



Iowa General Assembly
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House Amendment 8406

PAG LIN

1 1 Amend Senate File 2132, as amended, passed, and
1 2 reprinted by the Senate, as follows:
1 3 #1. Page 1, by inserting before line 1 the
1 4 following:
1 5 <Section 1. NEW SECTION. 6A.15 PROPERTY ON STATE
1 6 HISTORIC REGISTRY.
1 7 Property listed on the state register of historic
1 8 places maintained by the historical division of the
1 9 department of cultural affairs shall not be removed
1 10 from the register solely for the purpose of allowing
1 11 acquisition of the property by condemnation.
1 12 Sec. 2. Section 6A.24, subsection 3, Code 2007, is
1 13 amended to read as follows:
1 14 3. For any action brought under this section, the
1 15 burden of proof shall be on the acquiring agency to
1 16 prove by a ~~preponderance of the clear and convincing~~
1 17 evidence that the finding of public use, public
1 18 purpose, or public improvement meets the definition of
1 19 those terms. If a property owner or a contract
1 20 purchaser of record or a tenant occupying the property
1 21 under a recorded lease prevails in an action brought
1 22 under this section, the acquiring agency shall be
1 23 required to pay the costs, including reasonable
1 24 attorney fees, of the adverse party.
1 25 Sec. 3. Section 6B.2C, Code 2007, is amended to
1 26 read as follows:
1 27 6B.2C APPROVAL OF THE PUBLIC IMPROVEMENT.
1 28 The authority to condemn is not conferred, and the
1 29 condemnation proceedings shall not commence, unless
1 30 the governing body for the acquiring agency ~~approves,~~
1 31 by resolution, declares that adequate funding for the
1 32 public improvement has been secured, that the use of
1 33 condemnation for the public improvement is approved,
1 34 and that there is a reasonable expectation the
1 35 applicant will be able to achieve its public purpose,
1 36 comply with all applicable standards, and obtain the
1 37 necessary permits.
1 38 Sec. 4. NEW SECTION. 68B.8 BAN ON CERTAIN
1 39 LOBBYING ACTIVITIES ON BEHALF OF POLITICAL
1 40 SUBDIVISIONS.
1 41 A political subdivision that collects and expends
1 42 property taxes shall not use public funds of any kind
1 43 to pay a person, organization, or other entity to act
1 44 as a lobbyist in relation to any legislation relating
1 45 specifically to eminent domain authority or
1 46 condemnation procedures.
1 47 Sec. 5. Section 316.4, subsection 1, Code 2007, is
1 48 amended to read as follows:
1 49 1. If a program or project undertaken by a
1 50 displacing agency will result in the displacement of a



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2 1 person, the displacing agency shall make a payment to
 2 2 the displaced person, upon proper application as
 2 3 approved by the displacing agency, for actual
 2 4 reasonable and necessary expenses incurred in moving
 2 5 the person, the person's family, business, farm
 2 6 operation, or other personal property subject to rules
 2 7 and limits established by the department. The payment
 2 8 may also provide for actual direct losses of tangible
 2 9 personal property, purchase of substitute personal
 2 10 property, business reestablishment expenses, storage
 2 11 expenses, and expenses incurred in searching for a
 2 12 replacement business or farm. If relocation of a
 2 13 business or farm operation is not economically
 2 14 feasible, the displaced person may also apply for
 2 15 payment of the loss of existing business relationships
 2 16 because of the inability to relocate the business or
 2 17 farm operation to a location similar in economic
 2 18 advantage to the location from which the business or
 2 19 farm operation was displaced.>

2 20 #2. Page 3, by inserting after line 3 the
 2 21 following:

2 22 <Sec. ____ . APPLICABILITY DATES. The sections of
 2 23 this Act amending sections 6A.24, 6B.2C, and 316.4 and
 2 24 enacting sections 6A.15 and 68B.8 apply to projects or
 2 25 condemnation proceedings pending or commenced on or
 2 26 after the effective date of this Act.>

2 27 #3. Title page, by striking line 2 and inserting
 2 28 the following: <property, to property seized by
 2 29 eminent domain, and including effective and
 2 30 applicability dates.>

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2 34 KAUFMANN of Cedar

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2 38 TYMESON of Madison

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2 42 GRASSLEY of Butler

2 43 SF 2132.706 82

2 44 sc/rj/11092



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House Amendment 8407

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1 1 Amend Senate File 445, as amended, passed, and
1 2 reprinted by the Senate, as follows:
1 3 #1. Page 1, by inserting before line 1 the
1 4 following:
1 5 <Section 1. Section 543B.8, Code 2007, is amended
1 6 by adding the following new unnumbered paragraph:
1 7 NEW UNNUMBERED PARAGRAPH. A landlord=tenant
1 8 relations review board is established in the
1 9 department of commerce within the real estate
1 10 commission. The landlord=tenant relations review
1 11 board shall carry out duties specified in sections
1 12 562A.12A and 562A.35A. The commission shall provide
1 13 staff assistance and administrative support to the
1 14 landlord=tenant relations review board.
1 15 Sec. 2. Section 562A.12, subsection 3, unnumbered
1 16 paragraph 1, Code 2007, is amended to read as follows:
1 17 A landlord shall, within thirty days from the date
1 18 of termination of the tenancy and receipt of the
1 19 tenant's mailing address or delivery instructions,
1 20 return the rental deposit to the tenant or furnish to
1 21 the tenant a written statement showing the specific
1 22 reason for withholding of the rental deposit or any
1 23 portion thereof. If the rental deposit or any portion
1 24 of the rental deposit is withheld for the restoration
1 25 of the dwelling unit, the statement shall specify the
1 26 nature of the damages. In addition to a written
1 27 statement of the reasons for withholding a rental
1 28 deposit, the landlord shall provide photographic
1 29 documentation of any damage described in the written
1 30 statement and provide copies of all documentation
1 31 related to any inspection conducted following
1 32 termination of the tenancy. The landlord may withhold
1 33 from the rental deposit only such amounts as are
1 34 reasonably necessary for the following reasons:
1 35 Sec. 3. Section 562A.12, subsection 3, unnumbered
1 36 paragraph 2, Code 2007, is amended to read as follows:
1 37 In ~~an~~ a court action, or in a proceeding pursuant
1 38 to section 562A.35A, subsection 5, concerning the
1 39 rental deposit, the burden of proving, by a
1 40 preponderance of the evidence, the reason for
1 41 withholding all or any portion of the rental deposit
1 42 shall be on the landlord.>
1 43 #2. Page 1, by inserting after line 8 the
1 44 following:
1 45 <Sec. _____. NEW SECTION. 562A.12A LANDLORD RENTAL
1 46 DEPOSIT REPORTS.
1 47 The landlord of a premises having twenty=five or
1 48 more rental dwelling units shall file an annual
1 49 landlord rental deposit report for the previous
1 50 calendar year with the landlord=tenant relations



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2 1 review board on or before February 1. Each report
2 2 shall provide the reasons for each rental deposit, or
2 3 portion thereof, withheld by the landlord, the
2 4 original rental deposit amount, and the amount
2 5 withheld. The real estate commission, in consultation
2 6 with the landlord=tenant relations review board, shall
2 7 prescribe a standardized form for reports required
2 8 under this section.

2 9 Sec. _____. Section 562A.13, Code 2007, is amended
2 10 by adding the following new subsection:

2 11 NEW SUBSECTION. 7. The landlord or a person
2 12 authorized to enter into a rental agreement on behalf
2 13 of the landlord shall provide to the tenant at or
2 14 before the commencement of the tenancy all of the
2 15 following:

2 16 a. A written statement of all damage to the
2 17 dwelling unit caused by the previous tenant.

2 18 b. Photographs of the dwelling unit taken during
2 19 the inspection conducted at the expiration of the
2 20 previous tenancy.

2 21 c. A written statement of all restoration or
2 22 repairs made following the expiration of the previous
2 23 tenancy.

2 24 Sec. _____. Section 562A.15, Code 2007, is amended
2 25 by adding the following new subsection:

2 26 NEW SUBSECTION. 5. The landlord of a premises
2 27 having twenty=five or more rental dwelling units is
2 28 required to employ an on=site manager. The on=site
2 29 manager may either reside on the premises or operate
2 30 an office on the premises during normal business
2 31 hours. A landlord may serve as an on=site manager.

2 32 Sec. _____. NEW SECTION. 562A.35A LANDLORD=TENANT
2 33 RELATIONS REVIEW BOARD.

2 34 1. The landlord=tenant relations review board is
2 35 established in the department of commerce within the
2 36 real estate commission. The landlord=tenant relations
2 37 review board shall consist of three members. Members
2 38 of the board shall be appointed to four=year staggered
2 39 terms by the governor.

2 40 2. a. A vacancy on the board shall be filled in
2 41 the same manner as the original appointment. A member
2 42 appointed to fill a vacancy created other than by
2 43 expiration of a term shall be appointed for the
2 44 remainder of the unexpired term.

2 45 b. A majority of the members of the board
2 46 constitutes a quorum. Any action taken by the board
2 47 must be adopted by the affirmative vote of a majority
2 48 of its membership.

2 49 c. The board shall elect a chairperson from the
2 50 membership of the board. The chairperson shall serve



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3 1 a two-year term.
3 2 d. Board members shall be reimbursed for actual
3 3 and necessary expenses incurred while engaged in their
3 4 official duties.
3 5 3. The real estate commission shall provide staff
3 6 assistance and administrative support to the board.
3 7 4. The duties of the board shall include all of
3 8 the following:
3 9 a. Adopt and publish guidelines that estimate
3 10 common restoration and replacement costs to landlords
3 11 following termination of a tenancy.
3 12 b. Propose rules, for approval by the real estate
3 13 commission and adoption by the commission pursuant to
3 14 chapter 17A, describing the reporting requirements for
3 15 landlords pursuant to section 562A.12A.
3 16 c. Hear and decide voluntary informal dispute
3 17 resolution proceedings pursuant to subsection 5.
3 18 d. Receive and index rental deposit complaints
3 19 against landlords from current and former tenants.
3 20 e. Compile and make available an annual report
3 21 consisting of all landlord rental deposit reports
3 22 received pursuant to section 562A.12A, a summary of
3 23 the board's informal dispute resolution proceedings,
3 24 and an index of all landlord rental deposit complaints
3 25 received from tenants.
3 26 5. a. The board shall preside over voluntary
3 27 informal dispute resolution proceedings between
3 28 tenants and landlords relating to the withholding of
3 29 rental deposits under section 562A.12, subsection 3,
3 30 paragraph "b".
3 31 b. An application for voluntary informal dispute
3 32 resolution must be voluntarily signed and submitted by
3 33 both parties. The board shall determine a time and
3 34 place for the proceeding and provide written notice of
3 35 the proceeding to the parties.
3 36 c. The board shall adopt procedures to govern
3 37 proceedings under this subsection. The procedures
3 38 shall be provided to the parties in writing and shall
3 39 accompany the notice of the proceeding.
3 40 d. The rules of evidence shall not apply to a
3 41 proceeding under this subsection. The board shall
3 42 review any relevant evidence provided by the parties
3 43 and the rental agreement governing the tenancy.
3 44 e. The burden of proving, by a preponderance of
3 45 the evidence, the reason for withholding all or any
3 46 portion of the rental deposit shall be on the
3 47 landlord.
3 48 f. The board shall issue a decision in the dispute
3 49 no later than ten days after completion of the
3 50 proceeding. The board's decision is binding on the



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4 1 landlord and tenant if both parties have voluntarily
4 2 participated in the proceeding. A decision of the
4 3 board shall preclude other remedies available to the
4 4 parties relating to the withholding of the rental
4 5 deposit under section 562A.12, subsection 3, paragraph
4 6 "b". However, a board decision may be enforced by a
4 7 civil action in district court, and damages and
4 8 attorney fees specified in section 562A.12,
4 9 subsections 7 and 8, may be awarded by the court.
4 10 g. Section 562A.12, subsections 7 and 8, relating
4 11 to punitive damages and attorney fees, shall not apply
4 12 to voluntary informal dispute resolution proceedings
4 13 under this subsection.
4 14 6. No member of the board may be held liable for
4 15 civil damages for any statement or decision made
4 16 pertaining to a dispute resolution proceeding under
4 17 this section.
4 18 7. The real estate commission, in consultation
4 19 with the board, shall adopt rules pursuant to chapter
4 20 17A for carrying out the duties of the board pursuant
4 21 to this section.
4 22 8. The board shall, except for actions taken in
4 23 relation to proceedings under subsection 5, comply
4 24 with the requirements of chapters 21 and 22. The real
4 25 estate commission shall be the official repository of
4 26 board records.>
4 27 #3. Title page, by striking lines 1 and 2 and
4 28 inserting the following: <An Act relating to landlord
4 29 and tenant law by modifying requirements related to
4 30 rental deposits, providing for the establishment of a
4 31 landlord=tenant relations review board, requiring
4 32 certain premises to have an on=site manager and
4 33 increasing punitive damages that may be awarded for
4 34 wrongful retention of certain rental deposits.>
4 35 #4. By renumbering as necessary.
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4 39 BELL of Jasper
4 40 SF 445.704 82
4 41 md/nh/21076



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House Amendment 8408

PAG LIN

1 1 Amend the amendment, H=8354, to Senate File 2134 as
1 2 follows:
1 3 #1. Page 5, line 10, by striking the word <may>
1 4 and inserting the following: ~~<may~~ shall.
1 5 #2. Page 5, line 12, by inserting after the figure
1 6 <35B.6,> the following: <and may appropriate moneys
1 7 for.

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1 11 ZIRKELBACH of Jones
1 12 SF 2134.701 82
1 13 md/rj/11461
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House Amendment 8409

PAG LIN

1 1 Amend Senate File 2279, as amended, passed, and
1 2 reprinted by the Senate, as follows:
1 3 #1. Page 3, by striking line 6, and inserting the
1 4 following: <an average minimum of one hundred twenty
1 5 minutes per week calculated annually by dividing the
1 6 total number of minutes of physical activity engaged
1 7 in by the student by the number of instructional weeks
1 8 in the school calendar. A student>.
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1 12 PAULSEN of Linn
1 13 SF 2279.213 82
1 14 kh/nh/12203
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House Amendment 8410

PAG LIN

1 1 Amend the amendment, H=8380, to House File 2663 as
1 2 follows:
1 3 #1. Page 20, by striking lines 41 and 42 and
1 4 inserting the following:
1 5 <#____. Page 38, by inserting before line 22 the
1 6 following:
1 7 <Sec. ____ . IMPLEMENTATION OF ACT. Section 25B.2,
1 8 subsection 3, shall not apply to the sections of this
1 9 Act enacting chapter 91F.>>
1 10 #2. By renumbering as necessary.
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1 14 T. TAYLOR of Linn
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1 18 D. TAYLOR of Linn
1 19 HF 2663.504 82
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House Amendment 8411

PAG LIN

1 1 Amend the amendment, H=8130, to Senate File 2124,
1 2 as passed by the Senate, as follows:
1 3 #1. Page 1, by inserting after line 2 the
1 4 following:
1 5 <#____. Page 1, by inserting before line 1 the
1 6 following:
1 7 <DIVISION I
1 8 VETERANS TRUST FUND EXPENDITURES>>
1 9 #2. Page 1, by striking lines 5 through 24 and
1 10 inserting the following:
1 11 <DIVISION II
1 12 INCOME TAX CHECKOFFS
1 13 Sec. _____. NEW SECTION. 235A.2 CHILD ABUSE
1 14 PREVENTION PROGRAM FUND.
1 15 1. A child abuse prevention program fund is
1 16 created in the state treasury under the control of the
1 17 department of human services. The fund is composed of
1 18 moneys appropriated or available to and obtained or
1 19 accepted by the treasurer of state for deposit in the
1 20 fund. The fund shall include moneys transferred to
1 21 the fund as provided in section 422.12K. All interest
1 22 earned on moneys in the fund shall be credited to and
1 23 remain in the fund. Section 8.33 does not apply to
1 24 moneys in the fund.
1 25 2. Moneys in the fund that are authorized by the
1 26 department for expenditure are appropriated, and shall
1 27 be used, for the purposes described in section 235A.1
1 28 of preventing child abuse and neglect.
1 29 Sec. _____. NEW SECTION. 422.12K INCOME TAX
1 30 CHECKOFF FOR CHILD ABUSE PREVENTION PROGRAM FUND.
1 31 1. A person who files an individual or a joint
1 32 income tax return with the department of revenue under
1 33 section 422.13 may designate one dollar or more to be
1 34 paid to the child abuse prevention program fund
1 35 created in section 235A.2. If the refund due on the
1 36 return or the payment remitted with the return is
1 37 insufficient to pay the additional amount designated
1 38 by the taxpayer to the child abuse prevention program
1 39 fund, the amount designated shall be reduced to the
1 40 remaining amount remitted with the return. The
1 41 designation of a contribution to the child abuse
1 42 prevention program fund under this section is
1 43 irrevocable.
1 44 2. The director of revenue shall draft the income
1 45 tax form to allow the designation of contributions to
1 46 the child abuse prevention program fund on the tax
1 47 return. The department of revenue, on or before
1 48 January 31, shall transfer the total amount designated
1 49 on the tax return forms due in the preceding calendar
1 50 year to the child abuse prevention program fund.



