. A person shall
1 7 not possess or consume alcoholic liquors, wine, or beer on
1 8 public school property or while attending a public or private
1 9 school=related function. A person shall not be intoxicated ~~or~~
~~1 10 simulate intoxication~~ in a public place. A person violating
1 11 this subsection is guilty of a simple misdemeanor.
1 12 Sec. 2. Section 123.46, Code 2009, is amended by adding the
1 13 following new subsection:
1 14 NEW SUBSECTION. 2A. A person shall not simulate
1 15 intoxication in a public place. A person violating this
1 16 subsection is guilty of a simple misdemeanor.
1 17 EXPLANATION
1 18 This bill relates to simulated public intoxication. The
1 19 bill transfers the criminal offense of simulated public
1 20 intoxication in a public place from Code section 123.46,
1 21 subsection 2, to Code section 123.46, new subsection 2A.
1 22 The bill does not modify the criminal penalty for simulated
1 23 public intoxication. A person who commits simulated public
1 24 intoxication in a public place commits a simple misdemeanor.
1 25 A simple misdemeanor is punishable by confinement for no
1 26 more than 30 days or a fine of at least $65 but not more than
1 27 $625 or by both.
LSB 5222IC (5) 83
jm/nh

House Study Bill 606

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

A BILL FOR

An Act relating to the criminal offense of detention in a brothel.

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

TLSB 5223IC (3) 83
jm/nh

House Study Bill 606 continued

PAG LIN

1 1 Section 1. Section 272.2, subsection 14, paragraph b,
1 2 subparagraph (1), subparagraph division (b), subparagraph
1 3 subdivision (iii), Code Supplement 2009, is amended by striking
1 4 the subparagraph subdivision.
1 5 Sec. 2. Section 692A.102, subsection 1, paragraph b,
1 6 subparagraph (1), Code Supplement 2009, is amended by striking
1 7 the subparagraph.
1 8 Sec. 3. REPEAL. Section 709.7, Code 2009, is repealed.
1 9 EXPLANATION
1 10 This bill repeals the criminal offense of detention in a
1 11 brothel. A similar criminal offense exists in Code chapter
1 12 710A (human trafficking).
LSB 5223IC (3) 83
jm/nh

House Study Bill 607

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

A BILL FOR

An Act repealing the simple misdemeanor offense relating to the use of cowl lamps on motor vehicles.
BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 5220IC (2) 83
jm/nh

House Study Bill 607 continued

PAG LIN

1 1 Section 1. REPEAL. Section 321.406, Code 2009, is repealed.
1 2 EXPLANATION
1 3 This bill repeals Code section 321.406, which limits the use
1 4 of cowl lamps on motor vehicles to no more than two such lamps
1 5 emitting amber or white light without glare. The punishment
1 6 for Code section 321.406 is a simple misdemeanor as provided
1 7 in Code section 321.482.
LSB 5220IC (2) 83
jm/nh

House Study Bill 608

HOUSE FILE
BY (PROPOSED COMMITTEE ON
REBUILD IOWA AND
DISASTER RECOVERY BILL
BY CHAIRPERSON
SCHUELLER)

A BILL FOR

1 An Act relating to development in five hundred year
2 floodplains.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 5727YC (7) 83
tm/sc

House Study Bill 608 continued

PAG LIN

1 1 Section 1. NEW SECTION. 29C.20B Financial assistance
1 2 limitations == floodplains.
1 3 1. Notwithstanding any provision to the contrary, financial
1 4 assistance from the state shall not be awarded for flood damage
1 5 recovery purposes if the flood=damaged property was developed
1 6 within a five hundred year floodplain after July 1, 2010.
1 7 2. Notwithstanding any provision to the contrary, financial
1 8 assistance from the state shall not be awarded for any type of
1 9 development taking place in a five hundred year floodplain.
1 10 Sec. 2. NEW SECTION. 29C.20C Critical structures in
1 11 floodplains.
1 12 After July 1, 2010, a facility critical for health and
1 13 safety of the public and environment shall not be built in a
1 14 five hundred year floodplain. For purposes of this section,
1 15 a "facility critical for health and safety of the public and
1 16 environment" means hospitals and health care facilities as
1 17 defined in section 135C.1; emergency operations centers
1 18 including fire, police, and rescue facilities; vital data
1 19 storage centers; power generation and other utilities including
1 20 related infrastructure such as principal points of utility
1 21 systems; and any facilities that produce, use, or store toxic
1 22 pollutants.
1 23 EXPLANATION
1 24 This bill relates to development in 500 year floodplains.
1 25 The bill prohibits financial assistance from being awarded
1 26 for flood damage recovery purposes if the flood=damaged
1 27 property was developed within a 500 year floodplain after July
1 28 1, 2010. The bill prohibits financial assistance from being
1 29 awarded for any type of development taking place in a 500 year
1 30 floodplain.
1 31 The bill prohibits a facility critical for health and safety
1 32 of the public and environment from being built in a 500 year
1 33 floodplain. A "facility critical for health and safety of the
1 34 public and environment" is defined in the bill.

LSB 5727YC (7) 83
tm/sc

Senate Amendment 5014

PAG LIN

1 1 Amend Senate File 2062 as follows:
1 2 #1. Page 1, before line 1 by inserting:
1 3 <Section 1. NEW SECTION. 8.37 Full=time equivalent
1 4 positions = freeze.
1 5 Notwithstanding contrary provisions of the Code, the
1 6 number of full=time equivalent positions authorized
1 7 for a department for fiscal years commencing on or
1 8 after July 1, 2010, shall be limited to the number of
1 9 full=time equivalent positions that are not vacant as
1 10 of June 1, 2010 that is certified for that department
1 11 by the department of management pursuant to the
1 12 requirements of this Act.>
1 13 #2. Page 4, after line 24 by inserting:
1 14 <d. The department of management shall certify the
1 15 number of full=time equivalent positions within each
1 16 department within the executive branch of the state
1 17 that are not vacant as of June 1, 2010. In making its
1 18 determination, the department shall exclude full=time
1 19 equivalent positions for employees who terminate
1 20 employment as a result of this Act.>
1 21 #3. By renumbering as necessary.

DAVID L. HARTSUCH

JERRY BEHN

NANCY J. BOETTGER

RANDY FEENSTRA

JAMES F. HAHN

HUBERT HOUSER

DAVID JOHNSON

TIM KAPUCIAN

STEVE KETTERING

PAUL McKINLEY

LARRY NOBLE

KIM REYNOLDS

BRAD ZAUN
LSB SF2062.174 (5) 83
ec/rj

Senate Amendment 5015

PAG LIN

1 1 Amend Senate File 2062 as follows:
1 2 #1. Page 1, line 24, after <coverage.> by inserting
1 3 <The department shall determine the applicable amount
1 4 representing the monthly contribution costs under this
1 5 paragraph by July 1, 2010, and such amount shall not be
1 6 increased for the duration of the program.>

RANDY FEENSTRA
LSB SF2062.194 (2) 83
ec/rj

Senate Study Bill 3103

SENATE FILE
BY (PROPOSED COMMITTEE ON
HUMAN RESOURCES BILL
BY CHAIRPERSON RAGAN)

A BILL FOR

An Act relating to health care facilities and programs, including hospital inspector requirements, the hospital licensing board, and dependent adult abuse.

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

TLSB 5594XC (4) 83
rh/nh

Senate Study Bill 3103 continued

PAG LIN

1 1 Section 1. Section 135B.9, Code 2009, is amended to read as
1 2 follows:
1 3 135B.9 Inspections and qualifications for hospital
1 4 inspectors == protection and advocacy agency investigations.
1 5 1. The department shall make or cause to be made inspections
1 6 as it deems necessary in order to determine compliance with
1 7 applicable rules. Hospital inspectors shall meet the following
1 8 qualifications:
1 9 a. Upon hire, have been employed in a hospital within
1 10 the last five years and have current knowledge of hospital
1 11 operations.
1 12 b. Be free of conflicts of interest. A hospital
1 13 inspector shall not participate in an inspection or complaint
1 14 investigation of a hospital in which the inspector or a member
1 15 of the inspector's immediate family works or has worked within
1 16 the last five years. For purposes of this paragraph, "immediate
1 17 family member" means a spouse; natural or adoptive parent,
1 18 child, or sibling; or stepparent, stepchild, or stepsibling.
1 19 c. Complete a yearly conflict of interest disclosure
1 20 statement. The department shall submit an annual conflict of
1 21 interest disclosure report compiling such conflict of interest
1 22 information to the hospital licensing board.
1 23 d. Biannually, complete a minimum of ten hours of continuing
1 24 education pertaining to hospital operations including but not
1 25 limited to quality and process improvement standards, trauma
1 26 system standards, and regulatory requirements.
1 27 2. In the state resource centers and state mental health
1 28 institutes operated by the department of human services, the
1 29 designated protection and advocacy agency as provided in
1 30 section 135C.2, subsection 4, shall have the authority to
1 31 investigate all complaints of abuse and neglect of persons
1 32 with developmental disabilities or mental illnesses if the
1 33 complaints are reported to the protection and advocacy agency
1 34 or if there is probable cause to believe that the abuse has
1 35 occurred. Such authority shall include the examination of all

Senate Study Bill 3103 continued

2 1 records pertaining to the care provided to the residents and
2 2 contact or interview with any resident, employee, or any other
2 3 person who might have knowledge about the operation of the
2 4 institution.
2 5 Sec. 2. Section 135B.11, Code Supplement 2009, is amended
2 6 to read as follows:
2 7 135B.11 Functions of hospital licensing board ==
2 8 compensation.
2 9 1. The hospital licensing board shall have the following
2 10 responsibilities and duties:
2 11 a. To consult with and advise the department in matters of
2 12 policy affecting ~~administration of this chapter~~ the licensure
2 13 of hospitals in this state, and in the development of rules
2 14 and standards provided for under this chapter. This advisory
2 15 function shall be construed broadly and shall not be limited to
2 16 licensure issues pursuant to this chapter.
2 17 b. To review and approve rules and standards authorized
2 18 under this chapter prior to their approval by the state board
2 19 of health and adoption by the department.
2 20 c. To make recommendations on practice issues and policy.
2 21 d. To review and approve proposed educational programs
2 22 provided with licensure fee funds. The educational programs
2 23 provided may cover any subject matter relating to the licensure
2 24 and operation of hospitals and is not limited to licensure
2 25 issues pursuant to this chapter.
2 26 2. Each member of the board may also be eligible to receive
2 27 compensation as provided in section 7E.6.
2 28 Sec. 3. Section 235E.1, subsection 5, paragraph b, Code
2 29 2009, is amended by adding the following new subparagraphs:
2 30 NEW SUBPARAGRAPH. (4) Circumstances in which a caretaker
2 31 makes an error in professional judgment or medical care in the
2 32 care of a dependent adult regardless of the outcome.
2 33 NEW SUBPARAGRAPH. (5) Circumstances in which a caretaker
2 34 who is providing security at a facility who, in the process of
2 35 providing protection to the patients and staff at the facility,

Senate Study Bill 3103 continued

3 1 injures a dependent adult.
3 2 NEW SUBPARAGRAPH. (6) Circumstances in which a caretaker
3 3 responds to another caretaker's request for assistance in an
3 4 emergency situation and a dependent adult is injured as a
3 5 result of the emergency response.
3 6 Sec. 4. Section 235E.1, Code 2009, is amended by adding the
3 7 following new subsections:
3 8 NEW SUBSECTION. 6A. "Gross negligence" means an act or
3 9 omission by a caretaker where the caretaker does all of the
3 10 following:
3 11 a. Has knowledge of the peril to be apprehended.
3 12 b. Has knowledge that injury is a probable, as opposed to a
3 13 possible, result of the peril.
3 14 c. Consciously fails to avoid the peril.
3 15 NEW SUBSECTION. 12. "Willful misconduct" means an
3 16 intentional act committed with disregard for a known or obvious
3 17 risk with the expectation that harm will follow.
3 18 Sec. 5. Section 235E.2, subsection 2, Code Supplement 2009,
3 19 is amended to read as follows:
3 20 2. a. A staff member or employee of a facility or program
3 21 who, in the course of employment, directly examines, attends,
3 22 counsels, or treats a dependent adult in a facility or program
3 23 and reasonably believes the dependent adult has suffered
3 24 dependent adult abuse, shall report the suspected dependent
3 25 adult abuse to the department.
3 26 b. A staff member or employee of a facility or program
3 27 who, in the course of employment, provides indirect treatment
3 28 or services to a dependent adult in a facility or program
3 29 and who reasonably believes the dependent adult has suffered
3 30 dependent adult abuse may report the dependent adult abuse
3 31 to the department. For purposes of this paragraph, "indirect
3 32 treatment or services" includes treatment or services provided
3 33 without person=to=person contact such as those provided
3 34 by administrative, dietary, housekeeping, and maintenance
3 35 employees. A staff member or employee of a facility or program

Senate Study Bill 3103 continued

4 1 who provides indirect treatment or services shall, during an
4 2 orientation program, receive training regarding the prevention,
4 3 intervention, and detection of dependent adult abuse and
4 4 neglect and related reporting requirements.
4 5 c. Persons with de minimus contact with dependent adults
4 6 in a facility or program shall not be considered staff members
4 7 or employees for purposes of this section. Persons with de
4 8 minimus contact include those persons present in a facility
4 9 or program for a limited purpose, those persons who are not
4 10 present in a facility or program on a regular basis, and those
4 11 persons who do not provide any treatment or services to the
4 12 dependent adults in the facility or program. Such persons
4 13 include but are not limited to part=time volunteers, building
4 14 contractors, and repair workers.
4 15 Sec. 6. Section 235E.2, Code Supplement 2009, is amended by
4 16 adding the following new subsection:
4 17 NEW SUBSECTION. 14. When a caretaker in a facility or
4 18 program is accused of dependent adult abuse, the department has
4 19 reason to believe that dependent adult abuse has occurred, and
4 20 the caretaker wishes to appeal this determination, all of the
4 21 following shall occur before the caretaker's name is listed on
4 22 the dependent adult abuse registry:
4 23 a. The caretaker shall have the right to an emergency
4 24 adjudicative proceeding pursuant to section 17A.18A before
4 25 an administrative law judge to determine whether the
4 26 caretaker shall be allowed to continue employment in the
4 27 facility or program or whether the caretaker may be placed
4 28 on administrative leave while waiting for a contested case
4 29 hearing pursuant to section 17A.12. The emergency adjudicative
4 30 proceeding shall take place within five business days of the
4 31 department's allegation that dependent adult abuse occurred.
4 32 b. The administrative law judge shall determine if
4 33 the caretaker shall be allowed to continue employment
4 34 in the facility or program and in what capacity. If the
4 35 administrative law judge determines that the caretaker shall

Senate Study Bill 3103 continued

5 1 not continue employment, the caretaker may be placed on
5 2 administrative leave.
5 3 c. A contested case hearing on whether dependent adult
5 4 abuse occurred shall take place within forty=five days of the
5 5 informal hearing in the manner provided by section 17A.12.
5 6 EXPLANATION
5 7 This bill provides for certain requirements for health
5 8 care facilities and programs including hospitals. The
5 9 bill establishes explicit qualifications for persons who
5 10 inspect hospitals. Inspectors must have been employed in a
5 11 hospital, be free of conflicts of interest, and obtain biannual
5 12 continuing education.
5 13 The bill also revises the role of the hospital licensing
5 14 board by enumerating the specific duties of the board,
5 15 including advising the department of inspections and appeals
5 16 concerning hospital licensure, approving legislative proposals,
5 17 making recommendations on practice issues and policy, and
5 18 reviewing and approving educational programs provided through
5 19 licensure fee funds.
5 20 The bill provides certain exclusions from the definition
5 21 of dependent adult abuse in a facility or program under Code
5 22 chapter 235E, including circumstances in which a caretaker
5 23 makes an error in professional judgment or medical care in
5 24 the care of a dependent adult regardless of the outcome,
5 25 circumstances in which a caretaker who is providing security at
5 26 a facility who, in the process of providing protection to the
5 27 patients and staff at the facility, injures a dependent adult,
5 28 and circumstances in which a caretaker responds to another
5 29 caretaker's request for assistance in an emergency situation
5 30 and a dependent adult is injured as a result of the emergency
5 31 response. Under Code chapter 235E, a facility is defined as
5 32 a health care facility as defined in Code section 135C.1 or
5 33 a hospital as defined in Code section 135B.1, and a program
5 34 is defined as an elder group home as defined in Code section
5 35 231B.1, an assisted living program certified under Code section