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2 1 However, before a checkoff pursuant to this section
2 2 shall be permitted, all liabilities on the books of
2 3 the department of revenue and accounts identified as
2 4 owing under section 421.17 and the political
2 5 contribution allowed under section 68A.601 shall be
2 6 satisfied.

2 7 3. The department of human services may authorize
2 8 payment of moneys from the child abuse prevention
2 9 program fund, in accordance with section 235A.2.

2 10 4. The department of revenue shall adopt rules to
2 11 administer this section.

2 12 5. This section is subject to repeal under section
2 13 422.12E.

2 14 Sec. _____. NEW SECTION. 422.12L JOINT INCOME TAX
2 15 REFUND CHECKOFF FOR VETERANS TRUST FUND AND VOLUNTEER
2 16 FIRE FIGHTER PREPAREDNESS FUND.

2 17 1. A person who files an individual or a joint
2 18 income tax return with the department of revenue under
2 19 section 422.13 may designate one dollar or more to be
2 20 paid jointly to the veterans trust fund created in
2 21 section 35A.13 and to the volunteer fire fighter
2 22 preparedness fund created in section 100B.13. If the
2 23 refund due on the return or the payment remitted with
2 24 the return is insufficient to pay the additional
2 25 amount designated by the taxpayer, the amount
2 26 designated shall be reduced to the remaining amount of
2 27 refund or the remaining amount remitted with the
2 28 return. The designation of a contribution under this
2 29 section is irrevocable.

2 30 2. The director of revenue shall draft the income
2 31 tax form to allow the designation of contributions to
2 32 the veterans trust fund and to the volunteer fire
2 33 fighter preparedness fund as one checkoff on the tax
2 34 return. The department of revenue, on or before
2 35 January 31, shall transfer one-half of the total
2 36 amount designated on the tax return forms due in the
2 37 preceding calendar year to the veterans trust fund and
2 38 the remaining one-half to the volunteer fire fighter
2 39 preparedness fund. However, before a checkoff
2 40 pursuant to this section shall be permitted, all
2 41 liabilities on the books of the department of
2 42 administrative services and accounts identified as
2 43 owing under section 8A.504 and the political
2 44 contribution allowed under section 68A.601 shall be
2 45 satisfied.

2 46 3. The department of revenue shall adopt rules to
2 47 administer this section.

2 48 4. This section is subject to repeal under section
2 49 422.12E.

2 50 Sec. _____. IMPLEMENTATION. The checkoffs created



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3 1 in this division of this Act are eligible for
3 2 placement on the individual income tax return form
3 3 commencing with the tax year beginning January 1,
3 4 2008, provided the conditions for placement on the
3 5 return form set out in section 422.12E are met.
3 6 Sec. _____. RETROACTIVE APPLICABILITY. This
3 7 division of this Act applies retroactively to the tax
3 8 year commencing January 1, 2008, and applies to tax
3 9 years beginning on or after that date.>
3 10 #____. Title page, line 1, by inserting after the
3 11 words <relating to> the following: <income tax
3 12 checkoffs and>.
3 13 #____. Title page, line 2, by inserting after the
3 14 word <authority> the following: <and including a
3 15 retroactive applicability date provision>.>
3 16 #3. By renumbering as necessary.
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3 21 HUSER of Polk
3 22 SF 2124.703 82
3 23 ec/nh/21094



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House Amendment 8412

PAG LIN

1 1 Amend House File 2663 as follows:
1 2 #1. Page 3, by inserting after line 13 the
1 3 following:
1 4 <Sec. _____. Section 298.2, Code 2007, is amended by
1 5 adding the following new subsection:
1 6 NEW SUBSECTION. 7. Notwithstanding any other
1 7 provision in this section, the board of directors of a
1 8 school district shall not certify for levy the regular
1 9 or voter=approved physical plant and equipment levy
1 10 for a school year beginning on or after July 1, 2009,
1 11 except that a voter=approved levy that was approved
1 12 prior to July 1, 2008, may continue to be levied for
1 13 the remainder of the authorized period.>
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1 17 TYMESON of Madison
1 18 HF 2663.706 82
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House Amendment 8413

PAG LIN

1 1 Amend House File 2663 as follows:
1 2 #1. Page 3, by inserting after line 13 the
1 3 following:
1 4 <Sec. _____. Section 300.3, Code 2007, is amended by
1 5 adding the following new unnumbered paragraph:
1 6 NEW UNNUMBERED PARAGRAPH. Notwithstanding section
1 7 300.2 or any other provision of this chapter, the
1 8 public educational and recreational levy shall no
1 9 longer be levied for school budget years beginning on
1 10 or after July 1, 2009.>
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1 14 TYMESON of Madison
1 15 HF 2663.505 82
1 16 mg/mg/10660
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House Amendment 8414

PAG LIN

1 1 Amend House File 2651, as amended, passed, and
1 2 reprinted by the House, as follows:
1 3 #1. Page 1, by inserting before line 1 the
1 4 following:
1 5 <Section 1. NEW SECTION. 306.47 UTILITY
1 6 FACILITIES RELOCATION POLICY.
1 7 It is the policy of the general assembly that a
1 8 proactive, cooperative coordination between the
1 9 department, local governments, private and public
1 10 utility companies, and other affected parties is the
1 11 most effective way to minimize costs, eliminate the
1 12 need for utilities to relocate facilities, limit
1 13 disruption of utility services related to federal,
1 14 state, or local highway construction projects, and
1 15 limit the potential need for relocation of utility
1 16 facilities.
1 17 All potentially affected parties shall be invited
1 18 to participate in development meetings at the design
1 19 phase of a highway construction project to review
1 20 plans, understand goals and objectives of the proposed
1 21 project, and discuss options that would limit the
1 22 impact of the construction on utility facilities and
1 23 thereby minimize or even eliminate costs associated
1 24 with utility facility relocation. All jurisdictions
1 25 and other interested parties shall cooperate to
1 26 discuss strategies and policies to utilize the Iowa
1 27 one call system in the development of a highway
1 28 construction project. Failure of the affected parties
1 29 to respond or participate during the design phase
1 30 shall not in any way affect the ability of the
1 31 federal, state, or local agency to proceed with design
1 32 and construction.>
1 33 #2. Page 1, by inserting after line 4 the
1 34 following:
1 35 <Sec. ____ . NEW SECTION. 314.29 DICK DRAKE WAY.
1 36 The highway currently known as the industrial
1 37 connector in Muscatine shall be renamed "Dick Drake
1 38 Way" in honor of Richard Drake, who served for
1 39 thirty=six years as a member of the general assembly
1 40 of the state of Iowa.>
1 41 #3. By striking page 3, line 11, through page 4,
1 42 line 1.
1 43 #4. Page 9, line 15, by inserting after the word
1 44 <facility> the following: <listed in section
1 45 904.102>.
1 46 #5. Page 9, by striking lines 22 through 25 and
1 47 inserting the following: <2. However, any person
1 48 under age eighteen who is required to attend the
1 49 courses for violation of section 321J.2 or 321J.17
1 50 must attend a course offered by a substance abuse



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2 1 treatment program licensed under chapter 125.>
2 2 #6. Page 9, line 32, by striking the words
2 3 <colleges and> and inserting the following:
2 4 <colleges, ~~and~~>.
2 5 #7. Page 9, line 33, by inserting after the figure
2 6 <125> the following: < the department of public
2 7 health, and the department of corrections>.
2 8 #8. Page 14, line 9, by inserting after the word
2 9 <construction.> the following: <If costs for
2 10 construction of improvements according to a city's
2 11 standards exceed the costs for such construction
2 12 according to county standards, the petitioner shall
2 13 pay the difference in the costs.>
2 14 #9. Page 16, line 21, by striking the word
2 15 <district,> and inserting the following: <district>.
2 16 #10. Page 16, line 24, by inserting after the word
2 17 <highway,> the following: <other than roads
2 18 identified under section 357I.2, subsection 3,>.
2 19 #11. Page 19, by striking lines 26 through 32.
2 20 #12. Title page, line 5, by inserting after the
2 21 word <concerning> the following: <utility facility
2 22 relocation due to highway construction,>.
2 23 #13. Title page, lines 10 and 11, by striking the
2 24 words <disqualification from operating a commercial
2 25 motor vehicle,>.
2 26 #14. By renumbering, relettering, or redesignating
2 27 and correcting internal references as necessary.
2 28 HF 2651.S
2 29 dea/cc/26



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House File 2668 - Introduced

HOUSE FILE
BY COMMITTEE ON WAYS AND
MEANS

(SUCCESSOR TO HF 2525)
(SUCCESSOR TO HF 2273)

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

Passed Senate, Date _____
Vote: Ayes _____ Nays _____

A BILL FOR

- 1 An Act relating to the disposal and recycling of waste oil
- 2 filters.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4 TLSB 5535HZ 82
- 5 tw/nh/5



Iowa General Assembly
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April 03, 2008

House File 2668 - Introduced continued

PAG LIN

1 1 Section 1. Section 455D.13, Code 2007, is amended to read
1 2 as follows:

1 3 455D.13 LAND DISPOSAL OF WASTE OIL AND WASTE OIL FILTERS
1 4 PROHIBITED == COLLECTION AND RECYCLING.

1 5 1. A sanitary landfill shall not accept waste oil for
1 6 final disposal ~~beginning July 1, 1990.~~

1 7 2. A person offering for sale or selling oil or oil
1 8 filters at retail in the state shall do the following:

1 9 a. Accept at the point of sale, waste oil and waste oil
1 10 filters from customers, or post notice of locations where a
1 11 customer may dispose of waste oil and waste oil filters.

1 12 b. Post written notice that it is unlawful to dispose of
1 13 waste oil in a sanitary landfill.

1 14 Sec. 2. Section 455D.13, Code 2007, is amended by adding
1 15 the following new subsection:

1 16 NEW SUBSECTION. 3. A business that generates used oil
1 17 filters or collects used oil filters from a person shall not
1 18 dispose of the waste oil filters in a sanitary landfill and
1 19 shall source=separate and recycle the oil filters.

1 20 EXPLANATION

1 21 This bill relates to the disposal and recycling of waste
1 22 oil filters.

1 23 The bill prohibits businesses from disposing of waste oil
1 24 filters in a sanitary landfill.

1 25 The bill requires generators and collectors of waste oil
1 26 filters to source=separate and recycle the filters.

1 27 LSB 5535HZ 82

1 28 tw/nh/5



Iowa General Assembly
Daily Bills, Amendments & Study Bills
April 03, 2008

House File 2669 - Introduced

HOUSE FILE
BY COMMITTEE ON WAYS AND
MEANS

(SUCCESSOR TO HF 2329)
(SUCCESSOR TO HF 751)

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

Passed Senate, Date _____
Vote: Ayes _____ Nays _____

A BILL FOR

- 1 An Act relating to the collection and recycling of mercury=added
- 2 thermostats.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4 TLSB 6516HZ 82
- 5 tw/nh/24



Iowa General Assembly
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House File 2669 - Introduced continued

PAG LIN

1 1 Section 1. NEW SECTION. 455D.31 MERCURY == THERMOSTATS.
1 2 1. As used in this section, unless the context otherwise
1 3 requires:
1 4 a. "Manufacturer" means any person, firm, association,
1 5 partnership, corporation, governmental entity, organization,
1 6 combination, or joint venture that owns or owned the brand
1 7 name of the thermostat.
1 8 b. "Mercury-added thermostat" means a product or device
1 9 that uses a mercury switch to sense and control room
1 10 temperature through communication with heating, ventilating,
1 11 or air-conditioning equipment. "Mercury-added thermostat"
1 12 includes thermostats used to sense and control room
1 13 temperature in residential, commercial, industrial, and other
1 14 buildings but does not include thermostats used to sense and
1 15 control temperature as part of a manufacturing process.
1 16 c. "Thermostat retailer" means a person who sells
1 17 thermostats of any kind directly to homeowners or other
1 18 nonprofessionals through any selling or distribution
1 19 mechanism, including but not limited to sales using the
1 20 internet or catalogues. A thermostat retailer may also be a
1 21 thermostat wholesaler if it meets the definition of thermostat
1 22 wholesaler.
1 23 d. "Thermostat wholesaler" means a person who is engaged
1 24 in the distribution and wholesale selling of large quantities
1 25 of heating, ventilation, and air-conditioning components,
1 26 including thermostats, to contractors who install heating,
1 27 ventilation, and air-conditioning components, including
1 28 thermostats.
1 29 2. Beginning July 1, 2009, a person shall not sell, offer
1 30 for sale, or install a mercury-added thermostat in this state.
1 31 3. Beginning April 1, 2009, except as otherwise provided,
1 32 a person who generates a discarded mercury-added thermostat
1 33 shall manage the mercury-added thermostat as a hazardous waste
1 34 or universal hazardous waste, according to all applicable
1 35 state and federal regulations. A contractor who replaces or



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House File 2669 - Introduced continued

2 1 removes mercury-added thermostats shall assure that any
2 2 discarded mercury-added thermostat is subject to proper
2 3 separation and management as hazardous waste or universal
2 4 hazardous waste. A contractor who replaces a mercury-added
2 5 thermostat in a residence shall deliver the mercury-added
2 6 thermostat to an appropriate collection location for
2 7 recycling.

2 8 4. Each thermostat manufacturer that has offered for final
2 9 sale, sold at final sale, or distributed mercury-added
2 10 thermostats in the state shall individually, or in conjunction
2 11 with other thermostat manufacturers, do all of the following:

2 12 a. Not later than October 1, 2008, submit a plan to the
2 13 department for approval describing a collection program for
2 14 mercury-added thermostats. The program contained in the plan
2 15 shall ensure that all the following take place:

2 16 (1) That an education and outreach program is developed.
2 17 The program shall be directed toward thermostat wholesalers,
2 18 thermostat retailers, contractors, and homeowners and ensure a
2 19 maximum rate of collection of mercury-added thermostats.
2 20 There shall not be a cost to thermostat wholesalers or
2 21 thermostat retailers for education and outreach materials.

2 22 (2) That handling and recycling of mercury-added
2 23 thermostats are accomplished in a manner that is consistent
2 24 with the provisions of the universal waste rules.

2 25 (3) That containers for mercury-added thermostat
2 26 collection are provided to all thermostat wholesalers. The
2 27 cost to thermostat wholesalers for such containers shall be
2 28 limited to an initial, reasonable, one-time fee per container
2 29 as specified in the plan.

2 30 (4) That collection points will be established to serve
2 31 homeowners. The collection points shall include but are not
2 32 limited to regional collection centers permitted under 567 IAC
2 33 123. Collection points may include but are not limited to
2 34 thermostat retailers.

2 35 (5) That collection systems are provided to all collection



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3 1 points. Collection systems may include individual product
3 2 mail back or multiple collection containers. The costs of
3 3 collection shall not be passed on to a collection point. The
3 4 costs to a collection point shall be limited to an initial,
3 5 reasonable, one-time fee per container as specified in the
3 6 plan.

3 7 b. Not later than April 1, 2009, implement a mercury-added
3 8 thermostat collection plan approved by the department.

3 9 c. Beginning in 2010, submit an annual report to the
3 10 department by April 1 of each year that includes, at a
3 11 minimum, all of the following:

3 12 (1) The number of mercury-added thermostats collected and
3 13 recycled by that manufacturer during the previous calendar
3 14 year.

3 15 (2) The estimated total amount of mercury contained in the
3 16 thermostat components collected by that manufacturer during
3 17 the previous calendar year.

3 18 (3) A list of all participating thermostat wholesalers and
3 19 all collection points for homeowners.

3 20 (4) An evaluation of the effectiveness of the
3 21 manufacturer's collection program.

3 22 (5) An accounting of the administrative costs incurred in
3 23 the course of administering the collection and recycling
3 24 program.

3 25 5. a. By April 1, 2009, a thermostat wholesaler shall do
3 26 both of the following:

3 27 (1) Act as a collection site for mercury-added
3 28 thermostats.

3 29 (2) Promote and utilize the collection containers provided
3 30 by thermostat manufacturers to facilitate a contractor
3 31 collection program.

3 32 b. By April 1, 2009, a thermostat retailer shall
3 33 participate in an education and outreach program to educate
3 34 consumers on the collection program for mercury-added
3 35 thermostats.



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4 1 6. Beginning April 1, 2009, all of the following sales
4 2 prohibitions shall apply to thermostat manufacturers,
4 3 thermostat wholesalers, and thermostat retailers:
4 4 a. A thermostat manufacturer not in compliance with this
4 5 section is prohibited from offering any thermostat for final
4 6 sale in the state. A thermostat manufacturer not in
4 7 compliance with this section shall provide the necessary
4 8 support to thermostat wholesalers and thermostat retailers to
4 9 ensure the manufacturer's thermostats are not offered for
4 10 final sale.
4 11 b. A thermostat wholesaler or thermostat retailer shall
4 12 not offer for final sale any thermostat of a manufacturer that
4 13 is not in compliance with this section.
4 14 7. The department shall do all of the following:
4 15 a. Review and grant approval of, deny, or approve with
4 16 modifications a manufacturer plan required under this section.
4 17 The department shall not approve a plan unless all elements of
4 18 subsection 4, paragraph "a", are adequately addressed and the
4 19 program outlined in the plan will assure a maximum rate of
4 20 collection of mercury-added thermostats. In reviewing a plan
4 21 the department may consider consistency of the plan with
4 22 collection requirements in other states and consider
4 23 consistency between thermostat manufacturer collection
4 24 programs. In reviewing plans, the agency shall ensure that
4 25 education and outreach programs are uniform and consistent to
4 26 ensure ease of implementation by thermostat wholesalers and
4 27 thermostat retailers.
4 28 b. The department shall establish a process for public
4 29 review and comment on all plans submitted by thermostat
4 30 manufacturers prior to plan approval. The department shall
4 31 consult with interested persons, including representatives of
4 32 thermostat manufacturers, environmental groups, thermostat
4 33 wholesalers, thermostat retailers, contractors, and local
4 34 government.
4 35 c. By January 15, 2010, and annually thereafter, the



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5 1 department shall submit a written report to the general
5 2 assembly regarding the collection and recycling of
5 3 mercury-added thermostats in the state. The first report
5 4 submitted shall include recommendations for any statutory
5 5 changes concerning the collection and recycling of
5 6 mercury-added thermostats. Subsequent reports shall include
5 7 an evaluation of the effectiveness of the mercury-added
5 8 thermostat collection and recycling programs, information on
5 9 actual collection rates, and recommendations for any statutory
5 10 changes concerning the collection and recycling of
5 11 mercury-added thermostats.

5 12 8. The goal of the collection and recycling efforts under
5 13 this section is to collect and recycle at least seventy
5 14 percent of the mercury-added thermostats estimated by the
5 15 department to be discarded within two years after the
5 16 implementation of approved plans and at least eighty percent
5 17 of the mercury-added thermostats estimated by the department
5 18 to be discarded within three years after the implementation of
5 19 approved plans. By January 1, 2009, the department shall
5 20 estimate the number of mercury-added thermostats generated in
5 21 the state on an annual basis, in consultation with interested
5 22 persons, including representatives of thermostat
5 23 manufacturers, thermostat wholesalers, thermostat retailers,
5 24 contractors, environmental groups, and local government. If
5 25 collection efforts fail to meet the collection goals described
5 26 in this subsection, the department shall, in consultation with
5 27 interested persons, require modifications to collection
5 28 programs in an attempt to improve collection rates in
5 29 accordance with these goals. Modifications may include but
5 30 are not limited to financial incentives provided by
5 31 manufacturers to service technicians, contractors, or
5 32 homeowners, and the modifications may be in the form of
5 33 rebates, coupons, or cash awards.

5 34 EXPLANATION

5 35 This bill relates to the collection and recycling of



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6 1 mercury-added thermostats.

6 2 The bill defines a mercury-added thermostat as a product or
6 3 device that uses a mercury switch to sense and control room
6 4 temperature through communication with heating, ventilating,
6 5 or air-conditioning equipment and includes thermostats used to
6 6 sense and control room temperature in residential, commercial,
6 7 industrial, and other buildings but does not include
6 8 thermostats used to sense and control temperature as part of a
6 9 manufacturing process.

6 10 The bill provides that a person who discards solid waste
6 11 shall separate mercury-added thermostats from that solid waste
6 12 for management as hazardous waste or universal hazardous
6 13 waste, according to all applicable state and federal
6 14 regulations. The bill provides requirements for a contractor
6 15 who replaces or removes mercury-added thermostats.

6 16 The bill provides that each thermostat manufacturer that
6 17 has offered for final sale, sold at final sale, or has
6 18 distributed mercury-added thermostats in the state shall do
6 19 all of the following:

6 20 1. Submit a plan to the department for approval that
6 21 describes a collection program for mercury-added thermostats.

6 22 2. Implement a mercury-added thermostat collection plan
6 23 approved by the department.

6 24 3. Beginning in 2010, submit an annual report to the
6 25 department by April 1 of each year that includes, at a
6 26 minimum, the number of mercury-added thermostats collected and
6 27 recycled by that manufacturer during the previous calendar
6 28 year, the estimated total amount of mercury contained in the
6 29 mercury-added thermostat components collected by that
6 30 manufacturer during the previous calendar year, an evaluation
6 31 of the effectiveness of the manufacturer's collection program,
6 32 and an accounting of the administrative costs incurred in the
6 33 course of administering the collection and recycling program.

6 34 The bill provides that, beginning July 1, 2009, a person
6 35 shall not offer for final sale, sell at final sale, or



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House File 2669 - Introduced continued

7 1 distribute mercury-added thermostats. The bill requires a
7 2 wholesaler to act as a collection site for mercury-added
7 3 thermostats, promote and utilize the collection containers
7 4 provided by mercury-added thermostat manufacturers to
7 5 facilitate a contractor collection program, and complete all
7 6 other tasks as needed to establish and maintain a
7 7 cost-effective manufacturer collection program.
7 8 The bill requires retailers to participate in an education
7 9 and outreach program to educate consumers on the collection
7 10 program for mercury-added thermostats.
7 11 The bill requires the department of natural resources to
7 12 review and grant approval of, deny, or approve with
7 13 modifications a manufacturer plan. The bill requires the
7 14 department to establish a process for public review and
7 15 comment on all plans submitted by thermostat manufacturers
7 16 prior to plan approval. The bill requires the department to
7 17 maintain a list of entities that have registered as collection
7 18 points for mercury-added thermostats. The bill requires the
7 19 department to submit a written report to the general assembly
7 20 regarding the collection and recycling of mercury-added
7 21 thermostats in the state.
7 22 The bill provides that the goal of the collection and
7 23 recycling efforts is to collect and recycle at least 70
7 24 percent of the mercury-added thermostats estimated by the
7 25 department to be discarded within two years after the
7 26 implementation of approved plans and at least 80 percent of
7 27 the mercury-added thermostats estimated by the department to
7 28 be discarded within three years after the implementation of
7 29 approved plans. By January 1, 2009, the bill requires the
7 30 department to estimate the number of out-of-service
7 31 mercury-added thermostats generated in the state on an annual
7 32 basis. The bill provides that if collection efforts fail to
7 33 meet the maximum rate of collection, the department shall, in
7 34 consultation with interested persons, require modifications to
7 35 collection programs in an attempt to improve collection rates



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House File 2669 - Introduced continued

- 8 1 in accordance with these goals.
- 8 2 LSB 6516HZ 82
- 8 3 tw/nh/24



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House File 2670 - Introduced

HOUSE FILE
BY COMMITTEE ON WAYS AND
MEANS

(SUCCESSOR TO HSB 783)

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

Passed Senate, Date _____
Vote: Ayes _____ Nays _____

A BILL FOR

- 1 An Act relating to administration of the tax and related laws by
- 2 the department of revenue, including administration of income,
- 3 sales and use, property, motor fuel, and tobacco taxes.
- 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 5 TLSB 6575HV 82
- 6 mg/sc/5



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House File 2670 - Introduced continued

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1 1 Section 1. Section 422.16, subsection 1, paragraph a, Code
1 2 Supplement 2007, is amended to read as follows:

1 3 a. Every withholding agent and every employer as defined
1 4 in this chapter and further defined in the Internal Revenue
1 5 Code, with respect to income tax collected at source, making
1 6 payment of wages to a nonresident employee working in Iowa, or
1 7 to a resident employee, shall deduct and withhold from the
1 8 wages an amount which will approximate the employee's annual
1 9 tax liability on a calendar year basis, calculated on the
1 10 basis of tables to be prepared by the department and schedules
1 11 or percentage rates, based on the wages, to be prescribed by
1 12 the department. Every employee or other person shall declare
1 13 to the employer or withholding agent the number of the
1 14 employee's or other person's personal ~~exemptions and~~
~~1 15 dependency exemptions or credits~~ allowances to be used in
1 16 applying the tables and schedules or percentage rates.

1 17 However, no greater number of ~~personal or dependency~~
~~1 18 exemptions or credits~~ allowances may be declared by the
1 19 employee or other person than the number to which the employee
1 20 or other person is entitled except as allowed under sections
1 21 3402(m)(1) and 3402(m)(3) of the Internal Revenue Code and as
1 22 allowed for the child and dependent care credit provided in
1 23 section 422.12C. The claiming of ~~exemptions or credits~~
1 24 allowances in excess of entitlement is a serious misdemeanor.

1 25 Sec. 2. Section 423.36, subsection 2, Code 2007, is
1 26 amended to read as follows:

1 27 2. To collect sales or use tax, the applicant must have a
1 28 permit for each place of business in the state of Iowa. The
1 29 department may deny a permit to an applicant who is
1 30 substantially delinquent in paying a tax due, or the interest
1 31 or penalty on the tax, administered by the department at the
1 32 time of application or if the applicant had a previous
~~1 33 delinquent liability with the department.~~ If the applicant is
1 34 a partnership, a permit may be denied if a partner is
1 35 substantially delinquent in paying any delinquent tax,



Iowa General Assembly
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House File 2670 - Introduced continued

2 1 penalty, or interest or if a partner had a previous delinquent
2 2 liability with the department. If the applicant is a
2 3 corporation, a permit may be denied if any officer having a
2 4 substantial legal or equitable interest in the ownership of
2 5 the corporation owes any delinquent tax, penalty, or interest
2 6 or if any officer having a substantial legal or equitable
2 7 interest in the ownership of the corporation had a previous
2 8 delinquent liability with the department.
2 9 Sec. 3. Section 423A.5, subsection 1, Code 2007, is
2 10 amended by adding the following new paragraph:
2 11 NEW PARAGRAPH. c. The sales price from transactions
2 12 exempt from state sales tax under section 423.3.
2 13 Sec. 4. Section 423A.5, subsection 2, Code 2007, is
2 14 amended by adding the following new paragraph:
2 15 NEW PARAGRAPH. c. The sales price from transactions
2 16 exempt from state sales tax under section 423.3.
2 17 Sec. 5. Section 423D.3, Code 2007, is amended to read as
2 18 follows:
2 19 423D.3 EXEMPTION.
2 20 The sales price on the lease or rental of equipment to
2 21 contractors for direct and primary use in construction is
2 22 exempt from the tax imposed by this chapter. The sales price
2 23 from transactions exempt from state sales tax under section
2 24 423.3 is also exempt from the tax imposed by this chapter.
2 25 Sec. 6. Section 427.1, subsection 7, Code Supplement 2007,
2 26 is amended to read as follows:
2 27 7. LIBRARIES AND ART GALLERIES. All grounds and buildings
2 28 used for public libraries, public art galleries, and libraries
2 29 and art galleries owned and kept by private individuals,
2 30 associations, or corporations, for public use and not for
2 31 private profit. Claims for exemption for libraries and art
2 32 galleries owned and kept by private individuals, associations,
2 33 or corporations for public use and not for private profit must
2 34 be filed with the local assessor by February 1 of the first
2 35 year the exemption is requested. Once the exemption is



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House File 2670 - Introduced continued

3 1 granted, the exemption shall continue to be granted for
3 2 subsequent assessment years without further filing of claims
3 3 as long as the property continues to be used as a library or
3 4 art gallery for public use and not for private profit.

3 5 Sec. 7. Section 452A.2, subsection 35, Code 2007, is
3 6 amended to read as follows:

3 7 35. "Supplier" means a person who acquires motor fuel or
3 8 special fuel by pipeline or marine vessel from a state,
3 9 territory, or possession of the United States, or from a
3 10 foreign country for storage at and distribution from a
3 11 terminal and who is registered under 26 U.S.C. } 4101 for
3 12 tax-free transactions in gasoline, a person who produces in
3 13 this state or acquires by truck, railcar, or barge for storage
3 14 at and distribution from a terminal, biofuel, biodiesel,
3 15 alcohol, or alcohol derivative substances, or a person who
3 16 produces, manufactures, or refines motor fuel or special fuel
3 17 in this state. "Supplier" includes a person who does not meet
3 18 the jurisdictional connection to this state but voluntarily
3 19 agrees to act as a supplier for purposes of collecting and
3 20 reporting the motor fuel or special fuel tax. "Supplier" does
3 21 not include a retail dealer or wholesaler who merely blends
3 22 alcohol with gasoline or biofuel with diesel before the sale
3 23 or distribution of the product or a terminal operator who
3 24 merely handles, in a terminal, motor fuel or special fuel
3 25 consigned to the terminal operator.

3 26 Sec. 8. Section 452A.33, subsection 2, unnumbered
3 27 paragraph 1, Code 2007, is amended to read as follows:

3 28 On or before ~~February~~ April 1 the department shall deliver
3 29 a report to the governor and the legislative services agency.
3 30 The report shall compile information reported by retail
3 31 dealers to the department as provided in this section and
3 32 shall at least include all of the following:

3 33 Sec. 9. Section 452A.59, Code 2007, is amended to read as
3 34 follows:

3 35 452A.59 ADMINISTRATIVE RULES.



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House File 2670 - Introduced continued

4 1 The department of revenue and the state department of
4 2 transportation are authorized and empowered to adopt rules
4 3 under chapter 17A, relating to the administration and
4 4 enforcement of this chapter as deemed necessary by the
4 5 departments. However, when in the opinion of the director it
4 6 is necessary for the efficient administration of this chapter,
4 7 the director may regard persons in possession of motor fuel,
4 8 special fuel, biofuel, alcohol, or alcohol derivative
4 9 substances as blenders, dealers, eligible purchasers,
4 10 exporters, importers, restrictive suppliers, suppliers,
4 11 terminal operators, or nonterminal storage facility operators.

4 12 Sec. 10. Section 453A.46, subsection 7, Code Supplement
4 13 2007, is amended to read as follows:

4 14 7. The director may require by rule that ~~reports~~ returns
4 15 be filed by electronic transmission.

4 16 EXPLANATION

4 17 This bill makes changes relating to the technical
4 18 administration of the tax and related laws by the department
4 19 of revenue.

4 20 Code section 422.16 is amended to specify that allowances
4 21 are claimed by employees when determining the amount of Iowa
4 22 withholding tax, not personal or dependency exemptions or
4 23 credits.

4 24 Code section 423.36 is amended to allow the department to
4 25 deny an application for a sales or use tax permit if the
4 26 applicant had a previous delinquent liability with the
4 27 department.

4 28 Code section 423A.5 is amended to exempt from the state and
4 29 local hotel and motel tax transactions that are exempt from
4 30 state sales tax.

4 31 Code section 423D.3 is amended to exempt from the equipment
4 32 tax transactions that are exempt from the state sales tax.