Senate Study Bill 3103 continued

6 1 231C.3, or an adult day services program as defined in Code
6 2 section 231D.1.
6 3 The bill defines "gross negligence" and "willful misconduct"
6 4 for purposes of the definition of dependent adult abuse in
6 5 Code chapter 235E. "Gross negligence" is defined as an act or
6 6 omission by a caretaker where the caretaker has knowledge of
6 7 the peril to be apprehended, has knowledge that injury is a
6 8 probable, as opposed to a possible, result of the peril, and
6 9 consciously fails to avoid the peril. "Willful misconduct"
6 10 is defined as an intentional act committed with disregard for
6 11 a known or obvious risk with the expectation that harm will
6 12 follow.
6 13 The bill provides that a staff member or employee of
6 14 a facility or program who, in the course of employment,
6 15 provides indirect treatment or services to a dependent
6 16 adult in a facility or program and who reasonably believes
6 17 the dependent adult has suffered dependent adult abuse may
6 18 report the dependent adult abuse to the department. Indirect
6 19 treatment or services includes treatment or services provided
6 20 without person=to=person contact such as those provided
6 21 by administrative, dietary, housekeeping, and maintenance
6 22 employees. The bill requires a staff member or employee of a
6 23 facility or program who provides indirect treatment or services
6 24 to receive training regarding the prevention, intervention,
6 25 and detection of dependent adult abuse and neglect and related
6 26 reporting requirements. Persons with de minimus patient
6 27 contact shall not be considered staff members or employees for
6 28 purposes of the bill.
6 29 The bill provides an administrative review process for a
6 30 caretaker in a facility or program who is accused of dependent
6 31 adult abuse. The caretaker shall have the right to an
6 32 emergency adjudicative proceeding pursuant to Code section
6 33 17A.18A before an administrative law judge to determine if
6 34 the caretaker shall be allowed to continue employment in the
6 35 facility or program or whether the caretaker may be placed on

Senate Study Bill 3103 continued

7 1 administrative leave while waiting for a contested case hearing
7 2 pursuant to Code section 17A.12 and an informal preliminary
7 3 hearing shall take place within five business days of the
7 4 department's allegation that dependent adult abuse occurred.
7 5 An administrative law judge shall determine if the caretaker
7 6 shall be allowed to continue employment in the facility or
7 7 program and in what capacity and if not, whether the caretaker
7 8 may be placed on administrative leave. A contested case
7 9 hearing on whether dependent adult abuse occurred is required
7 10 to be held within 45 days of the emergency adjudicative
7 11 proceeding in the manner provided by Code section 17A.12.
LSB 5594XC (4) 83
rh/nh

Senate Study Bill 3104

SENATE FILE
BY (PROPOSED COMMITTEE ON
HUMAN RESOURCES BILL
BY CHAIRPERSON RAGAN)

A BILL FOR

An Act relating to the home modification requirements under the Medicaid home and community=based services waiver for the elderly.

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

TLSB 6041SC (2) 83
pf/nh

Senate Study Bill 3104 continued

PAG LIN

1 1 Section 1. HOME MODIFICATION == REVIEW OF REQUIREMENTS. The
1 2 department of human services, in consultation with the
1 3 department on aging, area agencies on aging, and other
1 4 organizations representing the interests of older Iowans, shall
1 5 review the requirements for home modification under the medical
1 6 assistance home and community=based services waiver for the
1 7 elderly, including the lifetime cap, and recommend options and
1 8 determine the fiscal impact to the state of any changes to the
1 9 requirements, including increasing such cap. The department
1 10 shall report its findings and recommendations resulting from
1 11 this review to the governor and the general assembly no later
1 12 than December 15, 2010.
1 13 EXPLANATION
1 14 This bill directs the department of human services in
1 15 consultation with the department on aging, area agencies on
1 16 aging, and other organizations representing the interests of
1 17 older Iowans, to review the requirements for home modification
1 18 under the medical assistance home and community=based services
1 19 waiver for the elderly, including the lifetime cap, and
1 20 recommend options and determine the fiscal impact to the state
1 21 of any changes to the requirements, including increasing such
1 22 cap. The department is required to report its findings and
1 23 recommendations to the governor and the general assembly no
1 24 later than December 15, 2010.
LSB 6041SC (2) 83
pf/nh

Senate Study Bill 3105

SENATE FILE
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY
CHAIRPERSON KREIMAN)

A BILL FOR

An Act relating to the confinement of persons committed to the custody of the department of corrections at a jail.
BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 5044XC (3) 83
jm/nh

Senate Study Bill 3105 continued

PAG LIN

1 1 Section 1. Section 901.7, Code 2009, is amended to read as
1 2 follows:
1 3 901.7 Commitment to custody.
1 4 In imposing a sentence of confinement for more than one
1 5 year, the court shall commit the defendant to the custody of
1 6 the director of the ~~Iowa~~ department of corrections. Upon entry
1 7 of judgment and sentence, the clerk of the district court
1 8 immediately shall notify the director of the commitment. The
1 9 court shall make an order as appropriate for the temporary
1 10 custody of the defendant pending the defendant's transfer to
1 11 the custody of the director. The court shall order the county
1 12 where a person was convicted to pay the cost of temporarily
1 13 confining the person and of transporting the person to the
1 14 state institution where the person is to be confined in
1 15 execution of the judgment. If the person is sentenced to
1 16 confinement pursuant to section 903.4, subsection 3, paragraph
1 17 "b", the state shall pay the cost of confinement beginning
1 18 on the first day of confinement after sentencing. The order
1 19 shall require that a person transported to a state institution
1 20 pursuant to this section shall be accompanied by a person of
1 21 the same sex.
1 22 Sec. 2. Section 903.1, subsection 2, Code 2009, is amended
1 23 to read as follows:
1 24 2. When a person is convicted of an aggravated misdemeanor,
1 25 and a specific penalty is not provided for, the maximum penalty
1 26 shall be imprisonment not to exceed two years. There shall be
1 27 a fine of at least six hundred twenty=five dollars but not to
1 28 exceed six thousand two hundred fifty dollars. When a judgment
1 29 of conviction of an aggravated misdemeanor is entered against
1 30 any person and the court imposes a sentence of confinement
1 31 for a period of more than one year the term shall be an
1 32 indeterminate term. Such confinement may be at a jail pursuant
1 33 to section 903.4, subsection 3, paragraph "b".
1 34 Sec. 3. Section 903.4, Code 2009, is amended to read as
1 35 follows:

Senate Study Bill 3105 continued

903.4 Providing place of confinement.

1. ~~All persons~~ A person sentenced to confinement for a period of one year or less shall be confined in a place to be furnished by the county where the conviction was had unless the person is presently committed to the custody of the director of the ~~Iowa~~ department of corrections, in which case the provisions of section 901.8 apply.

2. ~~All persons~~ A person sentenced to confinement for a period of more than one year shall be committed to the custody of the director of the ~~Iowa~~ department of corrections to be confined in a place to be designated by the director ~~and the cost of the confinement shall be borne by the state~~ except as provided in subsection 3.

3. A person sentenced to confinement for a period of more than one year but not exceeding two years shall be committed to the custody of the director of the department of corrections to be confined for an indefinite term in a place designated by the court as follows:

a. The court may order the confinement be in a place designated by the director.

b. The court may order the confinement be served in a jail subject to the limitations in subsection 4.

(1) A person confined pursuant to this paragraph "b" is eligible to receive a reduction of sentence as provided in chapter 903A.

(2) A person confined pursuant to this paragraph "b" shall be paroled or placed on work release status, if eligible, in the same manner as other persons committed to the custody of the director of the department of corrections.

(3) The director shall consider a person confined pursuant to this paragraph "b" an inmate confined at an institution of the department when practical.

4. The court shall not sentence a person to confinement pursuant to subsection 3, paragraph "b", unless the director has approved the jail as an acceptable place of confinement

Senate Study Bill 3105 continued

3 1 for persons committed to the custody of the director and the
3 2 director has negotiated a contract with the county pursuant to
3 3 subsection 6.
3 4 5. The cost of confinement pursuant to subsections 2 and 3
3 5 shall be borne by the state.
3 6 6. The director may contract with ~~local governmental~~
3 7 ~~units~~ a county for the use of ~~detention or correctional~~
3 8 ~~facilities maintained by the units~~ a jail for the confinement
3 9 of ~~such~~ persons pursuant to subsection 3, paragraph "b".
3 10 Sec. 4. Section 903A.1, Code 2009, is amended to read as
3 11 follows:
3 12 903A.1 Conduct review.
3 13 The director of the ~~Iowa~~ department of corrections shall
3 14 appoint independent administrative law judges whose duties
3 15 shall include but are not limited to review, as provided in
3 16 section 903A.3, of the conduct of inmates in institutions under
3 17 the department or inmates committed to the custody of the
3 18 director of the department of corrections but confined in a
3 19 county jail pursuant to section 903.4, subsection 3, paragraph
3 20 "b". Sections 10A.801 and 17A.11 do not apply to administrative
3 21 law judges appointed pursuant to this section.
3 22 Sec. 5. Section 903A.2, subsection 1, paragraph a,
3 23 subparagraphs (3) and (4), Code 2009, are amended to read as
3 24 follows:
3 25 (3) An employment program established or approved by the
3 26 director.
3 27 (4) A treatment program established or approved by the
3 28 director.
3 29 Sec. 6. Section 903A.2, subsection 3, Code 2009, is amended
3 30 to read as follows:
3 31 3. a. Time served in a jail or another facility prior to
3 32 actual placement in an institution under the control of the
3 33 department of corrections and credited against the sentence by
3 34 the court shall accrue for the purpose of reduction of sentence
3 35 under this section. Time which elapses during an escape shall

Senate Study Bill 3105 continued

4 1 not accrue for purposes of reduction of sentence under this
4 2 section.
4 3 b. Time served in a jail or another facility prior to actual
4 4 placement in a jail pursuant to section 903.4, subsection
4 5 3, paragraph "b", and credited against the sentence by the
4 6 court shall accrue for the purpose of reduction of sentence
4 7 under this section. Time which elapses during an escape shall
4 8 not accrue for purposes of reduction of sentence under this
4 9 section.
4 10 Sec. 7. Section 906.6, Code 2009, is amended to read as
4 11 follows:
4 12 906.6 Cooperation of correction personnel.
4 13 All persons employed in a correctional institution or
4 14 jail shall grant to the members of the board of parole, or its
4 15 properly accredited representatives, access at all reasonable
4 16 times to any person over whom the board has jurisdiction, shall
4 17 provide for the board or its representatives facilities for
4 18 communicating with and observing the person, and shall furnish
4 19 to the board reports the board requires concerning the conduct
4 20 and character of any person in their custody and any other
4 21 facts deemed by the board pertinent in determining whether the
4 22 person shall be released on parole or work release.
4 23 Sec. 8. Section 906.9, unnumbered paragraph 1, Code 2009,
4 24 is amended to read as follows:
4 25 When an inmate is discharged, paroled, or placed on work
4 26 release, the sheriff, warden, or superintendent shall furnish
4 27 the inmate, at state expense, appropriate clothing and
4 28 transportation to the place in this state indicated in the
4 29 inmate's discharge, parole, or work release plan. When an
4 30 inmate is discharged, paroled, or placed on work release, the
4 31 sheriff, warden, or superintendent shall provide the inmate, at
4 32 state expense, ~~or~~ through inmate savings as provided in section
4 33 904.508, money in accordance with the following schedule:
4 34 Sec. 9. Section 906.9, unnumbered paragraph 2, Code 2009,
4 35 is amended to read as follows:

Senate Study Bill 3105 continued

5 1 Those inmates receiving payment under subsection 2 shall
5 2 not be eligible for payment under subsection 1 unless they are
5 3 returned to the institution or jail. An inmate shall only be
5 4 eligible to receive one payment under this section during any
5 5 twelve=month period. The sheriff, warden, or superintendent
5 6 shall maintain an account of all funds expended pursuant to
5 7 this section.
5 8 Sec. 10. Section 906.16, subsections 1 and 4, Code 2009, are
5 9 amended to read as follows:
5 10 1. Except as otherwise provided in this section, the
5 11 time when a prisoner is on parole or work release from the
5 12 institution or jail shall apply to the sentence against the
5 13 parolee or work releasee.
5 14 4. The time when a prisoner is absent from the institution
5 15 or jail by reason of an escape shall not apply upon the
5 16 sentence against the prisoner.
5 17 EXPLANATION
5 18 This bill relates to confining persons committed to the
5 19 custody of the department of corrections at a jail.
5 20 The bill affects a person sentenced to confinement for more
5 21 than one year but not exceeding two years.
5 22 Under the bill, a person sentenced to confinement for more
5 23 than one year but not exceeding two years shall be committed to
5 24 the custody of the director of the department of corrections
5 25 for an indefinite term in a place designated by the court. The
5 26 bill allows the court to sentence a period of confinement at
5 27 an institution designated by the director of the department of
5 28 corrections or, in the alternative, the court may order the
5 29 period of confinement be served in a county jail. Current law
5 30 requires any person sentenced to confinement for more than one
5 31 year serve that sentence in a place to be designated by the
5 32 director of the department of corrections.
5 33 The court shall not sentence persons eligible for
5 34 confinement at a jail pursuant to the bill, unless the director
5 35 of the department of corrections has approved the jail as an

Senate Study Bill 3105 continued

6 1 acceptable place of confinement for persons committed to the
6 2 custody of the director and the director has negotiated a
6 3 contract with the county to confine such persons. The bill
6 4 specifies the director of the department of corrections may
6 5 contract with a county for the use of the jail for persons
6 6 sentenced to confinement under the bill. Current law permits
6 7 the director of the department of corrections to contract with
6 8 a local government for the use of a detention or correctional
6 9 facility maintained by the local government to confine persons.
6 10 The costs of a person sentenced to confinement at a jail
6 11 under the bill shall be paid by the state.
6 12 The bill directs the director of the department of
6 13 corrections to consider an inmate confined at a jail pursuant
6 14 to the bill an inmate confined at an institution of the
6 15 department of corrections.
6 16 A person sentenced to confinement at a jail under the
6 17 bill is eligible to receive earned time in the same manner
6 18 as other inmates committed to the custody of the director of
6 19 the department of corrections and who are serving a sentence
6 20 of confinement at an institution under the control of the
6 21 department of corrections.
6 22 The bill expands the authority of the director of the
6 23 department of corrections to approve employment and treatment
6 24 programs, not established by the director, that would be
6 25 available to reduce the sentence of an inmate, if the inmate
6 26 successfully completes such a program.
6 27 The bill allows an administrative law judge appointed
6 28 pursuant to Code section 903A.1 to review the conduct of
6 29 an inmate committed to the custody of the director of the
6 30 department of corrections who is sentenced to confinement in
6 31 a jail.
6 32 A person confined at a jail pursuant to the bill shall be
6 33 paroled, if eligible, in the same manner as other persons
6 34 committed to the custody of the director of the department of
6 35 corrections.