4 33 Code section 427.1 is amended to require a claim for a
4 34 property tax exemption to be filed by privately owned
4 35 libraries and art galleries used for public purposes and not



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House File 2670 - Introduced continued

5 1 for private profit to receive the property tax exemption.
5 2 Code section 452A.2 is amended to include in the definition
5 3 of "supplier" a person that produces or acquires biofuel or
5 4 biodiesel for storage and distribution from a terminal. The
5 5 definition is also amended to specify that "supplier" does not
5 6 include a retail dealer or wholesaler who merely blends
5 7 biofuel with diesel fuel before sale or distribution of the
5 8 product.
5 9 Code section 452A.33 is amended to change the date from
5 10 February 1 to April 1 when the department of revenue is
5 11 required to submit its report on information compiled from
5 12 motor fuel retailers to the governor and the legislative
5 13 services agency.
5 14 Code section 452A.59 is amended to authorize the director
5 15 to regard persons dealing in various fuel products as defined
5 16 persons contained in Code chapter 452A if the director
5 17 determines it is necessary for the efficient administration of
5 18 the motor fuel chapter.
5 19 Code section 453A.46 is amended to make a technical
5 20 correction to clarify that the director may require by rule
5 21 that tobacco "returns" rather than "reports" be filed by
5 22 electronic transmission.
5 23 LSB 6575HV 82
5 24 mg/sc/5



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House File 2671 - Introduced

HOUSE FILE
BY T. OLSON, WISE, PETERSEN,
OLDSO, H. MILLER, MASCHER,
and JOCHUM

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

A BILL FOR

1 An Act relating to local government by modifying provisions
2 related to franchise fees and by creating a pilot city program
3 to establish efficient growth, authorize revenue sources other
4 than property taxes, and provide city property tax relief
5 through property tax credits, and by providing tax credits for
6 the redevelopment of underutilized properties and clarifying
7 the meaning of eligible business under the high job quality
8 creation program, including penalties and including effective
9 and applicability date provisions.
10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
11 TL5B 6010YH 82
12 mg/sc/5



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House File 2671 - Introduced continued

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1 1 DIVISION I
1 2 CITY FRANCHISE FEES
1 3 Section 1. Section 364.2, subsection 4, paragraph f, Code
1 4 Supplement 2007, is amended to read as follows:
1 5 f. A franchise fee assessed by a city may be based upon a
1 6 percentage of gross revenues generated from sales of the
1 7 franchisee within the city not to exceed five percent, without
1 8 regard to the city's cost of inspecting, supervising, and
1 9 otherwise regulating the franchise. Franchise fees collected
1 10 may be credited to the city general fund and used for city
1 11 general fund purposes. However, at least twenty percent of
1 12 the fees collected shall be used for property tax relief. If
1 13 a city franchise fee is assessed to customers of a franchise,
1 14 the fee shall not be assessed to the city as a customer.
1 15 Before a city adopts or amends a franchise fee rate ordinance
1 16 or franchise ordinance to increase the percentage rate at
1 17 which franchise fees are assessed, a revenue purpose statement
1 18 shall be prepared specifying the purpose or purposes for which
1 19 the revenue collected from the increased rate will be
1 20 expended. If additional property tax relief is listed as a
1 21 purpose, the revenue purpose statement shall also include
1 22 information regarding the amount of the additional property
1 23 tax relief to be provided with revenue collected from the
1 24 increased rate. The revenue purpose statement shall be
1 25 published as provided in section 362.3.
1 26 Sec. 2. CERTAIN FRANCHISE FEES DECLARED LEGAL. To the
1 27 extent that any amount of franchise fees assessed by and paid
1 28 to a city prior to the effective date of this division of this
1 29 Act, pursuant to a franchise agreement between a city and any
1 30 person to erect, maintain, and operate plants and systems for
1 31 electric light and power, heating, telegraph, cable
1 32 television, district telegraph and alarm, motor bus, trolley
1 33 bus, street railway or other public transit, waterworks, or
1 34 gasworks, exceeds the city's reasonable costs of inspecting,
1 35 supervising, and otherwise regulating the franchise, such



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2 1 amount is deemed and declared to be authorized and legally
2 2 assessed by and paid to the city.
2 3 Sec. 3. EFFECTIVE DATE. This division of this Act, being
2 4 deemed of immediate importance, takes effect upon enactment.
2 5 DIVISION II
2 6 EFFICIENT GROWTH == ALTERNATIVE REVENUE SOURCES
2 7 SUBCHAPTER I
2 8 EFFICIENT GROWTH
2 9 Sec. 4. NEW SECTION. 385.1 EFFICIENT GROWTH == FINDINGS.
2 10 1. The general assembly finds that environmental,
2 11 financial, and social resources must be utilized efficiently
2 12 by cities so that future generations may share in their
2 13 benefits. For cities to be sustainable they must accomplish
2 14 all of the following:
2 15 a. Control the costs of government.
2 16 b. Preserve rich and productive agricultural lands and
2 17 other natural resources.
2 18 c. Provide housing options for all residents.
2 19 d. Recover the costs of providing public services.
2 20 e. Promote the development and redevelopment of vacant or
2 21 underutilized lots within the city, including brownfield
2 22 sites.
2 23 f. Create livable, walkable communities that are
2 24 attractive, vibrant, and engaging.
2 25 g. Create integrated regional transportation systems that
2 26 provide residents with more than one viable transportation
2 27 option.
2 28 2. The general assembly further finds that the current
2 29 process of development subsidizes new construction in areas
2 30 where little public infrastructure or public services exist.
2 31 The costs to local governments for providing these services
2 32 are not easily or efficiently recovered by local governments.
2 33 States and cities throughout the country have created new
2 34 systems that improve the financial sustainability of the
2 35 development process through the recovery of costs, targeting



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3 1 new developments toward vacant or underutilized sites within a
3 2 city, and ensuring that new development occurs concurrently
3 3 with infrastructure development.

3 4 Sec. 5. NEW SECTION. 385.2 PILOT PROGRAM CITIES ==
3 5 DESIGNATION.

3 6 1. Except as limited in subsection 2, a city that meets
3 7 the requirements established in this subchapter with regard to
3 8 an efficient growth plan shall be designated a pilot city that
3 9 is authorized to impose taxes and fees specified in this
3 10 chapter.

3 11 2. a. The total number of cities that may be designated
3 12 pilot cities equals ten cities except as follows:

3 13 (1) Cities contiguous to each other may prepare and adopt
3 14 a joint efficient growth plan. These cities shall be
3 15 designated as one pilot city.

3 16 (2) A city contiguous to another city or group of cities
3 17 that have been designated a pilot city may prepare and adopt
3 18 an efficient growth plan and may submit it to the pilot city
3 19 for consideration as an amendment to the pilot city's plan.
3 20 If the proposed amendment is approved by the governing body of
3 21 the pilot city or the governing body of each city in the case
3 22 of subparagraph (1), the city proposing the amendment shall be
3 23 included in the designation of pilot city.

3 24 b. Of the total number of cities that may be designated
3 25 pilot cities, designations as pilot cities shall be reserved
3 26 as follows:

3 27 (1) At least one city with a population of less than ten
3 28 thousand shall be designated a pilot city. This city shall
3 29 not be part of a group of cities as provided in paragraph "a",
3 30 subparagraph (1) or (2).

3 31 (2) At least one city with a population of at least ten
3 32 thousand but not more than thirty-five thousand shall be
3 33 designated a pilot city. This city shall not be part of a
3 34 group of cities as provided in paragraph "a", subparagraph (1)
3 35 or (2).



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4 1 3. Cities that are designated as one pilot city under
4 2 subsection 2, paragraph "a", subparagraph (1) or (2), may
4 3 independently of each other, impose taxes and fees specified
4 4 in this chapter.

4 5 Sec. 6. NEW SECTION. 385.3 EFFICIENT GROWTH PLAN.

4 6 1. Before a city may impose the taxes and fees authorized
4 7 in this chapter, the city shall prepare and adopt an efficient
4 8 growth plan. An efficient growth plan may be prepared and
4 9 adopted jointly with contiguous cities as authorized in
4 10 section 385.2, subsection 2, paragraph "a". With regard to
4 11 required elements of a joint plan, references to city means
4 12 all the cities participating in preparation of the joint plan.

4 13 2. An efficient growth plan shall contain, at a minimum,
4 14 all of the following elements:

4 15 a. ISSUES AND OPPORTUNITIES ELEMENT. Background
4 16 information on the city and a statement of overall objectives,
4 17 policies, goals, and programs of the city to guide its future
4 18 development and redevelopment over a twenty-year planning
4 19 period. Background information shall include population,
4 20 number and size of households, and employment forecasts used
4 21 in developing its efficient growth plan, and demographic
4 22 trends, age distribution, educational levels, income levels,
4 23 and employment characteristics that exist within the city.

4 24 b. HOUSING ELEMENT. A compilation of objectives,
4 25 policies, goals, maps, and programs of the city to provide an
4 26 adequate housing supply that meets existing and forecasted
4 27 housing demand in the city. The element shall assess the age,
4 28 structural value, and occupancy characteristics of the city's
4 29 housing stock.

4 30 c. TRANSPORTATION ELEMENT. A compilation of objectives,
4 31 policies, goals, maps, and programs to guide the future
4 32 development of the various modes of transportation, including
4 33 highways, mass transit, transportation systems for persons
4 34 with disabilities, bicycles, walking, railroads, air
4 35 transportation, trucking, and water transportation.



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5 1 d. UTILITIES AND COMMUNITY FACILITIES ELEMENT. A
5 2 compilation of objectives, policies, goals, maps, and programs
5 3 to guide the future development of utilities and community
5 4 facilities in the city, such as sanitary sewer service, storm
5 5 water management, water supply, solid waste disposal, on-site
5 6 wastewater treatment technologies, recycling facilities,
5 7 telecommunications facilities, power generating plants, and
5 8 transmission lines, cemeteries, health care facilities, child
5 9 care facilities, and other public facilities.

5 10 e. AGRICULTURAL, NATURAL, AND CULTURAL RESOURCES ELEMENT.
5 11 A compilation of objectives, policies, goals, maps, and
5 12 programs for the conservation and effective management of
5 13 natural resources within the city and in areas adjacent to the
5 14 city, such as groundwater, forests, productive agricultural
5 15 areas, environmentally sensitive areas, threatened and
5 16 endangered species, stream corridors, surface water,
5 17 floodplains, wetlands, wildlife habitat, metallic and
5 18 nonmetallic mineral resources, parks, open spaces, historical
5 19 and cultural resources, community design, recreational
5 20 resources, and other agricultural, natural, and cultural
5 21 resources.

5 22 f. ECONOMIC DEVELOPMENT ELEMENT. A compilation of
5 23 objectives, policies, goals, maps, and programs to promote the
5 24 stabilization, retention, or expansion of the economic base
5 25 and quality employment opportunities in the city, including an
5 26 analysis of the labor force and economic base of the city.
5 27 The element shall assess categories or particular types of new
5 28 businesses and industries that are desired by the city.

5 29 g. INTERGOVERNMENTAL COOPERATION ELEMENT. A compilation
5 30 of objectives, policies, goals, maps, and programs for joint
5 31 planning and decision making with other jurisdictions,
5 32 including school districts, counties, townships, and adjacent
5 33 cities, for siting and building public facilities and sharing
5 34 public services.

5 35 h. LAND USE ELEMENT. A compilation of objectives,



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6 1 policies, goals, maps, and programs to guide the future
6 2 development and redevelopment of public and private property.
6 3 The element shall contain a listing of the amount, type,
6 4 intensity, and net density of existing uses of land in the
6 5 city, such as agricultural, residential, commercial,
6 6 industrial, and other public and private uses. The element
6 7 shall also include a series of maps that shows current land
6 8 uses and future land uses that indicate productive
6 9 agricultural soils; natural limitations for building site
6 10 development; floodplains, wetlands, and other environmentally
6 11 sensitive lands; the boundaries of areas to which services of
6 12 public utilities and community facilities will be provided in
6 13 the future; and the general location of future land uses by
6 14 density and other classifications.

6 15 i. IMPLEMENTATION ELEMENT. A compilation of programs and
6 16 specific actions to be completed in a stated sequence,
6 17 including proposed changes to any applicable zoning
6 18 ordinances, official maps, or subdivision ordinances, to
6 19 implement the objectives, policies, plans, and programs. The
6 20 element shall describe how each of the elements of the
6 21 efficient growth plan will be integrated and made consistent
6 22 with the other elements of the plan.

6 23 3. a. An efficient growth plan shall include areas
6 24 designated by the city as urban growth areas, based on the
6 25 elements in subsection 2. An urban growth area shall identify
6 26 territory, within or without the current boundaries of a city,
6 27 that a reasonable and prudent person would project as the
6 28 likely site of commercial, industrial, or residential growth
6 29 over the next twenty years based on historical experience,
6 30 economic trends, population growth patterns, topographical
6 31 characteristics, and any professional planning, engineering,
6 32 and economic studies that are available. The city shall
6 33 report population growth projections for the city based upon
6 34 federal census data.

6 35 b. The efficient growth plan shall also identify vacant or



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7 1 underutilized lots or parcels of property within the city and
7 2 issues associated with transforming those vacant or
7 3 underutilized lots or parcels into feasible development areas.
7 4 4. Prior to the adoption of an efficient growth plan the
7 5 city shall hold a public hearing. Notice of the hearing shall
7 6 be published as provided in section 362.3. Prior to or at the
7 7 same time as notice of the hearing is published, a copy of a
7 8 preliminary draft of the efficient growth plan shall be made
7 9 available for review at the office of the city clerk.
7 10 Following the public hearing, the city council may adopt the
7 11 efficient growth plan as originally drafted, or as amended.
7 12 5. After adoption of the efficient growth plan, the
7 13 council shall amend the plan into the comprehensive plan of
7 14 the city prepared pursuant to section 414.3, and the
7 15 comprehensive plan, as amended, shall be the basis of zoning
7 16 regulations and restrictions adopted by the city and of zoning
7 17 districts created by the city pursuant to section 414.2.
7 18 6. A copy of the efficient growth plan adopted by the city
7 19 shall be filed in the office of city clerk and shall be
7 20 available to the public upon request. In addition, the city
7 21 clerk shall submit a copy of the efficient growth plan to the
7 22 city development board created in section 368.9, and the board
7 23 shall make the plan available to the public upon request.
7 24 Upon receipt of the copy of the efficient growth plan by the
7 25 board, the city shall become a designated pilot city, subject
7 26 to the limitations in section 385.2, subsection 2, on the
7 27 number of cities that may be designated a pilot city and the
7 28 reservation for certain sized cities. The board shall notify
7 29 the departments of management and revenue of the date and time
7 30 the board receives an efficient growth plan submitted by a
7 31 city.

7 32 SUBCHAPTER II

7 33 CITY FRANCHISE FEES

7 34 Sec. 7. NEW SECTION. 385.4 CITY FRANCHISE FEES.

7 35 1. A pilot city may assess by ordinance a franchise fee



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8 1 based upon a percentage of gross revenues generated from sales
8 2 of the franchisee within the city not to exceed three percent.
8 3 The franchise fees assessed under this subchapter shall be in
8 4 addition to any franchise fees assessed pursuant to section
8 5 364.2, subsection 4, paragraph "f".
8 6 2. Franchise fees collected by the city under this
8 7 subchapter shall be deposited and used as provided in
8 8 subchapter VII.

8 9 SUBCHAPTER III
8 10 HOTEL AND MOTEL TAX

8 11 Sec. 8. NEW SECTION. 385.5 DEFINITIONS.

8 12 For the purposes of this subchapter, unless the context
8 13 otherwise requires:

8 14 1. "Department" means the department of revenue.

8 15 2. "Lessor" means any person engaged in the business of
8 16 renting lodging to users.

8 17 3. "Lodging" means rooms, apartments, or sleeping quarters
8 18 in a hotel, motel, inn, public lodging house, rooming house,
8 19 or manufactured or mobile home which is tangible personal
8 20 property, or in a tourist court, or in any place where
8 21 sleeping accommodations are furnished to transient guests for
8 22 rent, whether with or without meals.

8 23 4. "Person" means the same as the term is defined in
8 24 section 423.1.

8 25 5. "Renting" or "rent" means a transfer of possession or
8 26 control of lodging for a fixed or indeterminate term for
8 27 consideration and includes any kind of direct or indirect
8 28 charge for such lodging or its use.

8 29 6. "Sales price" means the consideration for renting of
8 30 lodging and means the same as the term is defined in section
8 31 423.1.

8 32 7. "User" means a person to whom lodging is rented.

8 33 All other words and phrases used in this subchapter and
8 34 defined in section 423.1 have the meaning given them by
8 35 section 423.1 for the purposes of this subchapter.



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9 1 Sec. 9. NEW SECTION. 385.6 LOCALLY IMPOSED HOTEL AND
9 2 MOTEL TAX.
9 3 A pilot city may impose by ordinance a hotel and motel tax,
9 4 at a rate not to exceed two percent, which shall be imposed in
9 5 increments of one or more full percentage points upon the
9 6 sales price from the renting of lodging. The tax shall apply
9 7 only within the corporate boundaries of the pilot city.
9 8 A local hotel and motel tax shall be imposed on January 1
9 9 or July 1, following the notification of the director of
9 10 revenue. Once imposed, the tax shall remain in effect at the
9 11 rate imposed for a minimum of one year. A local hotel and
9 12 motel tax shall terminate only on June 30 or December 31. At
9 13 least forty-five days prior to the tax being effective or
9 14 prior to a revision in the tax rate or prior to the repeal of
9 15 the tax, a city shall provide notice by mail of such action to
9 16 the director of revenue.
9 17 Imposition of the local hotel and motel tax under this
9 18 subchapter is in addition to any local hotel and motel tax
9 19 imposed pursuant to chapter 423A.
9 20 Sec. 10. NEW SECTION. 385.7 EXEMPTIONS.
9 21 There are exempted from the provisions of this subchapter
9 22 and from the computation of any amount of tax imposed by
9 23 section 385.6 all of the following:
9 24 1. The sales price from the renting of lodging which is
9 25 rented by the same person for a period of more than thirty-one
9 26 consecutive days.
9 27 2. The sales price from the renting of sleeping rooms in
9 28 dormitories and in memorial unions at all universities and
9 29 colleges located in the state of Iowa.
9 30 3. The sales price of lodging furnished to the guests of a
9 31 religious institution if the property is exempt under section
9 32 427.1, subsection 8, and the purpose of renting is to provide
9 33 a place for a religious retreat or function and not a place
9 34 for transient guests generally.
9 35 Sec. 11. NEW SECTION. 385.8 ADMINISTRATION BY DIRECTOR.