Senate Study Bill 3105 continued

7 1 The bill does not affect reimbursements to counties for
7 2 violators under Code sections 904.513 (operating while
7 3 intoxicated), 904.908 (work release), and 906.17 (parole).
LSB 5044XC (3) 83
jm/nh

Senate Study Bill 3106

SENATE FILE
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY
CHAIRPERSON KREIMAN)

A BILL FOR

1 An Act modifying the definition of assault.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 5187XC (3) 83
jm/nh

Senate Study Bill 3106 continued

PAG LIN

1 1 Section 1. Section 708.1, subsections 1 and 2, Code 2009,
1 2 are amended to read as follows:
1 3 1. Any act which ~~is intended~~ a reasonable person would
1 4 expect to cause pain or injury to, or which ~~is intended~~ a
1 5 reasonable person would expect to result in physical contact
1 6 which will be insulting or offensive to another, coupled with
1 7 the apparent ability to execute the act.
1 8 2. Any voluntary act which ~~is intended~~ a reasonable person
1 9 would expect to place another in fear of immediate physical
1 10 contact which will be painful, injurious, insulting, or
1 11 offensive, coupled with the apparent ability to execute the
1 12 act.
1 13 EXPLANATION
1 14 This bill modifies the definition of assault. Under the
1 15 bill, an assault is defined as any act which a reasonable
1 16 person would expect to cause pain or injury to, or which a
1 17 reasonable person would expect to result in physical contact
1 18 which will be insulting or offensive to another, coupled with
1 19 the apparent ability to execute the act. Currently assault is
1 20 defined as such acts which are intended to cause pain or injury
1 21 or to result in such physical contact.
1 22 Under the bill, an assault is also defined as any voluntary
1 23 act which a reasonable person would expect to place another
1 24 in fear of immediate physical contact which will be painful,
1 25 injurious, insulting, or offensive, coupled with the apparent
1 26 ability to execute the act. Currently, such assault is defined
1 27 as such an act which is intended to place another in such fear.
1 28 The changes in the bill are in response to Iowa supreme court
1 29 cases State v. Heard, 636 N.W.2d 227 (Iowa 2001) and State v.
1 30 Bedard, 668 N.W.2d 598 (Iowa 2003).
LSB 5187XC (3) 83
jm/nh

Senate Study Bill 3107

SENATE FILE
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY
CHAIRPERSON KREIMAN)

A BILL FOR

An Act relating to eluding or attempting to elude a marked law enforcement vehicle, and providing a penalty.
BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 5808SC (2) 83
jm/nh

Senate Study Bill 3107 continued

PAG LIN

1 1 Section 1. Section 321.279, subsection 2, Code 2009, is
1 2 amended to read as follows:
1 3 2. a. The driver of a motor vehicle commits an aggravated
1 4 misdemeanor if the driver willfully fails to bring the motor
1 5 vehicle to a stop or otherwise eludes or attempts to elude a
1 6 marked official law enforcement vehicle that is driven by a
1 7 uniformed peace officer after being given a visual and audible
1 8 signal as provided in this section and in doing so exceeds the
1 9 speed limit by twenty=five miles per hour or more.
1 10 b. The driver of a motor vehicle commits an aggravated
1 11 misdemeanor if the driver willfully fails to bring the motor
1 12 vehicle to a stop or otherwise eludes or attempts to elude a
1 13 marked official law enforcement vehicle that is driven by a
1 14 uniformed peace officer after being given a visual and audible
1 15 signal as provided in this section and in doing so endangers
1 16 the safety or property of another driver of a motor vehicle,
1 17 pedestrian, bicyclist, or real property owner or lessee, other
1 18 than a peace officer acting within the official capacity of the
1 19 officer.
1 20 Sec. 2. IMPLEMENTATION OF ACT. Section 25B.2, subsection
1 21 3, shall not apply to this Act.
1 22 EXPLANATION
1 23 This bill relates to eluding or attempting to elude a marked
1 24 law enforcement vehicle.
1 25 The bill provides that a driver of a motor vehicle commits an
1 26 aggravated misdemeanor if the driver willfully fails to bring
1 27 the motor vehicle to a stop or otherwise eludes or attempts to
1 28 elude a marked official law enforcement vehicle that is driven
1 29 by a uniformed peace officer after being given a visual and
1 30 audible signal and in doing so endangers the safety or property
1 31 of another driver of a motor vehicle, pedestrian, bicyclist,
1 32 or real property owner or lessee, other than a peace officer
1 33 acting within the official capacity of the officer.
1 34 An aggravated misdemeanor is punishable by confinement for
1 35 no more than two years and a fine of at least $625 but not more

Senate Study Bill 3107 continued

2 1 than $6,250.
2 2 The bill may include a state mandate as defined in Code
2 3 section 25B.3. The bill makes inapplicable Code section 25B.2,
2 4 subsection 3, which would relieve a political subdivision from
2 5 complying with a state mandate if funding for the cost of
2 6 the state mandate is not provided or specified. Therefore,
2 7 political subdivisions are required to comply with any state
2 8 mandate included in the bill.
LSB 5808SC (2) 83
jm/nh

Senate Study Bill 3108

SENATE FILE
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY
CHAIRPERSON KREIMAN)

A BILL FOR

An Act relating to the rights of a donee created by an anatomical gift .

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

TLSB 5836XC (3) 83
av/nh

Senate Study Bill 3108 continued

PAG LIN

1 1 Section 1. Section 144C.10, subsection 4, Code 2009, is
1 2 amended to read as follows:
1 3 4. The rights of a donee created by an anatomical gift
1 4 pursuant to ~~section 142C.11~~ chapter 142C are superior to the
1 5 authority of a designee under a declaration executed pursuant
1 6 to this chapter.
1 7 EXPLANATION
1 8 This bill makes a technical change to clarify that the
1 9 rights of a donee created by an anatomical gift pursuant to the
1 10 revised uniform anatomical gift act contained in Code chapter
1 11 142C are superior to the authority of a designee named in a
1 12 declaration under the final disposition act contained in Code
1 13 chapter 144C.
LSB 5836XC (3) 83
av/nh

Senate Study Bill 3109

SENATE FILE
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY
CHAIRPERSON KREIMAN)

A BILL FOR

An Act relating to the issuance of a protective order or approval of a consent agreement in a domestic abuse case and providing for a study.

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

TLSB 5840SC (3) 83
rh/rj

Senate Study Bill 3109 continued

PAG LIN

1 1 Section 1. Section 236.5, subsection 2, Code Supplement
1 2 2009, is amended to read as follows:
1 3 2. a. An order for counseling, a protective
1 4 order, or approved consent agreement shall be for a
1 5 ~~fixed~~ three=year period ~~of time not to exceed one year~~. ~~The~~
1 6 During the three=year period, the court may ~~amend or extend~~
1 7 terminate its order or a consent agreement at any time after
1 8 one year from the issuance of the order or approval of the
1 9 consent agreement upon a petition filed by ~~either party~~ the
1 10 defendant and after notice and hearing. In such a case, the
1 11 defendant has the burden of proving the defendant no longer
1 12 poses a threat to the safety of the victim, persons residing
1 13 with the victim, or members of the victim's family.
1 14 b. After the three=year period, the court may extend
1 15 and amend its order or a consent agreement at any time upon
1 16 the filing of a petition by either party and after notice
1 17 and hearing. The court may extend ~~the~~ and amend its order
1 18 if the court, after hearing at which the defendant has the
1 19 opportunity to be heard, finds that the defendant continues to
1 20 pose a threat to the safety of the victim, persons residing
1 21 with the victim, or members of the victim's immediate family.
1 22 At the time of the extension, the parties need not meet the
1 23 requirement in section 236.2, subsection 2, paragraph "d",
1 24 that the parties lived together during the last year if the
1 25 parties met the requirements of section 236.2, subsection 2,
1 26 paragraph "d", at the time of the original order. The number of
1 27 extensions that can be granted by the court is not limited.
1 28 Sec. 2. DOMESTIC ABUSE LEGISLATIVE INTERIM STUDY ==
1 29 PROTECTIVE ORDERS. The legislative council is requested to
1 30 establish an interim committee to study issues relating to
1 31 domestic abuse and the issuance and enforcement of protective
1 32 orders. The interim committee shall submit a report of its
1 33 findings and recommendations to the general assembly not later
1 34 than January 1, 2011.

Senate Study Bill 3109 continued

EXPLANATION

This bill relates to the issuance of an order or consent agreement in a domestic abuse case and provides for a study.

The bill extends the period of time that a court may issue an order for counseling, a protective order, or an approved consent agreement from one year to three years upon a finding that a defendant has engaged in domestic abuse. During the three=year period, the court may terminate the order or consent agreement at any time after one year from the issuance of the order or consent agreement upon a petition filed by the defendant and after notice and hearing. In such a case, the defendant has the burden of proving the defendant no longer poses a threat to the safety of the victim, persons residing with the victim, or members of the victim's family. After the three=year period, the court may extend and amend its order or a consent agreement at any time upon petition filed by either party and after notice and hearing.

Current law provides that upon a finding that a defendant has engaged in domestic abuse, an order for counseling, a protective order, or an approved consent agreement shall be issued by the court for up to one year and the court may amend or extend the order or consent agreement at any time upon petition by either party.

The bill requests the legislative council to establish an interim committee to study issues relating to domestic abuse and the issuance and enforcement of protective orders. The interim committee shall submit a report of its findings and recommendations to the general assembly not later than January 1, 2011.

LSB 5840SC (3) 83
rh/rj

Senate Study Bill 3110

SENATE FILE
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY
CHAIRPERSON KREIMAN)

A BILL FOR

1 An Act relating to conducting court hearings by video
2 conference.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 5710SC (2) 83
jm/nh

Senate Study Bill 3110 continued

PAG LIN

1 1 Section 1. Section 602.4201, subsection 1, Code Supplement
1 2 2009, is amended to read as follows:
1 3 1. The supreme court may prescribe all rules of pleading,
1 4 practice, evidence, and procedure, and the forms of process,
1 5 writs, and notices, for all proceedings in all courts of
1 6 this state, for the purposes of simplifying the proceedings
1 7 and promoting the speedy determination of litigation upon
1 8 its merits. The supreme court may also prescribe rules
1 9 allowing judicial officers, at the discretion of the judicial
1 10 officer, to conduct hearings using video conferencing to meet
1 11 statutory in=person requirements. The rules prescribing video
1 12 conferencing shall allow a party to make an application to the
1 13 court requesting the hearing be in the presence of the judicial
1 14 officer.
1 15 EXPLANATION
1 16 This bill relates to conducting court hearings by video
1 17 conference.
1 18 Under the bill, the supreme court may prescribe rules
1 19 allowing a judicial officer, at the discretion of such officer,
1 20 to conduct hearings using video conferencing to meet statutory
1 21 in=person requirements. If a judicial officer orders a hearing
1 22 by video conferencing, the rules shall allow a party to make an
1 23 application requesting the hearing be in the presence of the
1 24 judicial officer.

LSB 5710SC (2) 83
jm/nh

Senate Study Bill 3111

SENATE FILE
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY
CHAIRPERSON KREIMAN)

A BILL FOR

1 An Act relating to mediation in domestic relations actions.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 5712SC (1) 83
pf/nh

Senate Study Bill 3111 continued

PAG LIN

1 1 Section 1. Section 598.7, subsection 1, Code 2009, is
1 2 amended to read as follows:
1 3 1. The district court may, on its own motion or on the
1 4 motion of any party, order the parties to participate in
1 5 mediation in any dissolution of marriage action or other
1 6 domestic relations action and shall order the parties to
1 7 participate in mediation in any dissolution of marriage action
1 8 or other domestic relations action in which the welfare of
1 9 a minor child of the parties may be affected. Mediation
1 10 performed under this section shall comply with the provisions
1 11 of chapter 679C. The provisions of this section shall not
1 12 apply if the action involves a child support or medical support
1 13 obligation enforced by the child support recovery unit. The
1 14 provisions of this section shall not apply to actions which
1 15 involve domestic abuse pursuant to chapter 236. The provisions
1 16 of this section shall not affect a judicial district's or
1 17 court's authority to order settlement conferences pursuant to
1 18 rules of civil procedure. The court shall, on application
1 19 of a party, grant a waiver from any court=ordered mediation
1 20 under this section if the party demonstrates that a history
1 21 of domestic abuse exists as specified in section 598.41,
1 22 subsection 3, paragraph "j".
1 23 EXPLANATION
1 24 This bill directs the district court to order the parties in
1 25 any dissolution of marriage action or other domestic relations
1 26 action, in which the welfare of a minor child of the parties
1 27 may be affected, to participate in mediation. Current law
1 28 provides that the mediation shall comply with the provisions
1 29 of Code chapter 679C, the uniform mediation Act, and that the
1 30 ordered mediation does not apply if the action involves a child
1 31 support or medical support obligation enforced by the child
1 32 support recovery unit; the action involves domestic abuse; or
1 33 on application of a party, if the party demonstrates that a
1 34 history of domestic abuse exists.

LSB 5712SC (1) 83
pf/nh

Iowa General Assembly
Daily Bills, Amendments & Study Bills
January 21, 2010

Senate Study Bill 3112

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

A BILL FOR

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

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

TLSB 5383XD (6) 83
tw/sc

Senate Study Bill 3112 continued

PAG LIN

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

Senate Study Bill 3112 continued

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

Senate Study Bill 3112 continued

3 1 II, III, and V, and in chapter 432, and against the moneys and
3 2 credits tax imposed in section 533.329, for any tax year the
3 3 original transferor could have claimed the tax credit. Any
3 4 consideration received for the transfer of the tax credit shall
3 5 not be included as income under chapter 422, divisions II, III,
3 6 and V~~, under chapter 432, or against the moneys and credits tax~~
~~3 7 imposed in section 533.329~~. Any consideration paid for the
3 8 transfer of the tax credit shall not be deducted from income
3 9 under chapter 422, divisions II, III, and V~~, under chapter~~
~~3 10 432, or against the moneys and credits tax imposed in section~~
~~3 11 533.329~~.
3 12 Sec. 6. Section 15.393, subsection 2, paragraph b,
3 13 subparagraph (2), Code Supplement 2009, is amended to read as
3 14 follows:
3 15 (2) After verifying the eligibility for a tax credit under
3 16 this paragraph "b", the department of economic development
3 17 shall issue a film, television, and video project promotion
3 18 program tax credit certificate to be attached to the person's
3 19 tax return. The tax credit certificate shall contain the
3 20 taxpayer's name, address, tax identification number, the date
3 21 of project completion, the amount of credit, other information
3 22 required by the department of revenue, and a place for the name
3 23 and tax identification number of a transferee and the amount
3 24 of the tax credit being transferred. Tax credit certificates
3 25 issued under this paragraph "b" may be transferred to any person
3 26 or entity. Within ninety days of transfer, the transferee
3 27 shall submit the transferred tax credit certificate to the
3 28 department of revenue along with a statement containing the
3 29 transferee's name, tax identification number, and address,
3 30 and the denomination that each replacement tax credit
3 31 certificate is to carry and any other information required by
3 32 the department of revenue. Within thirty days of receiving
3 33 the transferred tax credit certificate and the transferee's
3 34 statement, the department of revenue shall issue one or more
3 35 replacement tax credit certificates to the transferee. Each

Senate Study Bill 3112 continued

4 1 replacement tax credit certificate must contain the information
4 2 required for the original tax credit certificate and must have
4 3 the same expiration date that appeared in the transferred
4 4 tax credit certificate. Tax credit certificate amounts
4 5 of less than the minimum amount established by rule of the
4 6 department of economic development shall not be transferable.
4 7 A tax credit shall not be claimed by a transferee under this
4 8 paragraph "b" until a replacement tax credit certificate
4 9 identifying the transferee as the proper holder has been
4 10 issued. The transferee may use the amount of the tax credit
4 11 transferred against the taxes imposed in chapter 422, divisions
4 12 II, III, and V, and in chapter 432, and against the moneys and
4 13 credits tax imposed in section 533.329, for any tax year the
4 14 original transferor could have claimed the tax credit. Any
4 15 consideration received for the transfer of the tax credit shall
4 16 not be included as income under chapter 422, divisions II, III,
4 17 and V~~, under chapter 432, or against the moneys and credits tax~~
~~4 18 imposed in section 533.329~~. Any consideration paid for the
4 19 transfer of the tax credit shall not be deducted from income
4 20 under chapter 422, divisions II, III, and V~~, under chapter~~
~~4 21 432, or against the moneys and credits tax imposed in section~~
~~4 22 533.329~~.
4 23 Sec. 7. Section 364.2, subsection 4, paragraph f, Code
4 24 Supplement 2009, is amended to read as follows:
4 25 f. (1) A franchise fee assessed by a city may be based
4 26 upon a percentage of gross revenues generated from sales of the
4 27 franchisee within the city not to exceed five percent, without
4 28 regard to the city's cost of inspecting, supervising, and
4 29 otherwise regulating the franchise. Franchise fees collected
4 30 pursuant to an ordinance in effect on May 26, 2009, shall be
4 31 deposited in the city's general fund and such fees collected
4 32 in excess of the amounts necessary to inspect, supervise, and
4 33 otherwise regulate the franchise may be used by the city for
4 34 any other purpose authorized by law. Franchise fees collected
4 35 pursuant to an ordinance that is adopted or amended on or