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10 1 The director of revenue shall administer the local hotel
10 2 and motel tax as nearly as possible in conjunction with the
10 3 administration of the state sales tax law, except that portion
10 4 of the law which implements the streamlined sales and use tax
10 5 agreement. The director shall provide appropriate forms, or
10 6 provide space on the regular state tax forms, for reporting
10 7 local hotel and motel tax liability. All moneys received or
10 8 refunded one hundred eighty days after the date on which a
10 9 city terminates its local hotel and motel tax shall be
10 10 deposited in or withdrawn from the general fund of the state.
10 11 The director, in consultation with local officials, shall
10 12 collect and account for a local hotel and motel tax and shall
10 13 credit all revenues to the local hotel and motel tax fund
10 14 created in section 385.9. Local authorities shall not require
10 15 any tax permit not required by the director of revenue.
10 16 Section 422.25, subsection 4, sections 422.30, 422.67, and
10 17 422.68, section 422.69, subsection 1, sections 422.70, 422.71,
10 18 422.72, 422.74, and 422.75, section 423.14, subsection 1, and
10 19 sections 423.23, 423.24, 423.25, 423.31, 423.33, 423.35,
10 20 423.37 through 423.42, and 423.47, consistent with the
10 21 provisions of this subchapter, apply with respect to the taxes
10 22 authorized under this subchapter, in the same manner and with
10 23 the same effect as if the local hotel and motel taxes were
10 24 retail sales taxes within the meaning of those statutes.
10 25 Notwithstanding this paragraph, the director shall provide for
10 26 quarterly filing of returns and for other than quarterly
10 27 filing of returns both as prescribed in section 423.31. The
10 28 director may require all persons who are engaged in the
10 29 business of deriving any sales price subject to tax under this
10 30 subchapter to register with the department. All taxes
10 31 collected under this subchapter by a retailer or any
10 32 individual are deemed to be held in trust for the state of
10 33 Iowa and the local jurisdictions imposing the taxes.
10 34 Sec. 12. NEW SECTION. 385.9 LOCAL HOTEL AND MOTEL TAX
10 35 FUND == USE OF REVENUES.



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11 1 1. A local hotel and motel tax fund is created in the
11 2 department which shall consist of all moneys credited to such
11 3 fund under section 385.8.

11 4 2. All moneys in the local hotel and motel tax fund shall
11 5 be remitted at least quarterly by the department, pursuant to
11 6 rules of the director of revenue, to each city imposing the
11 7 tax in the amount collected from businesses in that city.

11 8 3. Local hotel and motel revenues received by the city
11 9 under this subchapter shall be deposited and used as provided
11 10 in subchapter VII.

SUBCHAPTER IV

LOCAL SALES AND SERVICES TAX

11 12 Sec. 13. NEW SECTION. 385.10 LOCAL SALES AND SERVICES
11 13 TAX.

11 14 TAX.
11 15 1. A pilot city may impose by ordinance a local sales and
11 16 services tax at the rate of one percent on the sales price
11 17 taxed by the state under chapter 423, subchapter II. A local
11 18 sales and services tax shall be imposed on the same basis as
11 19 the state sales and services tax or, in the case of the use of
11 20 natural gas, natural gas service, electricity, or electric
11 21 service, on the same basis as the state use tax. A local
11 22 sales and services tax shall not be imposed on the sale of any
11 23 property or on any service not taxed by the state, except the
11 24 tax shall not be imposed on the sales price from the sale of
11 25 motor fuel or special fuel as defined in chapter 452A which is
11 26 consumed for highway use or in watercraft or aircraft if the
11 27 fuel tax is paid on the transaction and a refund has not or
11 28 will not be allowed, on the sales price from the sale of
11 29 equipment by the state department of transportation, or on the
11 30 sales price from the sale or use of natural gas, natural gas
11 31 service, electricity, or electric service in a city where the
11 32 sales price from the sale of natural gas or electric energy is
11 33 subject to a franchise fee or user fee during the period the
11 34 franchise or user fee is imposed. A local sales and services
11 35 tax is applicable to transactions within the incorporated



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12 1 areas of the city where it is imposed and shall be collected
12 2 by all persons required to collect state sales taxes.
12 3 The amount of the sale, for purposes of determining the
12 4 amount of the local sales and services tax, does not include
12 5 the amount of any state sales tax.
12 6 A tax permit other than the state sales tax permit required
12 7 under section 423.36 shall not be required by local
12 8 authorities.
12 9 2. If a local sales and services tax is imposed by a city
12 10 pursuant to this subchapter, a local excise tax at the same
12 11 rate shall be imposed by the city on the purchase price of
12 12 natural gas, natural gas service, electricity, or electric
12 13 service subject to tax under chapter 423, subchapter III, and
12 14 not exempted from tax by any provision of chapter 423,
12 15 subchapter III. The local excise tax is applicable only to
12 16 the use of natural gas, natural gas service, electricity, or
12 17 electric service within the incorporated areas of the city
12 18 where it is imposed and, except as otherwise provided in this
12 19 subchapter, shall be collected and administered in the same
12 20 manner as the local sales and services tax. For purposes of
12 21 this subchapter, "local sales and services tax" shall also
12 22 include the local excise tax.
12 23 3. A local sales and services tax under this subchapter
12 24 shall not be imposed if a local sales and services tax under
12 25 chapter 423B is imposed in any area of the city.
12 26 Sec. 14. NEW SECTION. 385.11 ADMINISTRATION.
12 27 1. a. A local sales and services tax shall be imposed
12 28 either January 1 or July 1 following the notification of the
12 29 director of revenue but not sooner than ninety days following
12 30 the passage of the ordinance and not sooner than sixty days
12 31 following notice to sellers, as defined in section 423.1.
12 32 b. A local sales and services tax shall be repealed only
12 33 on June 30 or December 31 but not sooner than ninety days
12 34 following the repeal of the ordinance. However, a local sales
12 35 and services tax shall not be repealed before the tax has been



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13 1 in effect for one year. At least forty days before the
13 2 imposition or repeal of the tax, a city shall provide notice
13 3 of the action by certified mail to the director of revenue.
13 4 c. The imposition of a local sales and services tax shall
13 5 not be applied to purchases from a printed catalog wherein a
13 6 purchaser computes the local tax based on rates published in
13 7 the catalog unless a minimum of one hundred twenty days'
13 8 notice of the imposition or rate change has been given to the
13 9 seller from the catalog and the first day of a calendar
13 10 quarter has occurred on or after the one hundred twentieth
13 11 day.
13 12 2. a. The director of revenue shall administer a local
13 13 sales and services tax as nearly as possible in conjunction
13 14 with the administration of state sales tax laws. The director
13 15 shall provide appropriate forms or provide space on the
13 16 regular state tax forms for reporting local sales and services
13 17 tax liability.
13 18 b. The ordinance of a city imposing a local sales and
13 19 services tax shall adopt by reference the applicable
13 20 provisions of the appropriate sections of chapter 423. All
13 21 powers and requirements of the director to administer the
13 22 state sales tax law and use tax law are applicable to the
13 23 administration of a local sales and services tax law and the
13 24 local excise tax, including but not limited to the provisions
13 25 of section 422.25, subsection 4, sections 422.30, 422.67, and
13 26 422.68, section 422.69, subsection 1, sections 422.70 to
13 27 422.75, section 423.14, subsection 1 and subsection 2,
13 28 paragraphs "b" through "e", and sections 423.15, 423.23,
13 29 423.24, 423.25, 423.31 to 423.35, 423.37 to 423.42, 423.46,
13 30 and 423.47. Local officials shall confer with the director of
13 31 revenue for assistance in drafting the ordinance imposing a
13 32 local sales and services tax. A certified copy of the
13 33 ordinance shall be filed with the director as soon as possible
13 34 after passage.
13 35 c. Frequency of deposits and quarterly reports of a local



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14 1 sales and services tax with the department of revenue are
14 2 governed by the tax provisions in section 423.31. Local tax
14 3 collections shall not be included in computation of the total
14 4 tax to determine frequency of filing under section 423.31.
14 5 d. The director shall apply a boundary change of a city
14 6 imposing or collecting the local sales and services tax to the
14 7 imposition or collection of that tax only on the first day of
14 8 a calendar quarter which occurs sixty days or more after the
14 9 director has given notice of the boundary change to sellers.
14 10 3. a. The director, in consultation with local officials,
14 11 shall collect and account for a local sales and services tax.
14 12 The director shall certify each quarter the amount of local
14 13 sales and services tax receipts and any interest and penalties
14 14 to be credited to a local sales and services tax fund of that
14 15 city established in the office of the treasurer of state. All
14 16 taxes collected under this subchapter by a retailer or any
14 17 individual are deemed to be held in trust for the state of
14 18 Iowa and the local jurisdictions imposing the taxes.
14 19 b. All local tax moneys and interest and penalties
14 20 received or refunded one hundred eighty days or more after the
14 21 date on which the city repeals its local sales and services
14 22 tax shall be deposited in or withdrawn from the general fund
14 23 of the state.
14 24 Sec. 15. NEW SECTION. 385.12 PAYMENT TO THE CITY == USE
14 25 OF RECEIPTS.
14 26 1. The director shall credit the local sales and services
14 27 tax receipts and interest and penalties from a city-imposed
14 28 tax to the city's local sales and services tax fund.
14 29 2. a. The director of revenue by August 15 of each fiscal
14 30 year shall send to the city where the local option tax is
14 31 imposed an estimate of the amount of tax moneys the city will
14 32 receive for the year and for each month of the year. At the
14 33 end of each month, the director may revise the estimates for
14 34 the year and remaining months.
14 35 b. The director of revenue shall remit ninety=five percent



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15 1 of the estimated tax receipts for the city to the city on or
15 2 before August 31 of the fiscal year and on or before the last
15 3 day of each following month.

15 4 c. The director of revenue shall remit a final payment of
15 5 the remainder of tax moneys due the city for the fiscal year
15 6 before November 10 of the next fiscal year. If an overpayment
15 7 has resulted during the previous fiscal year, the November
15 8 payment shall be adjusted to reflect any overpayment.

15 9 3. Local sales and services tax revenues received by the
15 10 city under this subchapter shall be deposited and used as
15 11 provided in subchapter VII.

15 12 Sec. 16. NEW SECTION. 385.13 CONSTRUCTION CONTRACTOR
15 13 REFUNDS.

15 14 1. Construction contractors may make application to the
15 15 department for a refund of the additional local sales and
15 16 services tax paid under this subchapter by reason of taxes
15 17 paid on goods, wares, or merchandise under the following
15 18 conditions:

15 19 a. The goods, wares, or merchandise are incorporated into
15 20 an improvement to real estate in fulfillment of a written
15 21 contract fully executed prior to the date of the imposition of
15 22 a local sales and services tax under this subchapter. The
15 23 refund shall not apply to equipment transferred in fulfillment
15 24 of a mixed construction contract.

15 25 b. The contractor has paid to the department or to a
15 26 retailer the full amount of the state and local tax.

15 27 c. The claim is filed on forms provided by the department
15 28 and is filed within one year of the date the tax is paid.

15 29 2. The department shall pay the refund from the city's
15 30 local sales and services tax fund.

15 31 3. A contractor who makes an erroneous application for
15 32 refund shall be liable for payment of the excess refund paid
15 33 plus interest at the rate in effect under section 421.7. In
15 34 addition, a contractor who willfully makes a false application
15 35 for refund is guilty of a simple misdemeanor and is liable for



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16 1 a penalty equal to fifty percent of the excess refund claimed.
16 2 Excess refunds, penalties, and interest due under this
16 3 subsection may be enforced and collected in the same manner as
16 4 the local sales and services tax imposed under this
16 5 subchapter.

16 6 SUBCHAPTER V

16 7 LOCAL CIGARETTE AND TOBACCO PRODUCTS TAX

16 8 Sec. 17. NEW SECTION. 385.14 LOCAL CIGARETTE AND TOBACCO
16 9 PRODUCTS TAX.

16 10 1. A pilot city may impose by ordinance a local cigarette
16 11 and tobacco products tax pursuant to this subchapter. The tax
16 12 shall be imposed at a rate specified in increments of one or
16 13 more full percentage points upon the sales price of cigarettes
16 14 and tobacco products sold at retail locations in the city.
16 15 The tax shall be imposed on the same basis as the state sales
16 16 tax under chapter 423, subchapter II, and shall not be imposed
16 17 on the sale of any cigarettes or tobacco products not taxed by
16 18 the state.

16 19 2. a. A local cigarette and tobacco products tax shall be
16 20 imposed or the rate changed either January 1 or July 1
16 21 following the notification of the director of revenue but not
16 22 sooner than ninety days following the passage of the ordinance
16 23 imposing or changing the rate of the tax and not sooner than
16 24 sixty days following notice to sellers, as defined in section
16 25 423.1.

16 26 b. A local cigarette and tobacco products tax shall be
16 27 repealed only on June 30 or December 31 but not sooner than
16 28 ninety days following repeal of the ordinance. However, the
16 29 tax shall not be repealed before the tax has been in effect
16 30 for one year. At least forty days before the imposition or
16 31 repeal of the tax, a city shall provide notice of the action
16 32 by certified mail to the director of revenue.

16 33 3. The local cigarette and tobacco products tax shall be
16 34 in addition to any local sales and services tax that may be
16 35 imposed pursuant to subchapter IV or chapter 423B.



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17 1 4. For purposes of this subchapter:
17 2 a. "Cigarette" means the same as defined in section
17 3 453A.1.
17 4 b. "Tobacco products" means the same as defined in section
17 5 453A.42.
17 6 Sec. 18. NEW SECTION. 385.15 ADMINISTRATION.
17 7 1. a. The director of revenue shall administer a local
17 8 cigarette and tobacco products tax as nearly as possible in
17 9 conjunction with the administration of state sales tax laws.
17 10 The director shall provide appropriate forms or provide space
17 11 on the regular state tax forms for reporting local cigarette
17 12 and tobacco products tax liability.
17 13 b. The ordinance of a city imposing a local cigarette and
17 14 tobacco products tax shall adopt by reference the applicable
17 15 provisions of the appropriate sections of chapter 423. All
17 16 powers and requirements of the director to administer the
17 17 state sales tax law are applicable to the administration of a
17 18 local cigarette and tobacco products tax law including but not
17 19 limited to the provisions of section 422.25, subsection 4,
17 20 sections 422.30, 422.67, and 422.68, section 422.69,
17 21 subsection 1, sections 422.70 to 422.75, section 423.14,
17 22 subsection 1 and subsection 2, paragraphs "b" through "e", and
17 23 sections 423.15, 423.23, 423.24, 423.25, 423.31 to 423.35,
17 24 423.37 to 423.42, 423.46, and 423.47. Local officials shall
17 25 confer with the director of revenue for assistance in drafting
17 26 the ordinance imposing the tax. A certified copy of the
17 27 ordinance shall be filed with the director as soon as possible
17 28 after passage.
17 29 c. Frequency of deposits and quarterly reports of the
17 30 local tax with the department of revenue are governed by the
17 31 tax provisions in section 423.31. Local tax collections shall
17 32 not be included in computation of the total tax to determine
17 33 frequency of filing under section 423.31.
17 34 d. The director shall apply a boundary change of a city
17 35 imposing or collecting the local tax to the imposition or



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18 1 collection of that tax only on the first day of a calendar
18 2 quarter which occurs sixty days or more after the director has
18 3 given notice of the boundary change to sellers.

18 4 2. a. The director, in consultation with local officials,
18 5 shall collect and account for the local tax. The director
18 6 shall certify each quarter the amount of local cigarette and
18 7 tobacco products tax receipts and any interest and penalties
18 8 to be credited to the local cigarette and tobacco products tax
18 9 fund established in the office of the treasurer of state. All
18 10 taxes collected under this subchapter by a retailer or any
18 11 individual are deemed to be held in trust for the state of
18 12 Iowa and the local jurisdiction imposing the tax.

18 13 b. All local tax moneys and interest and penalties
18 14 received or refunded one hundred eighty days or more after the
18 15 date on which the city repeals its local cigarette and tobacco
18 16 products tax shall be deposited in or withdrawn from the
18 17 general fund of the state.

18 18 Sec. 19. NEW SECTION. 385.16 PAYMENT TO THE CITY == USE
18 19 OF RECEIPTS.

18 20 1. All moneys in the city's local cigarette and tobacco
18 21 products tax fund shall be remitted at least quarterly by the
18 22 department of revenue, pursuant to rules of the director of
18 23 revenue, to the city.

18 24 2. Local cigarette and tobacco products tax revenues
18 25 received by the city under this subchapter shall be deposited
18 26 and used as provided in subchapter VII.

18 27 SUBCHAPTER VI
18 28 POLICE AND FIRE SERVICE CHARGE

18 29 Sec. 20. NEW SECTION. 385.17 POLICE AND FIRE PROTECTION
18 30 SERVICE CHARGE IN LIEU OF TAXES.

18 31 1. A pilot city may assess a service charge for the
18 32 providing of police and fire protection in a fiscal year for
18 33 real property that is totally or partially tax-exempt,
18 34 including government-owned real property, and property under
18 35 section 427.1, subsection 8, of nonprofit literary,



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19 1 scientific, charitable, benevolent, agricultural, and
19 2 religious institutions and societies used solely for their
19 3 appropriate objects. However, those portions of real property
19 4 owned by a religious institution or organization which are
19 5 used exclusively for worship shall not be assessed the service
19 6 charge. The amount of the service charge shall not exceed the
19 7 rate determined under subsection 2 times the amount of the
19 8 assessed value of the real property that is not subject to the
19 9 city's property tax levy in the fiscal year. Service charges
19 10 are payable at the time and in the same manner as property
19 11 taxes are paid.

19 12 2. The maximum rate of the service charge, expressed in
19 13 dollars per one thousand dollars of assessed valuation, for
19 14 providing police and fire protection equals the portion of the
19 15 property tax levy rate for the city pursuant to sections 384.1
19 16 and 384.6, as certified by the city, which is budgeted to
19 17 support police and fire protection services.

19 18 3. a. If real property assessed a service charge under
19 19 subsection 1 for a fiscal year is subsequently subject to
19 20 property tax on the assessed value upon which the service
19 21 charge was determined, the amount of the property tax shall be
19 22 reduced by the amount of any service charge paid.

19 23 b. If a city receives payment in lieu of property taxes or
19 24 reimbursement for property taxes as a result of a tax
19 25 exemption, the amount of such payment or reimbursement shall
19 26 be a credit on the service charge assessed on that real
19 27 property.

19 28 4. For purposes of this section, real property subject to
19 29 the service charge under subsection 1 shall be valued and
19 30 assessed as required in section 427.1, subsection 18, and in
19 31 accordance with chapter 441, and the owner or other persons as
19 32 authorized by chapter 441 are entitled to protest any
19 33 assessment and take appeals in the same manner as any property
19 34 owner or taxpayer.

19 35 5. Service charges collected under this subchapter shall



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20 1 be deposited and used as provided in subchapter VII.
20 2 SUBCHAPTER VII
20 3 USE OF REVENUES
20 4 Sec. 21. NEW SECTION. 385.18 USE OF REVENUES.
20 5 1. All revenues collected as a result of the alternative
20 6 revenue sources authorized under this chapter shall be
20 7 deposited into a property tax relief fund of the city and
20 8 shall be expended for property tax relief as follows:
20 9 a. Seventy percent shall be used to provide property tax
20 10 relief for commercial and industrial property as provided in
20 11 subsection 2, paragraph "a".
20 12 b. Thirty percent shall be used to provide property tax
20 13 relief for all taxable property, including commercial and
20 14 industrial property, as provided in subsection 2, paragraph
20 15 "b".
20 16 2. Moneys in the property tax relief fund as of June 1 of
20 17 each year shall provide property tax credits for taxes payable
20 18 in the following fiscal year as follows:
20 19 a. The county treasurer shall determine the tax credit for
20 20 taxable commercial and industrial property in the city as
20 21 follows:
20 22 (1) Determine the amount in the property tax relief fund
20 23 as of June 1 of each year that is to provide property tax
20 24 credits for commercial and industrial property.
20 25 (2) Divide the amount determined under subparagraph (1) by
20 26 the total of the taxable value of all commercial and
20 27 industrial property in the city.
20 28 (3) Calculate the amount of tax credit for each taxable
20 29 parcel of commercial and industrial property by multiplying
20 30 the amount calculated under subparagraph (2) by the taxable
20 31 value of that parcel.
20 32 b. The county treasurer shall determine the tax credit for
20 33 all taxable property in the city, including taxable commercial
20 34 and industrial property, as follows:
20 35 (1) Determine the amount in the property tax relief fund



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21 1 as of June 1 of each year that is to provide property tax
21 2 credits for all taxable property.
21 3 (2) Divide the amount determined under subparagraph (1) by
21 4 the total of the taxable value of all taxable property in the
21 5 city.
21 6 (3) Calculate the amount of tax credit for each taxable
21 7 parcel of property by multiplying the amount calculated under
21 8 subparagraph (2) by the taxable value of that parcel.

SUBCHAPTER VIII

REPEAL

21 11 Sec. 22. NEW SECTION. 385.19 REPEAL.
21 12 This chapter is repealed July 1, 2015.
21 13 Sec. 23. EFFECTIVE DATE. This division of this Act, being
21 14 deemed of immediate importance, takes effect upon enactment.

DIVISION III

ECONOMIC DEVELOPMENT PROGRAMS

21 17 Sec. 24. Section 15.291, Code 2007, is amended to read as
21 18 follows:

21 19 15.291 DEFINITIONS.

21 20 As used in this part, unless the context otherwise
21 21 requires:

21 22 1. "Brownfield site" means an abandoned, idled, or
21 23 underutilized industrial or commercial facility where
21 24 expansion or redevelopment is complicated by real or perceived
21 25 environmental contamination. A brownfield site includes
21 26 property contiguous with the property on which the individual
21 27 or commercial facility is located. A brownfield site ~~shall~~
21 28 does not include property which has been placed, or is
21 29 proposed to be included for placement, on the national
21 30 priorities list established pursuant to the federal
21 31 Comprehensive Environmental Response, Compensation, and
21 32 Liability Act, 42 U.S.C. } 9601 et seq.

21 33 2. "Council" means the brownfield redevelopment advisory
21 34 council established in section 15.294.

21 35 3. "Grayfield site" means a property that has been



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22 1 developed and has infrastructure in place but whose current
22 2 use is outdated or prevents a better or more efficient use of
22 3 the property. Grayfield site includes vacant, blighted,
22 4 obsolete, or otherwise underutilized industrial or commercial
22 5 property.

22 6 4. "Green development" means a brownfield or grayfield
22 7 site which has been redeveloped or improved such that the
22 8 property meets the voluntary performance standards for new
22 9 construction or existing buildings of the United States green
22 10 building council's leadership in energy and environmental
22 11 design green building rating system.

22 12 5. "Qualifying investment" means the purchase price, the
22 13 cleanup costs, and the redevelopment costs directly related to
22 14 a qualifying redevelopment project.

22 15 6. "Qualifying redevelopment project" means a brownfield
22 16 or a grayfield site being redeveloped or improved by the
22 17 property owner. Qualifying redevelopment project does not
22 18 include a previously remediated or redeveloped brownfield
22 19 site.

22 20 ~~2.~~ 7. "Sponsorship" means an agreement between a city or
22 21 county and an applicant for assistance under the brownfield
22 22 redevelopment program where the city or county agrees to offer
22 23 assistance or guidance to the applicant.

22 24 Sec. 25. NEW SECTION. 15.293A REDEVELOPMENT TAX CREDITS.

22 25 1. a. A redevelopment tax credit shall be allowed against
22 26 the taxes imposed in chapter 422, divisions II, III, and V,
22 27 and in chapter 432, and against the moneys and credits tax
22 28 imposed in section 533.329, for a portion of a taxpayer's
22 29 equity investment, as provided in subsection 2, in a
22 30 qualifying redevelopment project.

22 31 b. An individual may claim a tax credit under this
22 32 subsection of a partnership, limited liability company, S
22 33 corporation, estate, or trust electing to have income taxed
22 34 directly to the individual. The amount claimed by the
22 35 individual shall be based upon the pro rata share of the



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23 1 individual's earnings from the partnership, limited liability
23 2 company, S corporation, estate, or trust.
23 3 c. Any tax credit in excess of the taxpayer's liability
23 4 for the tax year is not refundable but may be credited to the
23 5 tax liability for the following five years or until depleted,
23 6 whichever is earlier. A tax credit shall not be carried back
23 7 to a tax year prior to the tax year in which the taxpayer
23 8 first receives the tax credit.
23 9 2. The amount of the tax credit shall equal one of the
23 10 following:
23 11 a. Twenty percent of the taxpayer's qualifying investment
23 12 in a grayfield site.
23 13 b. Twenty-five percent of the taxpayer's qualifying
23 14 investment in a grayfield site if the qualifying redevelopment
23 15 project meets the requirements of a green development.
23 16 c. Forty percent of the taxpayer's qualifying investment
23 17 in a brownfield site.
23 18 d. Fifty percent of the taxpayer's qualifying investment
23 19 in a brownfield site if the qualifying redevelopment project
23 20 meets the requirements of a green development.
23 21 3. For purposes of individual and corporate income taxes
23 22 and the franchise tax, the increase in the basis of the
23 23 redeveloped property that would otherwise result from the
23 24 qualified redevelopment costs shall be reduced by the amount
23 25 of the credit computed under this part.
23 26 4. The maximum amount of a tax credit for a qualifying
23 27 investment in any one qualifying redevelopment project shall
23 28 not exceed twenty percent of the maximum amount of tax credits
23 29 available in any one fiscal year pursuant to subsection 5.
23 30 5. For tax years beginning in the 2009 calendar year, the
23 31 maximum amount of tax credits issued by the department shall
23 32 not exceed three million dollars. For tax years beginning in
23 33 the 2010 calendar year, the maximum amount of tax credits
23 34 issued by the department shall not exceed six million dollars.
23 35 For tax years beginning in the 2011 calendar year, and for tax



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24 1 years beginning in subsequent calendar years, the maximum
24 2 amount of tax credits issued by the department shall not
24 3 exceed ten million dollars.
24 4 6. An investment shall be deemed to have been made on the
24 5 date the qualifying redevelopment project is completed. An
24 6 investment made prior to January 1, 2009, shall not qualify
24 7 for a tax credit under this part.
24 8 7. The department shall develop a system for registration
24 9 and authorization of tax credits authorized pursuant to this
24 10 part and shall control distribution of all tax credits
24 11 distributed to investors pursuant to this part.
24 12 8. The department shall develop rules for the
24 13 qualification of qualifying redevelopment projects and
24 14 qualifying investments. The department of revenue shall adopt
24 15 these criteria as administrative rules and shall adopt any
24 16 other rules pursuant to chapter 17A necessary for the
24 17 administration of this part.
24 18 9. The department may cooperate with the department of
24 19 natural resources and local governments in an effort to
24 20 disseminate information regarding the availability of tax
24 21 credits for investments in qualifying redevelopment projects
24 22 under this part.
24 23 Sec. 26. NEW SECTION. 15.293B APPROVAL == REQUIREMENTS
24 24 == REPAYMENT.
24 25 1. An investor seeking to claim a tax credit pursuant to
24 26 section 15.293A shall apply to the council which shall have
24 27 the power to approve the amount of tax credit available for
24 28 each qualifying redevelopment project.
24 29 2. An investor applying for a tax credit shall provide the
24 30 council with all of the following:
24 31 a. Information showing the total costs of the qualifying
24 32 redevelopment project, including the costs of land
24 33 acquisition, cleanup, and redevelopment.
24 34 b. Information about the financing sources of the
24 35 investment which are directly related to the qualifying



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25 1 redevelopment project for which the taxpayer is seeking
25 2 approval for a tax credit, as provided in section 15.293A.
25 3 3. If a taxpayer receives a tax credit pursuant to section
25 4 15.293A, but fails to comply with any of the requirements, the
25 5 taxpayer loses any right to the tax credit, and the department
25 6 of revenue shall seek recovery of the value of the credit
25 7 received.

25 8 Sec. 27. Section 15.294, Code 2007, is amended by adding
25 9 the following new subsection:

25 10 NEW SUBSECTION. 4. The council shall consider
25 11 applications for redevelopment tax credits as described in
25 12 sections 15.293A and 15.293B, and the council may approve the
25 13 amount of such tax credits for qualifying investments in
25 14 qualifying redevelopment projects.

25 15 Sec. 28. Section 15.329, subsection 1, paragraph b, Code
25 16 2007, is amended to read as follows:

25 17 b. The business, or the business's successors or assigns,
25 18 has not closed or substantially reduced its operation in one
25 19 area of the state community and relocated substantially the
25 20 same operation in the another community. A business is not
25 21 eligible to receive incentives under this part if it is
25 22 closing, or has closed, or is reducing, or has reduced, its
25 23 operations in one city or county and is relocating, or has
25 24 relocated, substantially the same operation to any other city
25 25 or county. This subsection does not prohibit a business from
25 26 expanding its operation in the community if existing
25 27 operations of a similar nature in the state are not closed or
25 28 substantially reduced.

25 29 Sec. 29. NEW SECTION. 422.11V REDEVELOPMENT TAX CREDIT.

25 30 The taxes imposed under this division, less the credits
25 31 allowed under section 422.12, shall be reduced by a
25 32 redevelopment tax credit allowed under chapter 15, part 9.

25 33 Sec. 30. Section 422.33, Code Supplement 2007, is amended
25 34 by adding the following new subsection:

25 35 NEW SUBSECTION. 25. The taxes imposed under this division



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26 1 shall be reduced by a redevelopment tax credit allowed under
26 2 chapter 15, part 9.
26 3 Sec. 31. Section 422.60, Code Supplement 2007, is amended
26 4 by adding the following new subsection:
26 5 NEW SUBSECTION. 15. The taxes imposed under this division
26 6 shall be reduced by a redevelopment tax credit allowed under
26 7 chapter 15, part 9.
26 8 Sec. 32. NEW SECTION. 432.12L REDEVELOPMENT TAX CREDIT.
26 9 The taxes imposed under this chapter shall be reduced by a
26 10 redevelopment tax credit allowed under chapter 15, part 9.
26 11 Sec. 33. Section 533.329, subsection 2, Code Supplement
26 12 2007, is amended by adding the following new paragraph:
26 13 NEW PARAGRAPH. n. The moneys and credits tax imposed
26 14 under this section shall be reduced by a redevelopment tax
26 15 credit allowed under chapter 15, part 9.
26 16 Sec. 34. EFFECTIVE AND RETROACTIVE APPLICABILITY DATES.
26 17 This division of this Act takes effect January 1, 2009, for
26 18 tax years beginning on or after that date.

26 19 EXPLANATION

26 20 This bill relates to revenue sources for cities as an
26 21 alternative to property tax by authorizing a maximum
26 22 percentage rate that may be assessed as a franchise fee and
26 23 requiring use of a portion of the franchise fees collected to
26 24 provide property tax relief and by establishing a pilot
26 25 program whereby cities that complete efficient growth planning
26 26 may utilize alternative revenue sources and by requiring a
26 27 pilot project city to provide property tax relief measures
26 28 using the alternative revenues collected and providing tax
26 29 credits for the redevelopment of underutilized properties.
26 30 CITY FRANCHISE FEES. This division provides that the
26 31 amount of a city franchise fee may be based upon a percentage
26 32 of gross revenues generated from sales of the franchisee
26 33 within the city not to exceed 5 percent without regard to the
26 34 city's cost of regulating the franchise. The bill allows
26 35 franchise fees collected by the city to be credited to the



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27 1 city general fund and used for city general fund purposes.
27 2 However, at least 20 percent of the fees collected are to be
27 3 used for property tax relief.
27 4 The division requires a city to prepare a revenue purpose
27 5 statement before the city adopts or amends a franchise fee
27 6 rate ordinance or a franchise ordinance to increase the
27 7 percentage rate of franchise fees assessed. The division
27 8 requires the revenue purpose statement to specify how the
27 9 increase in franchise fees will be expended, including
27 10 information on the amount of additional property tax relief
27 11 that will be provided if property tax relief is listed as a
27 12 purpose. The division also requires each revenue purpose
27 13 statement to be published in a newspaper of general
27 14 circulation in the city before official action is taken on the
27 15 fee rate increase.
27 16 This division takes effect upon enactment.
27 17 EFFICIENT GROWTH == ALTERNATIVE REVENUE SOURCES. This
27 18 division authorizes certain pilot cities that adopt a plan for
27 19 efficient growth to impose or assess fees or taxes as an
27 20 alternative to property taxes. The division creates a new
27 21 Code chapter 385 separated into subchapters as follows:
27 22 Subchapter I requires a city to adopt an efficient growth
27 23 plan before it is authorized to impose the taxes and fees
27 24 specified in the other subchapters. The number of pilot
27 25 cities that are authorized to impose these taxes and fees is
27 26 limited to 10. However, contiguous cities may adopt a joint
27 27 plan and would then be counted as one pilot city. Of the
27 28 number of pilot cities designated, at least one city with a
27 29 population of less than 10,000 and at least one city with a
27 30 population between 10,000 and 35,000 shall be designated pilot
27 31 cities. The plan must at least contain an issues and
27 32 opportunities element, a housing element, a transportation
27 33 element, a utilities and community facilities element, an
27 34 agricultural, natural, and cultural resources element, an
27 35 economic development element, an intergovernmental cooperation