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5 1 after May 26, 2009, to increase the percentage rate at which
5 2 franchise fees are assessed shall be credited to the franchise
5 3 fee account within the city's general fund and used pursuant
5 4 to section 384.3A. If a city franchise fee is assessed to
5 5 customers of a franchise, the fee shall not be assessed to the
5 6 city as a customer. Before a city adopts or amends a franchise
5 7 fee rate ordinance or franchise ordinance to increase the
5 8 percentage rate at which franchise fees are assessed, a revenue
5 9 purpose statement shall be prepared specifying the purpose or
5 10 purposes for which the revenue collected from the increased
5 11 rate will be expended. If property tax relief is listed as
5 12 a purpose, the revenue purpose statement shall also include
5 13 information regarding the amount of the property tax relief to
5 14 be provided with revenue collected from the increased rate.
5 15 The revenue purpose statement shall be published as provided
5 16 in section 362.3.
5 17 (2) If a city adopts, amends, or repeals an ordinance
5 18 imposing a franchise fee, the city shall promptly notify the
5 19 director of revenue of such action.
5 20 Sec. 8. Section 421.27, subsections 1 and 4, Code 2009, are
5 21 amended to read as follows:
5 22 1. Failure to timely file a return or deposit form or to
5 23 timely remit tax. If a person fails to file with the department
5 24 on or before the due date a return or deposit form or, if
5 25 no return is required, fails to timely remit the tax due or
5 26 required to be shown due, there shall be added to the tax shown
5 27 due or required to be shown due a penalty of ten percent of the
5 28 tax shown due or required to be shown due. The penalty, if
5 29 assessed, shall be waived by the department upon a showing of
5 30 any of the following conditions:
5 31 a. At least ninety percent of the tax required to be shown
5 32 due has been paid by the due date of the tax.
5 33 b. Those taxpayers who are required to file quarterly
5 34 returns, or monthly or semimonthly deposit forms may have one
5 35 late return or deposit form within a three=year period. The

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6 1 use of any other penalty exception will not count as a late
6 2 return or deposit form for purposes of this exception.
6 3 c. The death of a taxpayer, death of a member of the
6 4 immediate family of the taxpayer, or death of the person
6 5 directly responsible for filing the return and paying the tax,
6 6 when the death interferes with timely filing.
6 7 d. The onset of serious, long=term illness or
6 8 hospitalization of the taxpayer, of a member of the immediate
6 9 family of the taxpayer, or of the person directly responsible
6 10 for filing the return and paying the tax.
6 11 e. Destruction of records by fire, flood, or other act of
6 12 God.
6 13 f. The taxpayer presents proof that the taxpayer relied
6 14 upon applicable, documented, written advice specifically
6 15 made to the taxpayer, to the taxpayer's preparer, or to an
6 16 association representative of the taxpayer from the department,
6 17 state department of transportation, county treasurer, or
6 18 federal internal revenue service, whichever is appropriate,
6 19 that has not been superseded by a court decision, ruling by a
6 20 quasi=judicial body, or the adoption, amendment, or repeal of
6 21 a rule or law.
6 22 g. Reliance upon results in a previous audit was a direct
6 23 cause for the failure to file where the previous audit
6 24 expressly and clearly addressed the issue and the previous
6 25 audit results have not been superseded by a court decision, or
6 26 the adoption, amendment, or repeal of a rule or law.
6 27 h. Under rules prescribed by the director, the taxpayer
6 28 presents documented proof of substantial authority to rely
6 29 upon a particular position or upon proof that all facts and
6 30 circumstances are disclosed on a return or deposit form.
6 31 i. The return, deposit form, or payment is timely, but
6 32 erroneously, mailed with adequate postage to the internal
6 33 revenue service, another state agency, or a local government
6 34 agency and the taxpayer provides proof of timely mailing with
6 35 adequate postage.

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

k. The failure to file was discovered through a sanctioned self=audit program conducted by the department.

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

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

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

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

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

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8 1 provided in this section, a penalty of seventy=five percent
8 2 shall be added to the amount shown due or required to be shown
8 3 due as tax on the return or deposit form, or the amount due
8 4 if no return is required. If penalties are applicable for
8 5 failure to file a return or deposit form and failure to pay
8 6 the tax shown due or required to be shown due on the return or
8 7 deposit form, the penalty provision for failure to file shall
8 8 be in lieu of the penalty provisions for failure to pay the tax
8 9 shown due or required to be shown due on the return or deposit
8 10 form, except in the case of willful failure to file a return or
8 11 deposit form or willfully filing a false return or deposit form
8 12 with intent to evade tax.
8 13 b. The penalties imposed under this subsection are not
8 14 subject to waiver.
8 15 Sec. 9. Section 422.7, subsection 9, Code Supplement 2009,
8 16 is amended to read as follows:
8 17 9. Subtract the amount of the alcohol ~~fuel~~ and cellulosic
8 18 biofuel fuels credit allowable for the tax year under section
8 19 40 of the Internal Revenue Code to the extent that the credit
8 20 increased federal adjusted gross income.
8 21 Sec. 10. Section 422.33, subsection 5, paragraph f, Code
8 22 Supplement 2009, is amended by striking the paragraph.
8 23 Sec. 11. Section 422.33, subsection 12, paragraph b, Code
8 24 Supplement 2009, is amended to read as follows:
8 25 b. The taxes imposed under this division shall be
8 26 reduced by investment tax credits authorized pursuant to
8 27 ~~sections~~ section 15.333~~, 15A.9, subsection 4,~~ and section
8 28 15E.193B, subsection 6.
8 29 Sec. 12. Section 422.35, subsection 7, Code Supplement
8 30 2009, is amended to read as follows:
8 31 7. Subtract the amount of the alcohol ~~fuel~~ and cellulosic
8 32 biofuel fuels credit allowable for the tax year under section
8 33 40 of the Internal Revenue Code to the extent that the credit
8 34 increased federal taxable income.

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9 1 Sec. 13. Section 422.36, subsection 4, Code 2009, is amended
9 2 to read as follows:
9 3 4. Foreign and domestic corporations shall file a copy of
9 4 their federal income tax return for the current tax year with
9 5 the return required by this section.
9 6 Sec. 14. Section 422.89, subsection 3, unnumbered paragraph
9 7 1, Code 2009, is amended to read as follows:
9 8 An amount equal to ~~ninety~~ one hundred percent of the tax for
9 9 the taxable year computed by placing on an annualized basis the
9 10 taxable income:
9 11 Sec. 15. Section 423.3, subsection 40, Code Supplement
9 12 2009, is amended to read as follows:
9 13 40. The sales price from the sale of automotive fluids
9 14 to a retailer to be used either in providing a service which
9 15 includes the installation or application of the fluids in
9 16 or on a motor vehicle, which service is subject to section
9 17 423.2, subsection 6, or to be installed in or applied to a
9 18 motor vehicle which the retailer intends to sell, which sale
9 19 is subject to section ~~423.26~~ 321.105A. For purposes of this
9 20 subsection, automotive fluids are all those which are refined,
9 21 manufactured, or otherwise processed and packaged for sale
9 22 prior to their installation in or application to a motor
9 23 vehicle. They include but are not limited to motor oil and
9 24 other lubricants, hydraulic fluids, brake fluid, transmission
9 25 fluid, sealants, undercoatings, antifreeze, and gasoline
9 26 additives.
9 27 Sec. 16. Section 423.36, subsection 3, paragraph a, Code
9 28 2009, is amended to read as follows:
9 29 a. The department shall grant and issue to each applicant
9 30 a permit for each place of business in this state where sales
9 31 or use tax is collected. A permit is not assignable and is
9 32 valid only for the person in whose name it is issued and for the
9 33 transaction of business at the place designated or at a place
9 34 of relocation within the ~~state~~ same county, if the ownership
9 35 remains the same.

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10 1 Sec. 17. Section 423.37, subsections 1 and 2, Code 2009, are
10 2 amended to read as follows:
10 3 1. As soon as practicable after a return is filed and in
10 4 any event within three years after the return is filed, the
10 5 department shall examine it, assess and determine the tax due
10 6 if the return is found to be incorrect, and give notice to the
10 7 person liable for the tax of the assessment and determination
10 8 as provided in subsection 2. The period for the examination
10 9 and determination of the correct amount of tax is unlimited in
10 10 the case of a false or fraudulent return made with the intent
10 11 to evade tax or in the case of a failure to file a return or, if
10 12 no return is required, in the case of a failure to pay the tax
10 13 due or required to be shown due.
10 14 2. If a return required by this subchapter is not filed,
10 15 or if a return when filed is incorrect or insufficient and
10 16 the maker fails to file a corrected or sufficient return
10 17 within twenty days after the same is required by notice from
10 18 the department, or if tax is due but no return is required,
10 19 the department shall determine the amount of tax due from
10 20 information as the department may be able to obtain and, if
10 21 necessary, may estimate the tax on the basis of external
10 22 indices, such as number of employees of the person concerned,
10 23 rentals paid by the person, stock on hand, or other factors.
10 24 The determination may be made using any generally recognized
10 25 valid and reliable sampling technique, whether or not the
10 26 person being audited has complete records, as mutually agreed
10 27 upon by the department and the taxpayer. The department shall
10 28 give notice of the determination to the person liable for the
10 29 tax. The determination shall fix the tax unless the person
10 30 against whom it is assessed shall, within sixty days after the
10 31 giving of notice of the determination, apply to the director
10 32 for a hearing or unless the taxpayer contests the determination
10 33 by paying the tax, interest, and penalty and timely filing a
10 34 claim for refund. At the hearing, evidence may be offered to
10 35 support the determination or to prove that it is incorrect.

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

Senate Study Bill 3112 continued

12 1 physically connected directly to pumps which dispense petroleum
12 2 that is sold at the motor ~~vehicle~~ fuel outlet on a retail
12 3 basis.
12 4 Sec. 20. REPEAL. Section 423.28, Code 2009, is repealed.
12 5 Sec. 21. REPEAL. Section 15A.9, Code Supplement 2009, is
12 6 repealed.
12 7 Sec. 22. RETROACTIVE APPLICABILITY. The section of this
12 8 Act amending section 422.89 applies retroactively to January 1,
12 9 2010, for tax years beginning on or after that date.
12 10 EXPLANATION
12 11 This bill relates to the technical administration of the tax
12 12 and related laws by the department of revenue.
12 13 The bill amends Code sections 15.293A and 15.393 to
12 14 eliminate certain income=related references to the insurance
12 15 premium tax and moneys and credits tax which are not imposed
12 16 on an income basis. The amended Code sections relate to the
12 17 tax credits available for brownfields redevelopment, film
12 18 expenditures, and film investment.
12 19 The bill repeals Code section 15A.9, which is the quality
12 20 jobs enterprise zone program. The program commonly known as
12 21 the enterprise zone program is currently administered pursuant
12 22 to Code sections 15E.191 through 15E.198, and the last contract
12 23 issued under the quality jobs enterprise zone program is now
12 24 expired making Code section 15A.9 no longer necessary. The
12 25 bill makes changes to Code sections 15.119, 15.329, and 422.33
12 26 in conformance with the repeal of this Code section.
12 27 The bill amends Code section 364.2, relating to franchise
12 28 fees imposed by cities, to require a city to notify the
12 29 department whenever an ordinance imposing a franchise fee is
12 30 adopted, amended, or repealed. Because the imposition of
12 31 a franchise fee requires utilities to stop collecting the
12 32 local option sales and services tax and instead collect the
12 33 franchise fee, the adoption, amendment, or repeal of such a fee
12 34 impacts the department's distribution of local option sales and
12 35 services tax revenue to local governments.

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13 1 The bill amends Code section 421.27 to clarify existing
13 2 departmental policy regarding the penalty that applies not only
13 3 for failure to timely file a return but also for a failure
13 4 to timely remit taxes to the department. By operation of
13 5 law, the changes to Code section 421.27 also apply to Code
13 6 sections 423.40, 424.17, 437A.13, 450.63, 452A.65, 453A.28, and
13 7 453A.46(3).
13 8 The bill amends Code sections 422.7 and 422.35 to update
13 9 the name of the individual and corporate tax credits for the
13 10 production of alcohol and biofuels to be the same as the name
13 11 of the credit available in section 40 of the federal Internal
13 12 Revenue Code.
13 13 The bill amends Code section 422.36 to provide that domestic
13 14 corporations must provide a copy of their federal income tax
13 15 return when filing their Iowa corporation income tax return.
13 16 Currently, foreign corporations are subject to the same
13 17 requirement and this change reflects the current practices of
13 18 the department.
13 19 In 2009, certain provisions were amended to increase the
13 20 standard for the exception to the underpayment of estimated
13 21 tax penalty for Iowa corporation income tax for annualization
13 22 of income from 90 percent of the tax liability to 100 percent
13 23 of the tax liability. Code section 422.89, which contains a
13 24 similar provision, was not amended at that time. The bill
13 25 amends Code section 422.89 to reflect the substance of the
13 26 changes made in 2009. This provision of the bill applies
13 27 retroactively to January 1, 2010, for tax years beginning on
13 28 or after that date.
13 29 Code section 423.3 is amended to correct an internal
13 30 reference to Code section 321.105A relating to the sale of a
13 31 motor vehicle and the fee for a new vehicle registration.
13 32 Code section 423.28 required motor vehicle dealers to file
13 33 reports related to the paying of the sales tax for the sale of
13 34 motor vehicles. Because such sales are now subject to the fee
13 35 for new vehicle registration and such reports are no longer

Senate Study Bill 3112 continued

14 1 required, the bill repeals Code section 423.28. The bill makes
14 2 a conforming amendment to Code section 423.57.
14 3 The bill amends Code section 423.36 to provide that a new
14 4 sales tax permit must be obtained if a place of business is
14 5 relocated to a new county. This change reflects the current
14 6 practice of the department and impacts the distribution of
14 7 local option sales tax revenue.
14 8 The bill amends Code section 423.37 to specify that the
14 9 period for examination and determination of the correct amount
14 10 of tax is unlimited, not only for failure to timely file a
14 11 return but also for failure to timely remit the tax due when
14 12 no return is required to be filed. Code section 423.37 is
14 13 further amended to specify that certain authority related
14 14 to determining the amount of tax due applies not only to an
14 15 incorrectly or insufficiently filed return, or to a failure to
14 16 timely file a return, but also to a failure to timely remit
14 17 taxes when no return is required to be filed.
14 18 The bill amends Code section 424.2, pertaining to the
14 19 environmental protection charge, by correcting out=of=date
14 20 language relating to motor fuel outlets. The amendment makes
14 21 language in Code section 424.2 consistent with similar language
14 22 used in Code chapter 452A, relating to motor fuel and special
14 23 fuel taxes.
LSB 5383XD (6) 83
tw/sc

Senate Study Bill 3113

SENATE FILE
BY (PROPOSED COMMITTEE ON
TRANSPORTATION BILL BY
CHAIRPERSON RIELLY)

A BILL FOR

An Act relating to the regulation of motor vehicle franchises.
BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 5703XC (2) 83
rn/nh

Senate Study Bill 3113 continued

PAG LIN

1 1 Section 1. Section 322A.1, subsection 5, paragraph d, Code
1 2 2009, is amended to read as follows:
1 3 d. The operation of the franchisee's business is
1 4 substantially associated with the franchiser's trademark,
1 5 service mark, trade name, advertising, or other commercial
1 6 symbol designating the franchiser.
1 7 Sec. 2. Section 322A.1, subsection 5, Code 2009, is amended
1 8 to read as follows:
1 9 5. a. "Franchise" means a contract between two or more
1 10 persons when all of the following conditions are included:
1 11 ~~a.~~ (1) A commercial relationship of definite duration or
1 12 continuing indefinite duration is involved.
1 13 ~~b.~~ (2) The franchisee is granted the right to offer
1 14 and sell motor vehicles manufactured or distributed by the
1 15 franchiser.
1 16 ~~c.~~ (3) The franchisee, as an independent business,
1 17 constitutes a component of franchiser's distribution system.
1 18 ~~d.~~ (4) The operation of franchisee's business is
1 19 substantially associated with the franchiser's trademark,
1 20 service mark, trade name, advertising, or other commercial
1 21 symbol designating the franchiser.
1 22 ~~e.~~ (5) The operation of the franchisee's business is
1 23 substantially reliant on franchiser for the continued supply of
1 24 motor vehicles, parts, and accessories.
1 25 b. "Franchise" includes a separate agreement between the
1 26 franchisee and the franchiser which relates to the franchise,
1 27 whether entered into prior to the date of the franchise,
1 28 contemporaneously with the franchise, or subsequent to the date
1 29 of the franchise.
1 30 Sec. 3. NEW SECTION. 322A.18 Duty of good faith.
1 31 A franchise imposes on the parties a duty of good faith in
1 32 performance and enforcement of the franchise agreement. "Good
1 33 faith" means honesty in fact and the observance of reasonable
1 34 commercial standards of fair dealing in the trade.
1 35 Sec. 4. NEW SECTION. 322A.19 Jurisdiction.

Senate Study Bill 3113 continued

2 1 1. A condition, stipulation, or provision in a franchise
2 2 restricting jurisdiction to a forum outside this state is void.
2 3 2. A condition, stipulation, or provision in a franchise
2 4 providing that the franchisee consents to the jurisdiction of a
2 5 forum outside this state is void.
2 6 3. A civil action or proceeding arising out of a franchise
2 7 may be commenced wherever jurisdiction over the parties or
2 8 subject matter exists, even if the franchise limits actions or
2 9 proceedings to a designated jurisdiction.
2 10 Sec. 5. NEW SECTION. 322A.20 Choice of law.
2 11 1. A condition, stipulation, or provision in a franchise
2 12 requiring the application of the law of another state in lieu
2 13 of this chapter is void.
2 14 2. A condition, stipulation, or provision in a franchise
2 15 that the franchise is to be governed by or construed in
2 16 accordance with the law of another state is void.
2 17 Sec. 6. NEW SECTION. 322A.21 Waivers void.
2 18 A condition, stipulation, or provision in a franchise
2 19 requiring a franchisee to waive compliance with or relieving a
2 20 person of a duty or liability imposed by or a right provided by
2 21 this chapter or order under this chapter is void. This section
2 22 shall not affect the settlement of disputes, claims, or civil
2 23 lawsuits arising or brought pursuant to this chapter.
2 24 Sec. 7. NEW SECTION. 322A.22 Other line=makes.
2 25 A condition, stipulation, or provision in a franchise
2 26 prohibiting or restricting the franchisee from continuing
2 27 another line=make at the dealership or adding an additional
2 28 line=make to the dealership is void.
2 29 Sec. 8. NEW SECTION. 322A.23 Customer lists.
2 30 A condition, stipulation, or provision in a franchise which
2 31 requires the franchisee to provide its customer lists or
2 32 service files to the franchiser is void. This section shall
2 33 not apply to notification by the franchisee to the franchiser
2 34 of the delivery of a new motor vehicle to a customer or to the
2 35 submission to the franchiser of a claim for warranty parts,

Senate Study Bill 3113 continued

3 1 repairs, or services supplied or performed by the franchisee.
3 2 Sec. 9. NEW SECTION. 322A.24 Construction.
3 3 This chapter shall be liberally construed to effectuate its
3 4 purposes.
3 5 EXPLANATION
3 6 This bill modifies existing provisions and adds several
3 7 new provisions to Code chapter 322A, which regulates motor
3 8 vehicle franchises. The new provisions are similar to current
3 9 provisions in Code chapter 523H and Code section 537A.10 which
3 10 govern general franchises operating or granted within the
3 11 state and which are expressly not applicable to motor vehicle
3 12 franchises under Code chapter 322A.
3 13 The bill expands the definition of a franchise beyond a
3 14 contract meeting certain conditions specified in the chapter to
3 15 include a separate agreement relating to the franchise, entered
3 16 into prior to, contemporaneously with, or subsequent to the
3 17 contract date.
3 18 The bill imposes on the parties to the franchise a duty of
3 19 good faith in performance and enforcement of the franchise.
3 20 The bill addresses franchise jurisdiction, providing that a
3 21 condition, stipulation, or provision in a franchise restricting
3 22 jurisdiction to a forum outside this state, or providing that
3 23 the franchisee consents to the jurisdiction of a forum outside
3 24 this state, is void. The bill provides that a civil action
3 25 or proceeding arising out of a franchise may be commenced
3 26 wherever jurisdiction over the parties or subject matter
3 27 exists, even if the franchise limits actions or proceedings to
3 28 a designated jurisdiction. Further, the bill states that a
3 29 condition, stipulation, or provision in a franchise requiring
3 30 the application of the law of another state in lieu of Code
3 31 chapter 322A, or a condition, stipulation, or provision in a
3 32 franchise that the franchise is to be governed by or construed
3 33 in accordance with the law of another state, is void.
3 34 The bill additionally provides that a condition,
3 35 stipulation, or provision in a franchise requiring a franchisee

Senate Study Bill 3113 continued

4 1 to waive compliance with or relieving a person of a duty or
4 2 liability imposed by or a right provided by Code chapter
4 3 322A is void, but that this shall not affect the settlement
4 4 of disputes, claims, or civil lawsuits arising or brought
4 5 pursuant to the Code chapter. Also void would be a provision,
4 6 stipulation, or provision in a franchise prohibiting or
4 7 restricting the franchisee from continuing another line=make at
4 8 a dealership or adding an additional line=make to a dealership,
4 9 and requiring a franchisee to provide its customer lists or
4 10 service files to a franchiser. The bill states that this
4 11 is not applicable to notification by the franchisee to the
4 12 franchiser of the delivery of a new motor vehicle to a customer
4 13 or to the submission to the franchiser of a claim for warranty
4 14 parts, repairs, or services supplied or performed by the
4 15 franchisee.
4 16 The bill states that Code chapter 322A is to be liberally
4 17 construed to effectuate its purposes.
LSB 5703XC (2) 83
rn/nh

Senate Study Bill 3114

SENATE/HOUSE FILE
BY (PROPOSED OFFICE OF
ENERGY INDEPENDENCE
BILL)

A BILL FOR

1 An Act relating to the utilization of energy by authorizing
2 the establishment of an energy finance program to finance
3 certain energy improvements, and providing a penalty.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 5241XD (5) 83
rn/sc

Senate Study Bill 3114 continued

PAG LIN

1 1 Section 1. Section 331.441, subsection 2, paragraph b,
1 2 Code Supplement 2009, is amended by adding the following new
1 3 subparagraph:
1 4 NEW SUBPARAGRAPH. (20) The establishment or funding of
1 5 an energy finance program to finance energy improvements in a
1 6 county pursuant to chapter 385.
1 7 Sec. 2. Section 384.24, subsection 3, Code Supplement 2009,
1 8 is amended by adding the following new paragraph:
1 9 NEW PARAGRAPH. y. The establishment or funding of an energy
1 10 finance program to finance energy improvements within a city
1 11 pursuant to chapter 385.
1 12 Sec. 3. NEW SECTION. 385.1 Legislative findings == purpose.
1 13 The general assembly finds all of the following:
1 14 1. Renewable energy production and energy efficiency
1 15 improvements to residential, commercial, and industrial real
1 16 property, are necessary to address the issue of energy bill
1 17 stabilization.
1 18 2. The initial investment required to make residential,
1 19 commercial, or industrial real property more energy=efficient
1 20 or to utilize renewable energy prevents many property owners
1 21 from making such improvements. To make energy improvements
1 22 more affordable and to promote their installation, it is
1 23 necessary to authorize an alternative procedure for owners of a
1 24 residence or business to finance such improvements.
1 25 3. The general assembly declares that a public purpose
1 26 shall be served by authorizing cities and counties to establish
1 27 energy finance programs and authorizing the governing body
1 28 of any city or county to assist property owners in financing
1 29 the installation of renewable energy improvements and energy
1 30 efficiency improvements by offering financial terms that are
1 31 beneficial to the property owner.
1 32 Sec. 4. NEW SECTION. 385.2 Definitions.
1 33 As used in this chapter, unless the context otherwise
1 34 requires:
1 35 1. "Energy analysis" means a written report summarizing the

Senate Study Bill 3114 continued

2 1 results of a physical inspection of a residential, commercial,
2 2 or industrial building conducted by a public utility or other
2 3 agency or entity approved by the office. The report shall
2 4 document deficiencies in energy efficiency operation and
2 5 recommend specified energy improvements.
2 6 2. "Energy improvement" means the installation of one
2 7 or more appliances or heating and cooling systems, physical
2 8 alteration to a building, or installation of a renewable energy
2 9 production facility which has been identified in an energy
2 10 analysis as improving the energy=efficient operation of a
2 11 building or as decreasing the amount of energy consumed by that
2 12 building, or both.
2 13 3. "Office" means the office of energy independence
2 14 established in section 469.2.
2 15 Sec. 5. NEW SECTION. 385.3 Energy finance program
2 16 established.
2 17 1. A city or county may adopt an ordinance establishing an
2 18 energy finance program in order to allow the city or county
2 19 to offer to assess to residential, commercial, or industrial
2 20 property within the city or county the cost of purchasing or
2 21 installing energy improvements. The office shall advise cities
2 22 and counties in administering the program.
2 23 2. An energy finance program shall be limited to energy
2 24 improvements that will be permanently affixed to real property
2 25 that has already been developed or upon which buildings have
2 26 already been constructed. Property owners participating in the
2 27 program may receive funding for the improvements in advance
2 28 of installation, or as a reimbursement of amounts expended by
2 29 the property owner for completed installations. However, the
2 30 amount advanced or reimbursed shall not exceed the total amount
2 31 identified in the petition submitted by the property owner
2 32 pursuant to section 385.6.
2 33 3. Petitions for participation in an energy finance program
2 34 adopted by a city or county may be submitted, considered,
2 35 and approved or denied either individually or aggregated by

Senate Study Bill 3114 continued

3 1 neighborhood, district, region, or other basis.
3 2 Sec. 6. NEW SECTION. 385.4 Resolution of intent.
3 3 1. The governing body of a city or county may not consider
3 4 an ordinance establishing an energy finance program until
3 5 after the governing body has adopted a resolution of intent
3 6 indicating or including the following:
3 7 a. That the city or county considers it in the public
3 8 interest to finance the installation of energy improvements.
3 9 b. That the city or county proposes to make special
3 10 assessment financing or other financing available to property
3 11 owners seeking to install or make energy improvements.
3 12 c. A nonexclusive list of examples of energy improvements
3 13 which may be included in the proposed ordinance and financed
3 14 pursuant to the program.
3 15 d. A brief description of the proposed arrangements for
3 16 financing the program.
3 17 2. The city or county shall hold a public hearing on the
3 18 resolution at which interested persons may inquire about or
3 19 object to the proposed program. Notice of the hearing shall
3 20 be published as provided in section 331.305 or 362.3, as
3 21 applicable.
3 22 Sec. 7. NEW SECTION. 385.5 Program requirements ==
3 23 ordinance.
3 24 1. An ordinance establishing an energy finance program
3 25 shall include the following regarding implementation of the
3 26 program:
3 27 a. A schedule for packaging assessments for program finance
3 28 purposes and city council or board of supervisors approval.
3 29 b. A method for prioritizing approved applications in the
3 30 event the number of applications received for a year exceeds
3 31 program funds.
3 32 c. Energy analysis requirements.
3 33 2. After adoption of an ordinance establishing an energy
3 34 finance program, a plan for raising a capital amount required
3 35 to pay for work performed pursuant to contractual assessments

Senate Study Bill 3114 continued

4 1 shall be established by a city or county. A city or county
4 2 shall be authorized to advance funds available to it from any
4 3 source, including the sale of bonds as provided in section
4 4 385.11 and in section 331.441 or 384.24, as applicable. The
4 5 plan shall specify the source of financing contemplated by the
4 6 city or county. The plan shall also provide for a reserve
4 7 fund and for apportionment of all or any portion of the costs
4 8 incidental to financing, administration, and collection of the
4 9 special assessments between or among property owners and the
4 10 city or county.
4 11 3. The ordinance establishing an energy finance program
4 12 shall provide for the establishment of an energy finance
4 13 program fund into which bond proceeds and other funds to be
4 14 utilized in administering the program shall be deposited.
4 15 4. If a county has adopted a countywide ordinance, a city
4 16 cannot adopt an ordinance establishing an energy finance
4 17 program applicable to that portion of the city located within
4 18 the county.
4 19 Sec. 8. NEW SECTION. 385.6 Petition by property owners.
4 20 1. The office shall develop and make available to a city or
4 21 county that has established an energy finance program petitions
4 22 for distribution to prospective program participants.
4 23 2. Program participation shall be initiated solely by
4 24 petition of the property owner, or by a representative of
4 25 several related or adjoining lots or parcels who has obtained
4 26 written permission and a copy of an energy analysis from each
4 27 owner. If a property is in the name of more than one owner, the
4 28 petition shall be signed by each owner.
4 29 3. The petition shall state that a copy of a completed
4 30 energy analysis shall be required for participation in the
4 31 program and must be attached to the petition. The petition
4 32 shall contain space for the printed name, signature, and
4 33 address of the petitioner. For each petitioner, the petition
4 34 shall contain space for identification of energy improvements
4 35 identified in the energy analysis for which energy finance

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5 1 program financing is sought, a cost estimate for each
5 2 improvement so identified, and a proposed time frame within
5 3 which the improvements shall be undertaken and completed.
5 4 4. Within thirty days following submission of a petition
5 5 and accompanying energy analysis, a petitioner shall receive
5 6 notification from the city or county of approval pending
5 7 adoption of a resolution pursuant to section 385.7 by the city
5 8 council or county board of supervisors, or of denial of the
5 9 petition. Following adoption of a resolution, an approved
5 10 petitioner shall receive notification from the city or county
5 11 regarding funding amounts, authorization to purchase directly
5 12 any equipment and materials for the installation of energy
5 13 improvements and to contract directly for such installation,
5 14 and verification requirements regarding completion of
5 15 improvements.
5 16 5. Special assessments for energy improvements shall be
5 17 levied only upon the free and willing consent of the owner of
5 18 each lot or parcel on which an assessment is levied at the time
5 19 of levy.
5 20 Sec. 9. NEW SECTION. 385.7 Resolution and filing.
5 21 1. Approved petitions, whether submitted on an individual
5 22 or aggregate basis, shall be grouped either by date of approval
5 23 or property location, identified by legal description, and
5 24 submitted to a city council or county board of supervisors in
5 25 the form of a resolution for approval by majority vote.
5 26 2. An adopted resolution shall be forwarded to the city
5 27 clerk, or the county auditor in the case of a county, along
5 28 with a schedule including a description and parcel number of
5 29 each lot, the name of the property owner, and the total amount
5 30 to be assessed to each lot. In counties in which taxes are
5 31 collected in two or more places, certification shall be to the
5 32 office of county treasurer where the special assessments are
5 33 collected. The county treasurer shall preserve the resolution
5 34 and schedule as a part of the records of the office until the
5 35 city clerk or county auditor certifies the final assessment

Senate Study Bill 3114 continued

6 1 schedule as provided in section 385.8 or certifies that the
6 2 petition has been abandoned.
6 3 Sec. 10. NEW SECTION. 385.8 Adoption of schedule.
6 4 1. Within ten days after filing of the resolution and
6 5 schedule pursuant to section 385.7, a city council or county
6 6 board of supervisors shall meet, consider, and adopt or amend
6 7 and adopt, by resolution, a final assessment schedule. The
6 8 resolution must:
6 9 a. Confirm and levy assessments.
6 10 b. State the number of annual installments, not exceeding
6 11 fifteen, into which assessments of one hundred dollars or more
6 12 are divided.
6 13 c. Provide for interest on all unpaid installments at a rate
6 14 not exceeding that permitted by chapter 74A.
6 15 d. State the time when assessments are payable.
6 16 e. Direct the city clerk or county auditor, as appropriate,
6 17 to certify the final schedule to the treasurer of each county
6 18 in which the assessed property is located.
6 19 2. The city clerk or county auditor shall send written
6 20 notice by regular mail to each property owner whose petition
6 21 has been approved and whose property has been included on the
6 22 schedule. The notice shall contain all the information and
6 23 statements required to be included in notices under section
6 24 384.60, subsection 2.
6 25 3. The county treasurer shall enter on the county system the
6 26 amounts to be assessed against each lot, as certified.
6 27 Sec. 11. NEW SECTION. 385.9 Installments due == lien
6 28 created.
6 29 1. Special assessments levied by a city or county pursuant
6 30 to this chapter shall be levied and collected in the same
6 31 manner as provided in section 384.65 for public improvement
6 32 special assessments levied by a city.
6 33 2. From the date of filing of certification of the
6 34 resolution and schedule pursuant to section 385.7, the special
6 35 assessments with all interest become and remain a lien on the