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28 1 element, a land use element, and an implementation element.
28 2 These elements generally contain a compilation of
28 3 objectives, policies, goals, maps, and programs with regard to
28 4 the element. The issues and opportunities element provides
28 5 the background information and a statement of the overall
28 6 objectives, policies, goals, and programs of the city to guide
28 7 its future development.
28 8 The adopted plan becomes part of the city's comprehensive
28 9 plan. The adopted plan is required to be filed with the city
28 10 clerk and city development board for public view. The city
28 11 development board upon receipt of the plan shall notify the
28 12 departments of management and revenue.
28 13 Subchapter II authorizes the city to assess an additional
28 14 franchise fee of up to 3 percent of the gross revenues
28 15 generated from sales of the franchisee.
28 16 Subchapter III authorizes the imposition of a local hotel
28 17 and motel tax at the maximum rate of 2 percent on the renting
28 18 of rooms, apartments, or sleeping quarters in a hotel, motel,
28 19 inn, public lodging house, rooming house, or manufactured or
28 20 mobile home or in any other place where sleeping
28 21 accommodations are furnished to transient guests for a period
28 22 of 31 days or less. The tax is not imposed on renting of
28 23 sleeping rooms in dorms or memorial unions at universities or
28 24 colleges in the state or to guests of a religious institution
28 25 whose property is exempt from property tax. The tax is
28 26 collected in the same manner as the state sales tax. The tax
28 27 is in addition to any other local hotel and motel tax.
28 28 Subchapter IV authorizes a city that has not imposed a
28 29 local option sales and services tax under Code chapter 423B to
28 30 impose a 1 percent local sales and services tax on the same
28 31 basis as the state sales tax or in the case of the use of
28 32 natural gas, natural gas service, electricity, or electricity
28 33 service on the same basis as the state use tax. The local tax
28 34 shall not be imposed on items exempt from the state sales tax.
28 35 If the city assesses a franchise fee or user fee on the sale



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29 1 or use of natural gas, natural gas service, electricity, or
29 2 electric service, the local tax is not imposed on the sale or
29 3 use during the period the franchise or user fee is assessed.
29 4 Retailers shall collect the tax in the same manner as the
29 5 state sales tax is collected and shall remit the revenues to
29 6 the department of revenue. The director of revenue shall
29 7 annually provide an estimate on the amount of revenues that
29 8 will be collected during the fiscal year and shall remit
29 9 payments to the city monthly during that fiscal year based on
29 10 the estimate. Provision is made for contractors to receive a
29 11 refund of the local tax imposed for contracts that were fully
29 12 executed prior to the date of imposition of the local tax.
29 13 Subchapter V authorizes the city to impose a local
29 14 cigarette and tobacco products tax on the sale of cigarettes
29 15 and tobacco products sold at retail locations in the city.
29 16 The rate of the tax is not limited and shall be specified in
29 17 increments of one or more full percentage points. The tax is
29 18 to be imposed on the same basis as the state sales tax and
29 19 shall be administered by the director of revenue. Revenues
29 20 collected are to be remitted at least quarterly to the city.
29 21 Subchapter VI authorizes a city to assess a service charge
29 22 for the providing of police and fire protection services to
29 23 real property that is totally or partially exempt from
29 24 taxation, including government-owned real property and
29 25 property of nonprofit literary, scientific, charitable,
29 26 benevolent, agricultural, and religious institutions and
29 27 societies. That portion of church-owned property that is used
29 28 solely for religious worship is exempt from the service
29 29 charge. The amount of the charge is determined by multiplying
29 30 the assessed value of the real property that is not subject to
29 31 property tax by an amount not to exceed the portion of the
29 32 property tax levy rate for the city as certified by the city
29 33 under Code sections 384.1 and 384.6 which will be used to fund
29 34 police and fire protection.
29 35 Subchapter VII sets out how revenues collected in



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30 1 subchapters II through VI shall be used to provide property
30 2 tax relief. The subchapter requires all of the revenues
30 3 received by the city to be deposited into a property tax
30 4 relief fund for purposes of providing property tax credits.
30 5 From the property tax relief fund, 70 percent of the moneys
30 6 are to be used to provide property tax relief for commercial
30 7 and industrial property by means of granting a property tax
30 8 credit to each parcel of such property based upon the taxable
30 9 valuation of that parcel. The remaining 30 percent is to be
30 10 used to provide property tax relief for all taxable property,
30 11 including commercial and industrial property, by means of
30 12 granting a property tax credit to each parcel of such property
30 13 based upon the taxable valuation of that parcel.
30 14 Subchapter VIII provides for the repeal of new Code chapter
30 15 385 on July 1, 2015.
30 16 This division takes effect upon enactment.
30 17 ECONOMIC DEVELOPMENT PROGRAMS. This division relates to
30 18 the redevelopment of underused industrial and commercial
30 19 properties, the use or development of which is sometimes
30 20 complicated by real or perceived contamination or by a lack of
30 21 an economic incentive to redevelop. These properties are
30 22 often referred to as "brownfield" or "grayfield" sites.
30 23 The division creates a two-tiered system of tax credits for
30 24 these sites. An investor who redevelops a grayfield site is
30 25 eligible for a tax credit in an amount equal to 20 percent of
30 26 that investor's qualifying investment. An investor in a
30 27 brownfield site is eligible for a tax credit for an amount
30 28 equal to 40 percent. If the investor redevelops the property
30 29 to meet the standards of certain "green" development
30 30 certification programs, additional tax credits are available.
30 31 Brownfield sites meeting the green development standards are
30 32 eligible for an additional 10 percent tax credit and grayfield
30 33 sites are eligible for an additional 5 percent.
30 34 The division limits the amount of tax credits available.
30 35 For tax years beginning in the 2009 calendar year, the limit



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31 1 is \$3 million. For tax years beginning in the 2010 calendar
31 2 year, the limit is \$6 million. For tax years beginning in the
31 3 2011 calendar year, and for tax years beginning in subsequent
31 4 calendar years, the limit is \$10 million.

31 5 The division authorizes the department of economic
31 6 development to adopt rules for the issuance of tax credits and
31 7 provides that the brownfield redevelopment advisory council
31 8 approve the amount of each tax credit issued.

31 9 Finally, the division clarifies the meaning of eligible
31 10 business in Code section 15.329 which defines which businesses
31 11 are eligible for incentives under the high quality job
31 12 creation Act.

31 13 The division takes effect January 1, 2009, for tax years
31 14 beginning on or after that date.

31 15 LSB 6010YH 82

31 16 mg/sc/5.3



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1 1 Amend the amendment, S=5242, to House File 2651, as
1 2 amended, passed, and reprinted by the House, as
1 3 follows:
1 4 #1. Page 1, by striking lines 3 through 16 and
1 5 inserting the following:
1 6 <#____. By striking page 3, line 11, through page
1 7 4, line 1.>
1 8 #2. Page 1, by inserting after line 28 the
1 9 following:
1 10 <#____. Title page, lines 10 and 11, by striking
1 11 the words <disqualification from operating a
1 12 commercial motor vehicle,>.>
1 13 #3. By renumbering as necessary.
1 14
1 15
1 16
1 17 THOMAS RIELLY
1 18 HF 2651.303 82
1 19 dea/rj/21072
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1 1 Amend the amendment, S=5172, to House File 2539, as
1 2 amended, passed, and reprinted by the House, as
1 3 follows:
1 4 #1. Page 1, by striking lines 36 through 40.
1 5 #2. Page 1, line 43, by inserting after the figure
1 6 <514E.5A,> the following: <develop a comprehensive
1 7 plan to cover all children without health care
1 8 coverage that utilizes and modifies existing public
1 9 programs including the medical assistance program, the
1 10 hawk=i program, and the hawk=i expansion program,
1 11 and>.
1 12 #3. Page 2, by inserting after line 40 the
1 13 following:
1 14 <Sec. ____ . Section 249A.3, Code Supplement 2007,
1 15 is amended by adding the following new subsection:
1 16 NEW SUBSECTION. 14. The department shall provide
1 17 continuous eligibility for twelve months under the
1 18 medical assistance program for a child who was
1 19 eligible for enrollment at the time of the most recent
1 20 enrollment.>
1 21 #4. Page 3, line 27, by striking the words
1 22 <exclusive of any income disregards>.
1 23 #5. Page 3, line 34, by striking the figure <(1)>.
1 24 #6. By striking page 3, line 47, through page 4,
1 25 line 21, and inserting the following: <outreach and
1 26 marketing. Other state agencies including but not
1 27 limited to the department of revenue, the department
1 28 of economic development, and the department of
1 29 education shall cooperate with the department in
1 30 providing marketing and outreach to potentially
1 31 eligible children and their families.>
1 32 #7. Page 4, by striking lines 25 through 34 and
1 33 inserting the following:
1 34 <NEW PARAGRAPH. 1. Develop options and
1 35 recommendations to allow children eligible for the
1 36 hawk=i or hawk=i expansion program to participate in
1 37 qualified employer=sponsored health plans through a
1 38 premium assistance program. The options and
1 39 recommendations shall ensure reasonable alignment
1 40 between the benefits and costs of the hawk=i and
1 41 hawk=i expansion programs and the employer=sponsored
1 42 health plans consistent with federal law. The options
1 43 and recommendations shall be completed by January 1,
1 44 2009, and submitted to the governor and the general
1 45 assembly for consideration as part of the hawk=i and
1 46 hawk=i expansion programs.>
1 47 #8. Page 4, by striking lines 39 through 41 and
1 48 inserting the following: <and supporting
1 49 documentation. The administrative contractor shall
1 50 not enroll a child who has group health coverage ~~or~~



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~~2 1 any child who has dropped coverage>.~~
2 2 #9. Page 4, line 44, by striking the word <board.>
2 3 and inserting the following: <board.>
2 4 #10. Page 4, by inserting before line 45 the
2 5 following:
2 6 <Sec. _____. Section 514I.8, subsection 1, Code
2 7 2007, is amended to read as follows:
2 8 1. Effective July 1, 1998, and notwithstanding any
2 9 medical assistance program eligibility criteria to the
2 10 contrary, medical assistance shall be provided to, or
2 11 on behalf of, an eligible child under the age of
2 12 nineteen whose family income does not exceed one
2 13 hundred thirty-three percent of the federal poverty
2 14 level, as defined by the most recently revised poverty
2 15 income guidelines published by the United States
2 16 department of health and human services.
2 17 Additionally, effective July 1, 2000, and
2 18 notwithstanding any medical assistance program
2 19 eligibility criteria to the contrary, medical
2 20 assistance shall be provided to, or on behalf of, an
2 21 eligible infant whose family income does not exceed
2 22 two hundred percent of the federal poverty level, as
2 23 defined by the most recently revised poverty income
2 24 guidelines published by the United States department
2 25 of health and human services. Effective July 1, 2009,
2 26 and notwithstanding any medical assistance program
2 27 eligibility criteria to the contrary, medical
2 28 assistance shall be provided to, or on behalf of, an
2 29 eligible infant whose family income is at or below
2 30 three hundred percent of the federal poverty level, as
2 31 defined by the most recently revised poverty income
2 32 guidelines published by the United States department
2 33 of health and human services.>
2 34 #11. Page 5, line 26, by striking the words
2 35 <exclusive of any income disregards>.
2 36 #12. Page 6, by inserting after line 7 the
2 37 following:
2 38 <Sec. _____. MAXIMIZATION OF ENROLLMENT AND
2 39 RETENTION == MEDICAL ASSISTANCE AND HAWK=I PROGRAMS.
2 40 1. The department of human services, in
2 41 collaboration with the department of education, the
2 42 department of public health, the division of insurance
2 43 of the department of commerce, the hawk=i board, the
2 44 covering kids and families coalition, and the covering
2 45 kids now task force, shall develop a plan to maximize
2 46 enrollment and retention of eligible children in the
2 47 hawk=i and medical assistance programs. In developing
2 48 the plan, the collaborative shall review, at a
2 49 minimum, all of the following strategies:
2 50 a. Streamlined enrollment in the hawk=i and



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3 1 medical assistance programs. The collaborative shall
3 2 identify information and documentation that may be
3 3 shared across departments and programs to simplify the
3 4 determination of eligibility or eligibility factors,
3 5 and any interagency agreements necessary to share
3 6 information consistent with state and federal
3 7 confidentiality and other applicable requirements.
3 8 b. Conditional eligibility for the hawk=i and
3 9 medical assistance programs.
3 10 c. Retroactive eligibility for the hawk=i program.
3 11 d. Expedited renewal for the hawk=i and medical
3 12 assistance programs.
3 13 2. Following completion of the review the
3 14 department of human services shall compile the plan
3 15 which shall address all of the following relative to
3 16 implementation of the strategies specified in
3 17 subsection 1:
3 18 a. Federal limitations and quantifying of the risk
3 19 of federal disallowance.
3 20 b. Any necessary amendment of state law or rule.
3 21 c. Budgetary implications and cost=benefit
3 22 analyses.
3 23 d. Any medical assistance state plan amendments,
3 24 waivers, or other federal approval necessary.
3 25 e. An implementation time frame.
3 26 3. The department of human services shall submit
3 27 the plan to the governor and the general assembly no
3 28 later than December 1, 2008.>
3 29 #13. Page 7, line 45, by inserting after the word
3 30 <provisions> the following: <for the development of a
3 31 comprehensive plan to provide health care coverage to
3 32 all children without such coverage, that utilizes and
3 33 modifies existing public programs, including the
3 34 medical assistance program, hawk=i, IowaCare, and
3 35 hawk=i expansion, and provides>.
3 36 #14. Page 7, line 48, by inserting after the words
3 37 <for the> the following: <comprehensive plan and for
3 38 the>.
3 39 #15. Page 8, by inserting after line 49 the
3 40 following:
3 41 <1. The association, in consultation with the
3 42 advisory council, shall develop a comprehensive plan
3 43 to provide health care coverage to all children
3 44 without such coverage, that utilizes and modifies
3 45 existing public programs including the medical
3 46 assistance program, hawk=i program, and hawk=i
3 47 expansion program, and establishes the Iowa choice
3 48 health care coverage program to provide access to
3 49 private unsubsidized, affordable, qualified health
3 50 care coverage to children who are not otherwise



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4 1 eligible for health care coverage through public
4 2 programs.>
4 3 #16. By striking page 8, line 50, through page 9,
4 4 line 4, and inserting the following:
4 5 <___. As part of the comprehensive plan developed
4 6 by the association and the advisory council, the Iowa
4 7 choice health care coverage program shall provide
4 8 access to private unsubsidized, affordable, qualified
4 9 health care coverage to all Iowa children>.
4 10 #17. Page 9, line 9, by inserting after the word
4 11 <level> the following: <and who are not otherwise
4 12 eligible for coverage under chapter 249A, 249J, or
4 13 514I>.
4 14 #18. Page 9, by striking lines 18 through 35.
4 15 #19. Page 9, line 36, by striking the word <The>
4 16 and inserting the following: <As part of the
4 17 comprehensive plan developed, the>.
4 18 #20. Page 10, line 22, by striking the word <The>
4 19 and inserting the following: <As part of the
4 20 comprehensive plan developed, the>.
4 21 #21. Page 10, line 38, by striking the word <The>
4 22 and inserting the following: <As part of the
4 23 comprehensive plan, the>.
4 24 #22. Page 11, line 10, by striking the word <The>
4 25 and inserting the following: <As part of the
4 26 comprehensive plan, the>.
4 27 #23. Page 11, line 39, by striking the words <in
4 28 administering> and inserting the following: <in
4 29 developing the comprehensive plan, and in
4 30 administering the comprehensive plan and>.
4 31 #24. Page 12, by inserting after line 2 the
4 32 following:
4 33 <___. The association shall submit the
4 34 comprehensive plan required by this section to the
4 35 governor and the general assembly by December 15,
4 36 2008. The appropriations to cover children under the
4 37 medical assistance, hawk=i, and hawk=i expansion
4 38 programs as provided in this Act and to provide
4 39 related outreach for fiscal year 2009=2010 and fiscal
4 40 year 2010=2011 are contingent upon enactment of a
4 41 comprehensive plan during the 2009 legislative session
4 42 that provides health care coverage for all children in
4 43 the state. Enactment of a comprehensive plan shall
4 44 include a determination of what the prospects are of
4 45 federal action which may impact the comprehensive plan
4 46 and the fiscal impact of the comprehensive plan on the
4 47 state budget.>
4 48 #25. Page 12, by striking lines 3 through 6 and
4 49 inserting the following:
4 50 <___. Beginning on January 15, 2010, and on