Senate Study Bill 3114 continued

7 1 benefited property until paid, and have equal precedence with
7 2 ordinary taxes, and are not divested by any judicial sale.
7 3 Sec. 12. NEW SECTION. 385.10 Payment to county treasurer.
7 4 Assessments levied and certified under this chapter,
7 5 including installments and interest, are payable at the office
7 6 of the county treasurer of the county where the property
7 7 assessed is located, except that assessments may be paid
7 8 in full or in part and without interest within thirty days
7 9 after the date of certification, at the office of the county
7 10 treasurer, if the property being assessed is located in an
7 11 unincorporated area, or the city clerk, if the property being
7 12 assessed is located in an incorporated area.
7 13 Sec. 13. NEW SECTION. 385.11 Bonds issued.
7 14 1. After certification of the final assessment schedule, a
7 15 city or county may, by resolution, authorize and issue bonds in
7 16 anticipation of the collection of unpaid special assessments.
7 17 However, the total principal amount of bonds issued may not
7 18 exceed the total amount of unpaid special assessments.
7 19 2. All special assessment bonds are negotiable, must state
7 20 on their face that they are issued under the provisions of this
7 21 chapter, and are payable as to both principal and interest from
7 22 the proceeds of the special assessments. Such bonds may bear
7 23 interest at a rate not exceeding that permitted by chapter
7 24 74A payable annually or semiannually, must mature serially
7 25 on December 1 of the years in which any of the principal is
7 26 scheduled to become due, and may contain a provision that the
7 27 city or county reserves the right and option of calling and
7 28 redeeming any or all of the bonds prior to maturity on any
7 29 interest payment date or within forty=five days thereafter
7 30 upon the terms specified therein. Such bonds must be called
7 31 "improvement bonds", must designate the general type of
7 32 improvement or improvements for which issued, and may be issued
7 33 in any denomination. The bonds must be named in a way to
7 34 distinguish them from other improvement bonds of the city or
7 35 county, and to designate the property specially assessed for

Senate Study Bill 3114 continued

8 1 the improvement. Improvement bonds issued for any one levy
8 2 must bear the same date and be divided into as many series as
8 3 there are years in which installments of the special assessment
8 4 mature, and each series must be as nearly equal in amount as
8 5 practicable.
8 6 3. The proceeds of the special assessments and interest
8 7 collected thereon must be used and applied by the city or
8 8 county to the payment of the interest on the bonds and to
8 9 the retirement of the principal as rapidly as proceeds are
8 10 collected. Such bonds and coupons do not make the city or
8 11 county liable in any way, except for the proper application of
8 12 special assessments. If interest becomes due on any of the
8 13 bonds when there is no fund from which to pay it, the council
8 14 or board of supervisors may make a temporary loan for payment
8 15 of the interest, which loan must be repaid from the special
8 16 assessments and interest pledged to secure the bonds, but in
8 17 case of purchase by the city or county at tax sale of the
8 18 property on which a special assessment under this chapter is
8 19 levied, from the general fund.
8 20 4. Special assessment bonds issued under this section
8 21 must be sold at public or private sale in the manner provided
8 22 by chapter 75, and may not be sold for less than par value
8 23 with accrued interest from date to the time of delivery. The
8 24 proceeds of the sale must be applied to the payment of the
8 25 cost of financing the energy improvements approved under this
8 26 chapter.
8 27 5. Any excess of proceeds from special assessments
8 28 remaining after all of the bonds have been paid with interest
8 29 may be credited to the energy finance program fund established
8 30 pursuant to ordinance or returned to the applicable property
8 31 owners on a proportionate basis.
8 32 6. Cities or counties may issue refunding bonds to pay off
8 33 and take up special assessment bonds issued pursuant to this
8 34 chapter, or to refund any part thereof, as follows:
8 35 a. Refunding bonds must substantially conform to the

Senate Study Bill 3114 continued

9 1 provisions of this chapter, and the face value is limited to
9 2 the amount of the unpaid special assessments with the interest
9 3 thereon of the particular issue of bonds to be refunded.
9 4 b. Refunding bonds or their proceeds may be used only to pay
9 5 improvement bonds taken up.
9 6 c. The expense of refunding bonds must be paid out of the
9 7 energy finance program fund of the city or county.
9 8 d. When refunding bonds are issued to pay improvement
9 9 bonds, all special assessments and sinking funds applicable to
9 10 the payment of the improvement bonds previously issued must
9 11 be applied in the same manner and to the same extent to the
9 12 payment of the refunding bonds, and all the powers and duties
9 13 to levy and to carry special assessments and taxes, to create
9 14 liens upon property, and to establish sinking funds in respect
9 15 to the bonds previously issued continue until refunding bonds
9 16 are paid.
9 17 e. The city or county shall collect the special assessment
9 18 out of which the refunding bonds are payable and hold the
9 19 proceeds in trust for the payment of the refunding bonds, but
9 20 it is not liable except for the proper application of the
9 21 assessments.
9 22 7. No action shall be brought questioning the legality
9 23 of the bonds authorized by this section from and after sixty
9 24 days from the date the bonds are ordered issued by the city or
9 25 county.
9 26 Sec. 14. NEW SECTION. 385.12 Verification == penalty.
9 27 1. The office shall determine an inspection procedure to
9 28 be utilized by a city or county upon completion of an energy
9 29 improvement financed pursuant to the energy finance program.
9 30 2. The city council or board of supervisors may impose a
9 31 civil penalty against a property owner for failure to complete
9 32 an energy improvement for which a petition was submitted by the
9 33 property owner and approved and financing was received. The
9 34 penalty may be in an amount up to but not exceeding the amount
9 35 of financing received.

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10 1 Sec. 15. NEW SECTION. 385.13 Report.
10 2 The results of the program including but not limited to the
10 3 number of petitions received, the number of petitions approved,
10 4 types of energy improvements for which special assessments are
10 5 sought, and average special assessment size, shall be submitted
10 6 by a city or county participating in the program to the office
10 7 by December 1 annually. The office shall make available on its
10 8 internet site all information received under this subsection.
10 9 Sec. 16. Section 403.19, subsection 2, Code 2009, is amended
10 10 to read as follows:
10 11 2. That portion of the taxes each year in excess of such
10 12 amount shall be allocated to and when collected be paid into
10 13 a special fund of the municipality to pay the principal of
10 14 and interest on loans, moneys advanced to, or indebtedness,
10 15 whether funded, refunded, assumed, or otherwise, including
10 16 bonds issued under the authority of section 403.9, subsection
10 17 1, incurred by the municipality to finance or refinance, in
10 18 whole or in part, an urban renewal project within the area,
10 19 ~~and~~ to provide assistance for low and moderate income family
10 20 housing as provided in section 403.22, and to provide funding
10 21 for an energy finance program adopted pursuant to chapter 385
10 22 with regard to property within the urban renewal area, except
10 23 that taxes for the regular and voter=approved physical plant
10 24 and equipment levy of a school district imposed pursuant to
10 25 section 298.2 and taxes for the payment of bonds and interest
10 26 of each taxing district must be collected against all taxable
10 27 property within the taxing district without limitation by the
10 28 provisions of this subsection. However, all or a portion of
10 29 the taxes for the physical plant and equipment levy shall be
10 30 paid by the school district to the municipality if the auditor
10 31 certifies to the school district by July 1 the amount of such
10 32 levy that is necessary to pay the principal and interest
10 33 on bonds issued by the municipality to finance an urban
10 34 renewal project, which bonds were issued before July 1, 2001.
10 35 Indebtedness incurred to refund bonds issued prior to July 1,

Senate Study Bill 3114 continued

11 1 2001, shall not be included in the certification. Such school
11 2 district shall pay over the amount certified by November 1
11 3 and May 1 of the fiscal year following certification to the
11 4 school district. Unless and until the total assessed valuation
11 5 of the taxable property in an urban renewal area exceeds the
11 6 total assessed value of the taxable property in such area as
11 7 shown by the last equalized assessment roll referred to in
11 8 subsection 1, all of the taxes levied and collected upon the
11 9 taxable property in the urban renewal area shall be paid into
11 10 the funds for the respective taxing districts as taxes by
11 11 or for the taxing districts in the same manner as all other
11 12 property taxes. When such loans, advances, indebtedness, and
11 13 bonds, if any, and interest thereon, have been paid, all moneys
11 14 thereafter received from taxes upon the taxable property in
11 15 such urban renewal area shall be paid into the funds for the
11 16 respective taxing districts in the same manner as taxes on all
11 17 other property. In those instances where a school district
11 18 has entered into an agreement pursuant to section 279.64 for
11 19 sharing of school district taxes levied and collected from
11 20 valuation described in this subsection and released to the
11 21 school district, the school district shall transfer the taxes
11 22 as provided in the agreement.
11 23 EXPLANATION
11 24 This bill authorizes cities and counties to establish an
11 25 energy finance program to finance energy improvements for the
11 26 benefit of property owners within the city or county.
11 27 The bill defines an "energy improvement" as the installation
11 28 of one or more appliances or heating and cooling systems,
11 29 physical alteration to a building, or installation of a
11 30 renewable energy production facility which has been identified
11 31 in an energy analysis as improving the energy=efficient
11 32 operation of a building or as decreasing the amount of energy
11 33 consumed by that building, or both. The bill defines an
11 34 "energy analysis" as a written report summarizing the results
11 35 of a physical inspection of a residential, commercial, or

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12 1 industrial building conducted by a public utility or other
12 2 agency or entity approved by the office of energy independence
12 3 documenting deficiencies in energy efficiency operation and
12 4 recommending specified energy improvements.
12 5 Pursuant to the program, a city or county may offer to assess
12 6 to residential, commercial, or industrial property within the
12 7 city or county the cost of purchasing or installing energy
12 8 improvements. The office of energy independence shall serve in
12 9 an advisory capacity. The bill states that the program shall
12 10 be limited to energy improvements that will be permanently
12 11 affixed to real property which has already been developed
12 12 or upon which buildings have already been constructed, and
12 13 that property owners participating in the program may receive
12 14 advance funding for the improvements or reimbursement after the
12 15 fact.
12 16 The bill provides that the governing body of a city or county
12 17 initiates participation in the program by adopting a resolution
12 18 of intent indicating that it is in the public interest to
12 19 finance the installation of energy improvements, that special
12 20 assessment financing or other financing shall be available to
12 21 property owners, examples of energy improvements which may be
12 22 financed and a brief description of financing arrangements.
12 23 The bill provides for notice regarding the time and place of a
12 24 public hearing on the resolution.
12 25 The bill directs a city or county wishing to establish
12 26 an energy finance program to adopt an ordinance which
12 27 shall include a schedule for packaging assessments for
12 28 program finance purposes and city council or county board
12 29 of supervisors approval, a method for prioritizing approved
12 30 applications, and energy analysis requirements. After adoption
12 31 of the ordinance, the city or county is also directed to
12 32 establish a plan for raising the capital to pay for work
12 33 performed pursuant to the special assessments and shall be
12 34 authorized to advance funds available to it from any source.
12 35 The bill states that if a county has adopted a countywide

Senate Study Bill 3114 continued

13 1 ordinance, a city cannot adopt an ordinance in that portion of
13 2 the city located within the county.
13 3 The bill provides that the office shall develop petitions
13 4 for use by property owners applying for the program, informing
13 5 the property owner of the need to complete an energy analysis,
13 6 containing space for property owner identifying information and
13 7 for a listing of energy improvements and cost estimates for
13 8 which a special assessment is sought, and requesting a proposed
13 9 time frame within which the improvements shall be undertaken
13 10 and completed. Program participation shall be initiated solely
13 11 by petition of the property owner or by a representative of
13 12 several related or adjoining lots or parcels who has obtained
13 13 written permission, a petition signature, and a copy of an
13 14 energy analysis from each owner. The bill provides that within
13 15 30 days following submission of a petition and accompanying
13 16 energy analysis, a petitioner shall receive notification
13 17 from the city or county of approval or denial, and that if
13 18 approved the petitioner shall receive subsequent notification
13 19 regarding funding amounts, authorization to purchase directly
13 20 any equipment and materials for the installation of energy
13 21 improvements and to contract directly for such installation,
13 22 and verification requirements regarding completion of
13 23 improvements.
13 24 The bill provides that approved petitions, whether submitted
13 25 on an individual or aggregate basis, shall be grouped either
13 26 by date of approval or property location, identified by legal
13 27 description, and submitted to a city council or county board
13 28 of supervisors in the form of a resolution for approval by
13 29 majority vote. The bill directs a city council or county board
13 30 of supervisors to forward an approved resolution to the city
13 31 clerk or county auditor, along with a schedule including a
13 32 description and parcel number of each lot, the name of the
13 33 property owner, the valuation of each lot as determined by the
13 34 council, and the total amount proposed to be assessed to each
13 35 lot.

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14 1 The bill then specifies procedures for adoption of the
14 2 schedule by the city council or county board of supervisors,
14 3 certification to the county treasurer, and property owner
14 4 notification provisions. The bill provides that the special
14 5 assessments shall be levied and collected in the same manner as
14 6 provided in Code section 384.65 for public improvement special
14 7 assessments levied by a city. Bonding provisions are set forth
14 8 which closely correspond to provisions applicable to special
14 9 assessment bonds authorized in Code section 384.68.
14 10 The bill authorizes utilization of tax increment financing
14 11 moneys to fund special assessments under the program
14 12 for property in an urban renewal area, and includes the
14 13 establishment of the energy finance program within the
14 14 definition of "essential corporate purpose" and "essential
14 15 county purpose" contained in Code chapters 384 and 331,
14 16 respectively, and applicable to the issuance of general
14 17 obligation bonds.
14 18 The bill requires the office of energy independence to
14 19 determine an inspection procedure to verify completion of an
14 20 energy improvement financed pursuant to the program. The
14 21 office is also required to make available on its internet site
14 22 the results of the program based upon information required
14 23 to be submitted on an annual basis by a city or county
14 24 participating in the program.
14 25 The bill provides that a city or county may impose a civil
14 26 penalty in an amount not to exceed the amount financed for
14 27 failure to complete an energy improvement for which a petition
14 28 was submitted and approved and financing was received.
LSB 5241XD (5) 83
rn/sc

Senate Study Bill 3115

SENATE/HOUSE FILE
BY (PROPOSED DEPARTMENT
OF NATURAL RESOURCES
BILL)

A BILL FOR

An Act regarding matters under the purview of the department of natural resources.

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

TLSB 5272DP (5) 83
rn/rj

Senate Study Bill 3115 continued

PAG LIN

1 1 Section 1. Section 17A.7, subsection 1, Code 2009, is
1 2 amended to read as follows:
1 3 1. An interested person may petition an agency requesting
1 4 the adoption, amendment, or repeal of a rule. Each agency
1 5 shall prescribe by rule the form for petitions and the
1 6 procedure for their submission, consideration, and disposition.
1 7 a. Within sixty days after submission of a petition, the
1 8 agency either shall deny the petition in writing on the merits,
1 9 stating its reasons for the denial, or initiate rulemaking
1 10 proceedings in accordance with section 17A.4, or issue a rule
1 11 if it is not required to be issued according to the procedures
1 12 of section 17A.4, subsection 1.
1 13 b. Notwithstanding the sixty=day=response=period
1 14 requirement specified in paragraph "a", the department of
1 15 natural resources, the environmental protection commission, or
1 16 the natural resource commission, shall respond to a petition
1 17 requesting the adoption, amendment, or repeal of a rule within
1 18 one hundred twenty days after submission of a petition.
1 19 Sec. 2. Section 455B.152, subsection 2, Code 2009, is
1 20 amended by adding the following new paragraph:
1 21 NEW PARAGRAPH. c. The department shall coordinate the data
1 22 collection with the United States environmental protection
1 23 agency upon the enactment of a federal mandatory greenhouse gas
1 24 emission reporting rule.
1 25 Sec. 3. Section 455B.851, subsection 9, Code 2009, is
1 26 amended to read as follows:
1 27 9. By ~~September 1~~ December 31 of each year, the department
1 28 shall submit a report to the governor and the general assembly
1 29 regarding the greenhouse gas emissions in the state during
1 30 the previous calendar year and forecasting trends in such
1 31 emissions. ~~The first submission by the department shall be~~
~~1 32 filed by September 1, 2008, for the calendar year beginning~~
~~1 33 January 1, 2007.~~
1 34 Sec. 4. Section 456A.17, Code 2009, is amended to read as
1 35 follows:

Senate Study Bill 3115 continued

2 1 456A.17 Funds == restrictions.
2 2 1. The following four funds are created in the state
2 3 treasury:
2 4 ~~1.~~ a. A state fish and game protection fund.
2 5 ~~2.~~ b. A state conservation fund.
2 6 ~~3.~~ c. An administration fund.
2 7 ~~4.~~ d. A county conservation board fund.
2 8 2. The state fish and game protection fund, except as
2 9 otherwise provided, consists of all moneys accruing from
2 10 license fees and all other sources of revenue arising under the
2 11 fish and wildlife programs. Notwithstanding section 12C.7,
2 12 subsection 2, interest or earnings on investments or time
2 13 deposits of the moneys in the state fish and game protection
2 14 fund shall be credited to that fund.
2 15 3. The county conservation board fund consists of all moneys
2 16 credited to it by law or appropriated to it by the general
2 17 assembly.
2 18 4. The conservation fund, except as otherwise provided,
2 19 consists of all other funds accruing to the department for the
2 20 purposes embraced by this chapter.
2 21 5. The administration fund shall consist of an equitable
2 22 portion of the gross amount of the state fish and game
2 23 protection fund and the state conservation fund, to be
2 24 determined by the commission, sufficient to pay the expense of
2 25 administration entailed by this chapter.
2 26 6. All receipts and refunds and reimbursements related to
2 27 activities funded by the administration fund are appropriated
2 28 to the administration fund. All refunds and reimbursements
2 29 relating to activities of the state fish and game protection
2 30 fund shall be credited to the state fish and game protection
2 31 fund.
2 32 7. Notwithstanding section 8.33, revenues deposited
2 33 in the state conservation fund, and remaining in the state
2 34 conservation fund on June 30 of any fiscal year shall not
2 35 revert to the general fund of the state but shall remain

Senate Study Bill 3115 continued

3 1 available for expenditure for one year after the close of the
3 2 fiscal year during which such revenues were deposited. Any
3 3 such revenues remaining unexpended at the end of the one=year
3 4 period during which the revenues are available for expenditure
3 5 shall revert to the general fund of the state.
3 6 8. The department may apply for a loan for the construction
3 7 of facilities for the collection and treatment of waste water
3 8 and for the supply, treatment, and distribution of drinking
3 9 water under the state water pollution control works and
3 10 drinking water facilities financing program as established in
3 11 sections 455B.291 through 455B.299. In order to provide for
3 12 the repayment of a loan granted under the financing program,
3 13 the commission may impose a lien on not more than ten percent
3 14 of the annual revenues from user fees and related revenue
3 15 derived from park and recreation areas under chapter 461A
3 16 which are deposited in the state conservation fund. If a lien
3 17 is established as provided in this paragraph, repayment of
3 18 the loan is the first priority on the revenues received and
3 19 dedicated for the loan repayment each year.
3 20 EXPLANATION
3 21 This bill makes specified changes regarding matters within
3 22 the purview of the department of natural resources.
3 23 The bill expands the current 60=day time period specified
3 24 in Code chapter 17A within which an agency must respond to
3 25 a petition requesting the adoption, amendment, or repeal of
3 26 an administrative rule to 120 days, but only for petitions
3 27 submitted to the department of natural resources, the
3 28 environmental protection commission, or the natural resource
3 29 commission.
3 30 The bill directs the department to coordinate the collection
3 31 of data from greenhouse gas producers, as required in Code
3 32 section 455B.152, with the United States environmental
3 33 protection agency upon enactment by the agency of a federal
3 34 mandatory greenhouse gas emissions reporting rule, and changes
3 35 the date by which the department is required to submit a report

Senate Study Bill 3115 continued

4 1 to the governor and the general assembly regarding greenhouse
4 2 gas emissions in the state from September 1 to December 31
4 3 annually.
4 4 The bill additionally authorizes the department to apply
4 5 for loans for the construction of facilities for the supply,
4 6 treatment, and distribution of drinking water pursuant to
4 7 the state water pollution control works and drinking water
4 8 facilities financing program. Code section 456A.17 currently
4 9 authorizes such loans with regard to the construction of
4 10 facilities for the collection and treatment of waste water.
LSB 5272DP (5) 83
rn/rj

Senate Study Bill 3116

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

A BILL FOR

An Act relating to activities of the department of public safety including regulating the storage of flammable and combustible liquids in aboveground storage tanks and retaining fees.

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

TLSB 5422DP (6) 83
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Senate Study Bill 3116 continued

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1 1 Section 1. Section 100.1, subsection 5, Code 2009, is
1 2 amended to read as follows:
1 3 5. To promulgate fire safety rules. The state fire marshal
1 4 shall have exclusive right to promulgate fire safety rules as
1 5 they apply to enforcement or inspection requirements by the
1 6 state fire marshal, but the rules shall be promulgated ~~only~~
~~1 7 after public hearing~~ pursuant to chapter 17A. Wherever by any
1 8 statute the fire marshal or the department of public safety is
1 9 authorized or required to promulgate, proclaim, or amend rules
1 10 and minimum standards regarding fire hazards or fire safety or
1 11 protection in any establishment, building or structure, the
1 12 rules and standards shall promote and enforce fire safety, fire
1 13 protection and the elimination of fire hazards as the rules may
1 14 relate to the use, occupancy and construction of the buildings,
1 15 establishments or structures. The word "construction" shall
1 16 include~~,~~ but is not limited to~~,~~ electrical wiring, plumbing,
1 17 heating, lighting, ventilation, construction materials,
1 18 entrances and exits, and all other physical conditions of the
1 19 building which may affect fire hazards, safety or protection.
1 20 The rules and minimum standards shall be in substantial
1 21 compliance except as otherwise specifically provided in this
1 22 chapter, with the standards of the national fire protection
1 23 association relating to fire safety as published in the
1 24 national fire codes.
1 25 Sec. 2. Section 100C.9, subsection 2, Code 2009, is amended
1 26 to read as follows:
1 27 2. Notwithstanding section 8.33, fees collected by the
1 28 division of state fire marshal that remain unencumbered or
1 29 unobligated at the close of the fiscal year shall not revert
1 30 but shall remain available for expenditure for the purposes
1 31 designated ~~until the close of the~~ in succeeding fiscal
1 32 ~~year~~ years.
1 33 Sec. 3. Section 101.1, Code 2009, is amended to read as
1 34 follows:
1 35 101.1 Rules by fire marshal.

Senate Study Bill 3116 continued

1. The state fire marshal is hereby empowered and directed to formulate and adopt and from time to time amend or revise and to promulgate, in conformity with and subject to the conditions set forth in this chapter, reasonable rules for the safe transportation, storage, handling, and use of combustible liquids, flammable liquids, liquefied petroleum gases, and liquefied natural gases.

2. For purposes of this chapter:

a. "Combustible liquid" means any liquid that has a closed=cup flash point greater than or equal to 100 degrees F.

~~a.~~ b. "Flammable liquid" means a liquid ~~having a~~ with a closed=cup flash point below ~~200~~ 100 degrees F. and a Reid vapor pressure not exceeding forty p.s.i. absolute, 2026.6 mm Hg, at 100 degrees F.

~~b.~~ c. "Liquefied petroleum gas" means material composed predominantly of any of the following hydrocarbons, or mixtures of the same: Propane, propylene, butanes (normal butane or isobutane) and butylenes.

~~c.~~ d. "Liquefied natural gas" means a fuel in the liquid state composed predominantly of methane and which may contain minor quantities of ethane, propane, nitrogen, or other components normally found in natural gas.

Sec. 4. Section 101.3, Code 2009, is amended to read as follows:

101.3 Separate rules for liquids and gas.

The rules covering combustible and flammable liquids ~~and~~ shall be formulated and promulgated separately from those covering liquefied petroleum gas ~~shall be separately formulated and separately promulgated~~.

Sec. 5. Section 101.5, Code 2009, is amended to read as follows:

101.5 ~~Publication of rules~~ Rules.

The rules shall be promulgated pursuant to chapter 17A~~, only after a public hearing at least twenty days' notice of the time and place of which is given by publication in the Iowa~~

~~Senate Study Bill 3116 continued~~

~~3 1 administrative bulletin and by mail to any person who has filed~~
~~3 2 the person's name and address with the state fire marshal for~~
~~3 3 the purpose of receiving the notice~~.
3 4 Sec. 6. Section 101.12, Code 2009, is amended by striking
3 5 the section and inserting in lieu thereof the following:
3 6 101.12 Aboveground tanks authorized.
3 7 1. An aboveground flammable or combustible liquid storage
3 8 tank may be installed at a retail motor vehicle fuel outlet,
3 9 subject to rules adopted by the state fire marshal.
3 10 2. Rules adopted by the state fire marshal pursuant to this
3 11 section shall be in substantial compliance with the applicable
3 12 standards of the national fire protection association.
3 13 3. The installation of an aboveground flammable or
3 14 combustible liquid storage tank at a retail motor vehicle fuel
3 15 outlet shall also be subject to approval by the governing body
3 16 of the local governmental subdivision which has jurisdiction
3 17 over the fuel outlet.
3 18 Sec. 7. Section 101.21, Code 2009, is amended to read as
3 19 follows:
3 20 101.21 Definitions.
3 21 As used in this ~~part~~ division unless the context otherwise
3 22 requires:
3 23 1. "Aboveground ~~petroleum~~ flammable or combustible
3 24 liquid storage tank" means one or a combination of tanks,
3 25 including connecting pipes connected to the tanks which
3 26 are used to contain an accumulation of ~~petroleum~~ flammable
3 27 or combustible liquid and the volume of which, including
3 28 the volume of the underground pipes, is more than ninety
3 29 percent above the surface of the ground. Aboveground
3 30 ~~petroleum~~ flammable or combustible liquid storage tank does not
3 31 include any of the following:
3 32 a. Aboveground tanks of one thousand one hundred gallons or
3 33 less capacity.
3 34 b. Tanks used for storing heating oil for consumptive use
3 35 on the premises where stored.

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c. Underground storage tanks as defined by section 455B.471.
d. A flow=through process tank, or a tank containing a regulated substance, other than motor fuel used for transportation purposes, for use as part of a manufacturing process, system, or facility.
~~2. "Nonoperational aboveground petroleum tank" means an aboveground storage tank in which petroleum is not deposited or from which petroleum is not dispensed on or after July 1, 1989.~~
~~3.~~ 2. "Operator" means a person in control of, or having responsibility for, the daily operation of an aboveground ~~petroleum~~ flammable or combustible liquid storage tank.
~~4.~~ 3. "Owner" means:
a. In the case of an aboveground ~~petroleum~~ flammable or combustible liquid storage tank in use on or after July 1, 1989, a person who owns the aboveground ~~petroleum~~ flammable or combustible liquid storage tank used for the storage, use, or dispensing of ~~petroleum~~ flammable or combustible liquid.
b. In the case of an aboveground ~~petroleum~~ flammable or combustible liquid storage tank in use before July 1, 1989, but no longer in use on or after that date, a person who owned the tank immediately before the discontinuation of its use.
~~5.~~ 4. "Petroleum" means petroleum as defined in section 455B.471.
~~6.~~ 5. "Release" means spilling, leaking, emitting, discharging, escaping, leaching, or disposing from an aboveground ~~petroleum~~ flammable or combustible liquid storage tank into groundwater, surface water, or subsurface soils.
~~7.~~ 6. "State fire marshal" means the state fire marshal or the state fire marshal's designee.
~~8.~~ 7. "Tank site" means a tank or grouping of tanks within close proximity of each other located on a facility for the purpose of storing ~~petroleum~~ flammable or combustible liquid.
Sec. 8. Section 101.22, Code 2009, is amended to read as follows:
101.22 Report of existing and new tanks == registration fee

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== tag == penalty.

1. Except as provided in subsection 2, the owner or operator of an aboveground ~~petroleum~~ flammable or combustible liquid storage tank existing on ~~or before July 1, 1989~~ July 1, 2010, shall notify the state fire marshal in writing by ~~May 1, 1990~~ October 1, 2010, of the existence of each tank and specify the age, size, type, location, and uses of the tank.

2. The owner of an aboveground ~~petroleum~~ flammable or combustible liquid storage tank taken out of operation ~~between January 1, 1979, and July 1, 1989~~ on or before July 1, 2010, shall notify the state fire marshal in writing by ~~July 1, 1990~~ October 1, 2010, of the existence of the tank unless the owner knows the tank has been removed from the site. The notice shall specify, to the extent known to the owner, the date the tank was taken out of operation, the age of the tank on the date taken out of operation, the size, type, and location of the tank, and the type and quantity of substances left stored in the tank on the date that it was taken out of operation.

3. An owner or operator ~~which~~ who brings into use an aboveground ~~petroleum~~ flammable or combustible liquid storage tank after July 1, ~~1989~~ 2010, shall notify the state fire marshal in writing within thirty days of the existence of the tank and specify the age, size, type, location, and uses of the tank.

4. The registration notice of the owner or operator to the state fire marshal under subsections 1 through 3 shall be accompanied by an annual fee of ten dollars for each tank included in the notice. All moneys collected shall be retained by the department of public safety and are appropriated for the use of the state fire marshal. The annual renewal fee applies to all owners or operators who ~~filed~~ file a registration notice with the state fire marshal pursuant to subsections 1 through 3.

5. A person who deposits ~~petroleum~~ flammable or combustible

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6 1 liquid in an aboveground ~~petroleum~~ flammable or combustible
6 2 liquid storage tank shall notify the owner or operator in
6 3 writing of the notification requirements of this section.
6 4 6. A person who sells or constructs a tank intended to be
6 5 used as an aboveground storage tank shall notify the purchaser
6 6 of the tank in writing of the notification requirements of this
6 7 section applicable to the purchaser.
6 8 7. It is unlawful to deposit ~~petroleum~~ flammable or
6 9 combustible liquid in an aboveground ~~petroleum~~ flammable or
6 10 combustible liquid storage tank which has not been registered
6 11 pursuant to subsections 1 through 4.
6 12 8. The state fire marshal shall furnish the owner or
6 13 operator of an aboveground ~~petroleum~~ flammable or combustible
6 14 liquid storage tank with a registration tag for each
6 15 aboveground ~~petroleum~~ flammable or combustible liquid storage
6 16 tank registered with the state fire marshal.
6 17 a. The owner or operator shall affix the tag to the fill
6 18 pipe of each registered aboveground ~~petroleum~~ flammable or
6 19 combustible liquid storage tank.
6 20 b. A person who conveys or deposits ~~petroleum~~ flammable
6 21 or combustible liquid shall inspect the aboveground
6 22 ~~petroleum~~ flammable or combustible liquid storage tank to
6 23 determine the existence or absence of the registration tag.
6 24 If a registration tag is not affixed to the aboveground
6 25 ~~petroleum~~ flammable or combustible liquid storage
6 26 tank fill pipe, the person conveying or depositing the
6 27 ~~petroleum~~ flammable or combustible liquid may deposit the
6 28 ~~petroleum~~ flammable or combustible liquid in the unregistered
6 29 tank. However, the deposit is allowed only in the single
6 30 instance, that the person provides the owner or operator with
6 31 another notice as required by subsection 5, and that the
6 32 person provides the owner or operator with an aboveground
6 33 ~~petroleum~~ flammable or combustible liquid storage tank
6 34 registration form.
6 35 c. It is the owner or operator's duty to comply with

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7 1 registration requirements. A late registration penalty of
7 2 twenty=five dollars is imposed in addition to the registration
7 3 fee for a tank registered after the required date.
7 4 Sec. 9. Section 101.22A, Code 2009, is amended to read as
7 5 follows:
7 6 101.22A Exemption.
7 7 An aboveground ~~petroleum~~ flammable or combustible
7 8 liquid storage tank which is subject to regulation or
7 9 registration under either the federal department of
7 10 transportation or state department of transportation or both,
7 11 is exempt from the registration requirements of section 101.22.
7 12 Sec. 10. Section 101.23, Code 2009, is amended to read as
7 13 follows:
7 14 101.23 State fire marshal reporting rules.
7 15 The state fire marshal shall adopt rules pursuant to chapter
7 16 17A relating to reporting requirements necessary to enable
7 17 the state fire marshal to maintain an accurate inventory of
7 18 aboveground ~~petroleum~~ flammable or combustible liquid storage
7 19 tanks.
7 20 Sec. 11. Section 101.24, subsections 1 and 2, Code 2009, are
7 21 amended to read as follows:
7 22 1. Inspect and investigate the facilities and records of
7 23 owners and operators of aboveground ~~petroleum~~ flammable or
7 24 combustible liquid storage tanks with a capacity of fifteen
7 25 thousand or more gallons, as necessary to determine compliance
7 26 with this division and the rules adopted pursuant to this
7 27 division. An inspection or investigation shall be conducted
7 28 subject to subsection 4. For purposes of developing a rule,
7 29 maintaining an accurate inventory, or enforcing this division,
7 30 the department may:
7 31 a. Enter at reasonable times an establishment or other place
7 32 where an aboveground storage tank is located.
7 33 b. Inspect and obtain samples from any person of
7 34 ~~petroleum~~ flammable or combustible liquid or another regulated
7 35 substance and conduct monitoring or testing of the tanks,

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8 1 associated equipment, contents, or surrounding soils, air,
8 2 surface water, and groundwater. Each inspection shall be
8 3 commenced and completed with reasonable promptness.
8 4 (1) If the state fire marshal obtains a sample, prior to
8 5 leaving the premises, the fire marshal shall give the owner,
8 6 operator, or agent in charge a receipt describing the sample
8 7 obtained and if requested a portion of each sample equal in
8 8 volume or weight to the portion retained. If the sample is
8 9 analyzed, a copy of the results of the analysis shall be
8 10 furnished promptly to the owner, operator, or agent in charge.
8 11 (2) Documents or information obtained from a person under
8 12 this subsection shall be available to the public except as
8 13 provided in this subparagraph. Upon a showing satisfactory to
8 14 the state fire marshal by a person that public disclosure of
8 15 documents or information, or a particular part of the documents
8 16 or information to which the state fire marshal has access
8 17 under this subsection would divulge commercial or financial
8 18 information entitled to protection as a trade secret, the
8 19 state fire marshal shall consider the documents or information
8 20 or the particular portion of the documents or information
8 21 confidential. However, the documents or information may be
8 22 disclosed to officers, employees, or authorized representatives
8 23 of the United States charged with implementing the federal
8 24 Solid Waste Disposal Act, to employees of the state of Iowa or
8 25 of other states when the document or information is relevant
8 26 to the discharge of their official duties, and when relevant
8 27 in a proceeding under the federal Solid Waste Disposal Act or
8 28 this division.
8 29 2. Maintain an accurate inventory of aboveground
8 30 ~~petroleum~~ flammable or combustible liquid storage tanks.
8 31 Sec. 12. Section 101A.5, unnumbered paragraph 1, Code 2009,
8 32 is amended to read as follows:
8 33 The state fire marshal shall ~~prepare, adopt, and distribute~~
~~8 34 to permit-issuing authorities and other interested persons,~~
~~8 35 without cost, rules in accordance with provisions of chapter~~

~~Senate Study Bill 3116 continued~~

~~9 1 17A,~~ adopt rules pursuant to chapter 17A pertaining to the
9 2 manufacture, transportation, storage, possession, and use of
9 3 explosive materials. Rules adopted by the state fire marshal
9 4 shall be compatible with, but not limited to the national
9 5 fire protection association's pamphlet number 495 and federal
9 6 rules pertaining to commerce, possession, storage, and use of
9 7 explosive materials. Such rules shall:
9 8 EXPLANATION
9 9 This bill relates to activities of the department of public
9 10 safety including regulating the storage of flammable and
9 11 combustible liquids in aboveground storage tanks and retaining
9 12 fees.
9 13 Currently, the department of public safety retains, as
9 14 repayment receipts, certain fees collected pursuant to Code
9 15 chapter 101C relating to the regulation of fire extinguishing
9 16 and alarm systems contractors and installers. The bill allows
9 17 such repayment receipts that remain unencumbered or unobligated
9 18 at the close of a fiscal year to be retained by the department
9 19 for succeeding fiscal years.
9 20 The bill changes a number of provisions regarding the
9 21 storage of fuel and liquefied gases in aboveground storage
9 22 tanks in Code chapter 101. The bill adds a definition of
9 23 "combustible liquid" and changes the definitional standards for
9 24 flammable liquids. Currently, the Code refers to "petroleum"
9 25 storage tanks in Code chapter 101. The bill changes these
9 26 references to "flammable or combustible liquid storage tanks"
9 27 where appropriate.
9 28 The bill requires an owner or operator of aboveground
9 29 flammable or combustible liquid storage tanks to notify the
9 30 state fire marshal of their existence prior to October 1, 2010,
9 31 and provide additional information such as the age, size, type,
9 32 location, and uses of the tanks. The bill requires an owner or
9 33 operator of a tank that is taken out of operation on or before
9 34 July 1, 2010, to notify the state fire marshal of the existence
9 35 of the tank by October 1, 2010.
LSB 5422DP (6) 83
tm/nh

Iowa General Assembly
Daily Bills, Amendments & Study Bills
January 21, 2010

Senate Study Bill 3117

SENATE FILE
BY (PROPOSED COMMITTEE ON
STATE GOVERNMENT BILL
BY CHAIRPERSON APPEL)

A BILL FOR

An Act relating to elections by eliminating double election boards and by requiring the commissioner of elections, upon petition, to use automatic tabulating equipment in certain elections and including effective date provisions.

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

TLSB 5773XC (2) 83
sc/nh

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1 1 DIVISION I
1 2 DOUBLE ELECTION BOARDS
1 3 Section 1. Section 39A.5, subsection 1, paragraph a,
1 4 subparagraph (3), Code 2009, is amended to read as follows:
1 5 (3) Circulating, communicating, or attempting to circulate
1 6 or communicate information with reference to the result
1 7 of the counted ballots or making a compilation of vote
1 8 subtotals before the polls are closed in violation of section
1 9 ~~51.11 or~~ 53.23.
1 10 Sec. 2. Section 43.5, Code Supplement 2009, is amended to
1 11 read as follows:
1 12 43.5 Applicable statutes.
1 13 The provisions of chapters 39, 39A, 47, 48A, 49, 50, ~~51,~~ 52,
1 14 53, 57, 58, 59, 61, 62, 68A, and 722 shall apply, so far as
1 15 applicable, to all primary elections, except as hereinafter
1 16 provided.
1 17 Sec. 3. Section 49.12, Code 2009, is amended to read as
1 18 follows:
1 19 49.12 Election boards.
1 20 There shall be appointed in each election precinct an
1 21 election board which shall ordinarily consist of three or five
1 22 precinct election officials. At the commissioner's discretion,
1 23 additional precinct election officials may be appointed to work
1 24 at any election. ~~Double election boards may be appointed for~~
~~1 25 any precinct as provided by chapter 51.~~ Not more than a simple
1 26 majority of the members of the election board in any precinct~~,~~
~~1 27 or of the two combined boards in any precinct for which a~~
~~1 28 double election board is appointed,~~ shall be members of the
1 29 same political party or organization if one or more registered
1 30 voters of another party or organization are qualified and
1 31 willing to serve on the board.
1 32 Sec. 4. Section 49.13, subsection 4, Code Supplement 2009,
1 33 is amended to read as follows:
1 34 4. The commissioner shall designate one member of each
1 35 precinct election board as chairperson of that board. ~~If a~~

~~Senate Study Bill 3117 continued~~

~~2 1 counting board authorized by chapter 51 is appointed, the~~
~~2 2 chairperson shall have authority over the mechanics of the work~~
~~2 3 of both boards.~~ At the discretion of the commissioner, two
2 4 people who are members of different political parties may be
2 5 appointed as co=chairpersons. The co=chairpersons shall have
2 6 joint authority over the work of the precinct election board.
2 7 Sec. 5. Section 49.25, subsection 3, Code Supplement 2009,
2 8 is amended to read as follows:
2 9 3. The commissioner shall furnish to each precinct the
2 10 necessary ballot boxes, suitably equipped with seals or locks
2 11 and keys, and voting booths. The voting booths shall provide
2 12 for voting in secrecy. At least one voting booth in each
2 13 precinct shall be accessible to persons with disabilities.
2 14 Ballot boxes shall be locked or sealed before the polls open
2 15 and shall remain locked or sealed until the polls are closed,
2 16 except ~~as provided in section 51.7 or~~ to provide necessary
2 17 service to malfunctioning automatic tabulating equipment. If
2 18 a ballot box is opened prior to the closing of the polls, two
2 19 precinct election officials not of the same party shall be
2 20 present and observe the ballot box being opened.
2 21 Sec. 6. Section 49.104, subsection 3, Code 2009, is amended
2 22 to read as follows:
2 23 3. Any number of persons not exceeding three at a time from
2 24 each of such political parties, appointed and accredited in the
2 25 same manner as above prescribed for challenging committees, to
2 26 witness the counting of ballots. ~~Subject to the restrictions~~
~~2 27 of section 51.11, the witnesses may observe the counting of~~
~~2 28 ballots by a counting board during the hours the polls are open~~
~~2 29 in any precinct for which double election boards have been~~
~~2 30 appointed.~~
2 31 Sec. 7. Section 331.383, Code Supplement 2009, is amended
2 32 to read as follows:
2 33 331.383 Duties and powers relating to elections.
2 34 The board shall ensure that the county commissioner of
2 35 elections conducts primary, general, city, school, and special

Senate Study Bill 3117 continued

3 1 elections in accordance with applicable state law. The
3 2 board shall canvass elections in accordance with sections
3 3 43.49 to 43.51, 43.60 to 43.62, 46.24, 50.13, 50.24 to 50.29,
3 4 50.44 to 50.47, 260C.39, 275.25, 277.20, 376.1, 376.7, and
3 5 376.9. The board shall prepare and deliver a list of persons
3 6 nominated in accordance with section 43.55, provide for a
3 7 recount in accordance with section 50.48, provide for election
3 8 precincts in accordance with sections 49.3, 49.4, 49.6 to 49.8,
3 9 and 49.11, pay election costs as provided in section 47.3,
3 10 participate in election contests as provided in sections 62.1A
3 11 and 62.9, and perform other election duties required by state
3 12 law. The board may ~~authorize additional precinct election~~
~~3 13 officials as provided in section 51.1,~~ provide for the use of
3 14 an optical scan voting system as provided in sections 52.2,
3 15 52.3, and 52.8, and exercise other election powers as provided
3 16 by state law.
3 17 Sec. 8. REPEAL. Sections 51.1, 51.2, 51.3, 51.4, 51.5,
3 18 51.6, 51.7, 51.8, 51.9, 51.10, 51.11, 51.12, 51.13, and 51.14,
3 19 Code 2009, are repealed.
3 20 Sec. 9. REPEAL. Section 51.15, Code Supplement 2009, is
3 21 repealed.
3 22 DIVISION II
3 23 USE OF AUTOMATIC TABULATING
3 24 EQUIPMENT AT CERTAIN ELECTIONS
3 25 Sec. 10. Section 49.26, subsection 2, paragraph b, Code
3 26 Supplement 2009, is amended to read as follows:
3 27 b. If the commissioner concludes, pursuant to paragraph
3 28 "a", that voting will probably be so light as to make counting
3 29 of ballots by the precinct election officials less expensive
3 30 than preparation and use of automatic tabulating equipment,
3 31 paper ballots ~~shall~~ may be used, subject to paragraph "c".
3 32 ~~The~~ If paper ballots are used, the commissioner ~~may~~ shall use
3 33 ballots and instructions similar to those used when the ballots
3 34 are counted by automatic tabulating equipment.
3 35 Sec. 11. Section 49.26, subsection 2, Code Supplement 2009,

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4 1 is amended by adding the following new paragraph:
4 2 NEW PARAGRAPH. c. Notwithstanding a determination by
4 3 the commissioner pursuant to paragraph "b", upon receipt
4 4 of a petition signed by not less than one hundred eligible
4 5 electors, the commissioner shall count the ballots at an
4 6 election described in paragraph "a" using automatic tabulating
4 7 equipment.
4 8 Sec. 12. EFFECTIVE UPON ENACTMENT. This division of this
4 9 Act, being deemed of immediate importance, takes effect upon
4 10 enactment.
4 11 EXPLANATION
4 12 The bill makes changes to the election laws relating to
4 13 double election boards and to the use of automatic tabulating
4 14 equipment in certain elections.
4 15 Division I of the bill eliminates the option of the county
4 16 commissioner of elections to appoint a double election board
4 17 under Code chapter 51. The bill makes conforming amendments.
4 18 Division II of the bill amends Code section 49.26 to provide
4 19 that the use of conventional paper ballots at certain elections
4 20 that the county commissioner of elections has determined will
4 21 have low voter turnout is discretionary with the commissioner.
4 22 Under current law, if the county commissioner makes such
4 23 a determination, the use of conventional paper ballots is
4 24 required. The Code section is also amended to require the
4 25 county commissioner, when using conventional paper ballots
4 26 in an election, to use ballots and instructions similar to
4 27 those used at elections using automatic tabulating equipment
4 28 (i.e., optical scan equipment). The division further amends
4 29 Code section 49.26 to provide that the county commissioner
4 30 is required to use automatic tabulating equipment at those
4 31 elections if the commissioner receives a petition signed by
4 32 not less than 100 eligible electors requesting that automatic
4 33 tabulating equipment be used at the election.
4 34 The division takes effect upon enactment.
LSB 5773XC (2) 83
sc/nh

Senate Study Bill 3118

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

A BILL FOR

1 An Act providing for representation of military veterans on
2 certain mental health policy bodies.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 5996XC (4) 83
jp/sc

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1 1 Section 1. Section 225C.4, subsection 1, Code 2009, is
1 2 amended by adding the following new paragraph:
1 3 NEW PARAGRAPH. t. Coordinate with the mental health
1 4 planning and advisory council created pursuant to 42 U.S.C. {
1 5 300x=3 to ensure the council membership includes representation
1 6 by a military veteran who is knowledgeable concerning the
1 7 behavioral and mental health issues of veterans.
1 8 Sec. 2. Section 225C.5, subsection 1, Code Supplement 2009,
1 9 is amended by adding the following new paragraph:
1 10 NEW PARAGRAPH. jj. One member who is a military veteran
1 11 and who is knowledgeable concerning the behavioral and mental
1 12 health issues of veterans.
1 13 EXPLANATION
1 14 This bill provides representation of military veterans on
1 15 certain mental health policy bodies.
1 16 Code section 225C.4, relating to the duties of the
1 17 administrator of the division of mental health and disability
1 18 services of the department of human services, is amended to
1 19 direct the administrator to coordinate with the mental health
1 20 planning and advisory council created pursuant to federal law
1 21 to ensure the council membership includes representation by a
1 22 military veteran who is knowledgeable concerning the behavioral
1 23 and mental health issues of veterans. The council operates
1 24 with its own bylaws and its membership is subject to federal
1 25 requirements requiring certain state agencies to be represented
1 26 and imposing a membership percentage limitation on the members
1 27 who are state employees or providers of mental health services.
1 28 Code section 225C.5, creating the mental health, mental
1 29 retardation, developmental disabilities, and brain injury
1 30 commission, is amended to add a new membership slot for a
1 31 military veteran who is knowledgeable concerning the behavioral
1 32 and mental health issues of veterans. Under current law the
1 33 commission has 17 voting members appointed by the governor and
1 34 confirmed by the senate.