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5 1 January 15 of each year thereafter, the association
5 2 shall submit an annual report to the governor and the
5 3 general assembly regarding implementation of the
5 4 comprehensive plan required by this section, including
5 5 all activities of the Iowa choice health care coverage
5 6 program including>.
5 7 #26. Page 12, line 16, by inserting after the
5 8 words <of the> the following: <comprehensive plan and
5 9 the Iowa choice health care coverage>.
5 10 #27. Page 12, line 18, by inserting after the word
5 11 <individuals> the following: <, particularly children
5 12 less than nineteen years of age,>.
5 13 #28. Page 12, by striking lines 33 through 39 and
5 14 inserting the following:
5 15 <1. An advisory council is created for the purpose
5 16 of assisting the association with developing a
5 17 comprehensive plan to cover all children without
5 18 health care coverage that utilizes and modifies
5 19 existing public programs and provides access to
5 20 unsubsidized, affordable, qualified private health
5 21 care coverage through the Iowa choice health care
5 22 coverage program as provided in section 514E.5. The
5 23 advisory council shall make recommendations concerning
5 24 the design and implementation of the comprehensive
5 25 plan and the Iowa choice health care coverage program
5 26 including a plan of operation which includes but is
5 27 not limited to a definition of>.
5 28 #29. By striking page 12, line 46, through page
5 29 13, line 12, and inserting the following:
5 30 <2. The advisory council consists of the following
5 31 persons who are voting members unless otherwise
5 32 provided:
5 33 a. The two most recent former governors, or if one
5 34 or both of them are unable or unwilling to serve, a
5 35 person or persons appointed by the governor.
5 36 b. Six members appointed by the governor, subject
5 37 to confirmation by the senate:
5 38 (1) A representative of the federation of Iowa
5 39 insurers.
5 40 (2) A health economist.
5 41 (3) Two consumers, one of whom shall be a
5 42 representative of a children's advocacy organization.
5 43 (4) A representative of organized labor.
5 44 (5) A representative of an organization of
5 45 employers.
5 46 c. The following members shall be ex officio,
5 47 nonvoting members of the council:
5 48 (1) The commissioner of insurance, or a designee.
5 49 (2) The director of human services, or a designee.
5 50 (3) The director of public health, or a designee.>



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6 1 #30. Page 13, line 13, by striking the word <e.>
6 2 and inserting the following: <(4)>.
6 3 #31. Page 13, by striking lines 18 and 19 and
6 4 inserting the following: <the minority leader of the
6 5 senate.>
6 6 #32. Page 13, by striking line 48 and inserting
6 7 the following: <association to be used for the
6 8 purposes of designing and implementing a comprehensive
6 9 plan and the Iowa>.
6 10 #33. Page 13, line 49, by inserting after the word
6 11 <program> the following: <as provided in section
6 12 514E.5>.
6 13 #34. By striking page 14, line 18, through page
6 14 16, line 8, and inserting the following:
6 15 <HEALTH INSURANCE OVERSIGHT
6 16 Sec. _____. Section 505.8, Code Supplement 2007, is
6 17 amended by adding the following new subsection:
6 18 NEW SUBSECTION. 15. Beginning no later than
6 19 November 1, 2008, and continuing thereafter, the
6 20 commissioner shall, from time to time, convene
6 21 representatives of health insurers and health care
6 22 providers licensed under chapter 148, 150, or 150A, to
6 23 discuss and make recommendations about issues relating
6 24 to cost containment, quality, and access of health
6 25 care for Iowans, with a focus on major factors and
6 26 trends in health care. The commissioner may identify
6 27 procedures or practices related to health insurance
6 28 that merit regulatory intervention or direction by the
6 29 commissioner and shall take action as deemed
6 30 appropriate within the commissioner's authority. The
6 31 commissioner may make recommendations to the general
6 32 assembly and the governor regarding legislation to
6 33 improve the efficient and effective delivery of health
6 34 care services and to strengthen the private health
6 35 insurance market in this state.
6 36 Sec. _____. HEALTH INSURANCE OVERSIGHT ==
6 37 APPROPRIATION. There is appropriated from the general
6 38 fund of the state to the insurance division of the
6 39 department of commerce for the fiscal year beginning
6 40 July 1, 2008, and ending June 30, 2009, the following
6 41 amount, or so much thereof as is necessary, for the
6 42 purpose designated:
6 43 For identification and regulation of procedures and
6 44 practices related to health care as provided in
6 45 section 505.8, subsection 15:>
6 46 #35. Page 17, by inserting after line 13 the
6 47 following:
6 48 <(8) A licensed practicing physician.
6 49 (9) A licensed health care provider who is not a
6 50 licensed practicing physician.>



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7 1 #36. Page 17, by inserting after line 13 the
 7 2 following:
 7 3 <b. In addition, the director of public health and
 7 4 the director of human services shall be ex officio,
 7 5 nonvoting members of the commission.>
 7 6 #37. Page 18, line 16, by striking the word
 7 7 <January> and inserting the following: <July>.
 7 8 #38. Page 19, line 1, by striking the word
 7 9 <January> and inserting the following: <July>.
 7 10 #39. Page 19, line 7, by striking the word
 7 11 <January> and inserting the following: <July>.
 7 12 #40. Page 20, line 32, by inserting after the word
 7 13 <system> the following: <, and for not more than the
 7 14 following full-time equivalent positions>.
 7 15 #41. Page 20, by inserting after line 33 the
 7 16 following:
 7 17 <..... FTEs 2.00>
 7 18 #42. Page 23, by inserting after line 30 the
 7 19 following:
 7 20 <The department shall procure a sole source
 7 21 contract to implement the patient autonomy in health
 7 22 care decisions pilot project and associated activities
 7 23 under this section.>
 7 24 #43. Page 24, line 34, by inserting after the word
 7 25 <division> the following: <and for not more than the
 7 26 following full-time equivalent positions>.
 7 27 #44. Page 24, by inserting after line 35 the
 7 28 following:
 7 29 <..... FTEs 4.00>
 7 30 #45. Page 25, by striking lines 2 and 3, and
 7 31 inserting the following:
 7 32 <#__. Page 29, line 25, by inserting after the
 7 33 figure <249J.16.> the following: <The council shall
 7 34 also coordinate its efforts with the efforts of the
 7 35 department of public health regarding health care
 7 36 quality, cost containment, and consumer information
 7 37 under section 135.163>.
 7 38 #46. Page 25, by inserting before line 4, the
 7 39 following:
 7 40 <#__. Page 31, by inserting after line 8, the
 7 41 following:>
 7 42 #47. Page 25, line 8, by striking the words
 7 43 <OFFICE OF>.
 7 44 #48. Page 25, line 10, by striking the words
 7 45 <OFFICE OF>.
 7 46 #49. Page 25, by striking lines 13 through 17 and
 7 47 inserting the following:
 7 48 <1. The department shall, at a minimum, do all of
 7 49 the following, to improve health care quality, cost
 7 50 containment and consumer information:>



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- 8 1 #50. Page 25, line 18, by striking the words <and
- 8 2 implement>.
- 8 3 #51. Page 25, by striking line 26 and inserting
- 8 4 the following: <organization, the Iowa Medicaid
- 8 5 enterprise, and the medical assistance quality
- 8 6 improvement council established pursuant to section
- 8 7 249A.36.>
- 8 8 #52. Page 26, line 18, by striking the words
- 8 9 <OFFICE OF>.
- 8 10 #53. Page 26, line 25, by striking the words
- 8 11 <office of>.
- 8 12 #54. Page 26, line 27, by inserting after the word
- 8 13 <division> the following: <and for not more than the
- 8 14 following full-time equivalent positions>.
- 8 15 #55. Page 26, by inserting after line 28 the
- 8 16 following:
- 8 17 <..... FTEs 3.00>
- 8 18 #56. Page 26, line 30, by striking the words
- 8 19 <BUREAU OF HEALTH> and inserting the following:
- 8 20 <HEALTH AND LONG=TERM>.
- 8 21 #57. Page 26, line 31, by striking the words
- 8 22 <BUREAU OF HEALTH> and inserting the following:
- 8 23 <HEALTH AND LONG=TERM>.
- 8 24 #58. Page 26, by striking line 33 and inserting
- 8 25 the following:
- 8 26 <The department shall>.
- 8 27 #59. Page 26, line 37, by inserting after the word
- 8 28 <state.> the following: <The health care delivery
- 8 29 infrastructure and the health care workforce shall
- 8 30 address the broad spectrum of health care needs of
- 8 31 Iowans throughout their lifespan including long-term
- 8 32 care needs.>
- 8 33 #60. Page 26, line 38, by striking the word
- 8 34 <bureau> and inserting the following: <department>.
- 8 35 #61. Page 27, lines 11 and 12, by striking the
- 8 36 words <bureau of health care access> and inserting the
- 8 37 following: <department>.
- 8 38 #62. Page 27, line 19, by striking the word
- 8 39 <bureau> and inserting the following: <department>.
- 8 40 #63. Page 28, by inserting after line 15 the
- 8 41 following:
- 8 42 <(8) Recognizing long-term care as an integral
- 8 43 component of the health care delivery infrastructure
- 8 44 and as an essential service provided by the health
- 8 45 care workforce.>
- 8 46 #64. Page 29, line 5, by inserting after the word
- 8 47 <and> the following: <health care workforce>.
- 8 48 #65. Page 29, line 6, by striking the word
- 8 49 <bureau> and inserting the following: <department>.
- 8 50 #66. Page 30, line 5, by striking the word



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9 1 <bureau> and inserting the following: <department>.
 9 2 #67. Page 31, line 3, by striking the words
 9 3 <bureau, the department,> and inserting the following:
 9 4 <department>.
 9 5 #68. Page 31, line 4, by inserting after the word
 9 6 <Iowa.> the following: <The health care workforce
 9 7 resources plan shall recognize long-term care as an
 9 8 essential service provided by the health care
 9 9 workforce.>
 9 10 #69. Page 31, line 5, by striking the word
 9 11 <bureau> and inserting the following: <department>.
 9 12 #70. Page 31, line 11, by striking the words
 9 13 <BUREAU OF>.
 9 14 #71. Page 31, line 17, by striking the words
 9 15 <bureau of>.
 9 16 #72. Page 31, line 18, by inserting after the word
 9 17 <division> the following: <, and for not more than
 9 18 the following full-time equivalent positions>.
 9 19 #73. Page 31, by inserting after line 19 the
 9 20 following:
 9 21 <..... FTEs 3.00>
 9 22 #74. Page 31, by striking lines 20 through 23 and
 9 23 inserting the following:
 9 24 <#____. Page 33, by inserting after line 22 the
 9 25 following:>
 9 26 #75. Page 31, by striking line 27 and inserting
 9 27 the following: <for the fiscal year beginning July 1,
 9 28 2008, and>.
 9 29 #76. Page 31, by striking line 31 and inserting
 9 30 the following: <, and for not more than the following
 9 31 full-time equivalent positions:>
 9 32 #77. Page 31, by inserting after line 32 the
 9 33 following:
 9 34 <..... FTEs 3.00
 9 35 Sec. _____. NEW SECTION. 135.40A. HEALTH CARE
 9 36 COLLABORATIVE REQUIREMENTS.
 9 37 1. In order to receive state funding, the voting
 9 38 membership of the board of directors of the healthcare
 9 39 collaborative as defined in section 135.40 shall
 9 40 include at least a majority of consumer
 9 41 representatives.
 9 42 2. The health care collaborative shall model its
 9 43 quality health care measures, indicators, events,
 9 44 practices, and products to assess health care quality
 9 45 on those of the national quality forum. The
 9 46 healthcare collaborative shall submit a report to the
 9 47 governor and the general assembly, annually by January
 9 48 15, regarding the development and implementation of
 9 49 these health care measures, indicators, events,
 9 50 practices, and products and the resultant assessments



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10 1 of health care quality. For the purposes of this
10 2 subsection, "national quality forum" means the
10 3 membership organization, which is exempt from federal
10 4 income taxation under section 501(c)(3) of the
10 5 Internal Revenue Code, created to develop and
10 6 implement a national strategy for health care quality
10 7 measurement and reporting as a result of the report
10 8 issued in 1998 by the president's advisory commission
10 9 on consumer protection and quality in the health care
10 10 industry and which was incorporated in May 1999.>

10 11 #78. Page 32, by inserting after line 8, the
10 12 following:

10 13 <#__. Page 34, line 17, by inserting after the
10 14 word <validation> the following: <and shall be
10 15 modeled on those of the national quality forum as
10 16 defined in section 135.40A>.

10 17 #79. Page 32, by inserting after line 22 the
10 18 following:

10 19 <DIVISION ____
10 20 LONG=TERM CARE WORKFORCE
10 21 Sec. ____ DIRECT CARE WORKER ADVISORY COUNCIL ==
10 22 DUTIES == REPORT.

10 23 1. As used in this section, unless the context
10 24 otherwise requires:

10 25 a. "Assistance with instrumental activities of
10 26 daily living" means assistance with activities beyond
10 27 basic needs that assist a consumer in functioning
10 28 independently within the community. Such services may
10 29 include but are not limited to food preparation and
10 30 nutrition, home management, financial management, and
10 31 infection control, but require no physical contact
10 32 between the direct care worker and the consumer.

10 33 b. "Assistance with personal care activities of
10 34 daily living" means care provided to support a
10 35 consumer in meeting the consumer's basic needs while
10 36 acknowledging personal choices and encouraging
10 37 independence, and generally involves physical contact
10 38 between a direct care worker and a consumer. Such
10 39 services include but are not limited to assistance
10 40 with eating and feeding, bathing, skin care, grooming,
10 41 and mobility assistance.

10 42 c. "Department" means the department of public
10 43 health.

10 44 d. "Direct care" means environmental or chore
10 45 services, health monitoring and maintenance,
10 46 assistance with instrumental activities of daily
10 47 living, assistance with personal care activities of
10 48 daily living, personal care support, or specialty
10 49 skill services.

10 50 e. "Direct care worker" means an individual who



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11 1 directly provides or assists a consumer in the care of
11 2 the consumer by providing direct care in a variety of
11 3 settings which may or may not require oversight of the
11 4 direct care worker, depending upon the setting.
11 5 "Direct care worker" does not include a nurse, case
11 6 manager, or social worker.
11 7 f. "Director" means the director of public health.
11 8 g. "Environmental or chore services" means
11 9 services provided both inside and outside of a
11 10 consumer's home that are designed to assist a consumer
11 11 in living independently in the community and which
11 12 require no physical contact between the direct care
11 13 worker and the consumer, and which require no special
11 14 education or training beyond task-specific
11 15 orientation. Such services may include but are not
11 16 limited to heavy household cleaning, lawn care, and
11 17 home maintenance.
11 18 h. "Health monitoring and maintenance" means
11 19 medically oriented care that assists a consumer in
11 20 maintaining the consumer's health on a daily basis and
11 21 which generally requires physical contact between a
11 22 direct care worker and a consumer. Such services may
11 23 include but are not limited to checking of vital
11 24 signs, collecting specimens or samples, and assisting
11 25 with range of motion exercises.
11 26 i. "Personal care support" means support provided
11 27 to a consumer as the consumer performs personal and
11 28 instrumental activities of daily living which require
11 29 no physical contact between the direct care worker and
11 30 the consumer. Such support includes testing and
11 31 training, observation, recording, documenting,
11 32 coaching, and supervising.
11 33 j. "Specialty skill services" means services that
11 34 require the care of a direct care worker with
11 35 additional education and training, and generally
11 36 requires physical contact between a direct care worker
11 37 and a consumer. Such services include dementia or
11 38 Alzheimer's care, psychiatric care, monitoring and
11 39 administration of medications, collecting specimens or
11 40 samples, giving shots, hospice and palliative care,
11 41 protective services, restorative and strengthening
11 42 exercises, and mentoring.
11 43 2. A direct care worker advisory council shall be
11 44 appointed by the director and shall include
11 45 representatives of direct care workers, consumers of
11 46 direct care services, educators of direct care
11 47 workers, other health professionals, employers of
11 48 direct care workers, and appropriate state agencies.
11 49 3. Membership, terms of office, quorum, and
11 50 expenses shall be determined by the director pursuant



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12 1 to chapter 135.
12 2 4. The direct care worker advisory council shall
12 3 advise the director regarding regulation and
12 4 certification of direct care workers and shall develop
12 5 recommendations regarding all of the following:
12 6 a. Direct care worker classifications based on
12 7 functions and services provided by direct care
12 8 workers. The classifications shall include those
12 9 based on environmental and chore services, assistance
12 10 with instrumental activities of daily living, personal
12 11 care support, assistance with personal care activities
12 12 of daily living, health monitoring and maintenance,
12 13 and specialty skill services.
12 14 b. Functions for each direct care worker
12 15 classification based upon categories of core
12 16 competencies.
12 17 c. An education and training orientation to be
12 18 provided by employers which addresses the components
12 19 of confidentiality; ethics and legal requirements;
12 20 consumer and worker rights; person-directed and
12 21 consumer-centered care; cultural competency; growth,
12 22 development, and disability-specific competency;
12 23 observation, referral, and reporting; communication
12 24 and interpersonal skills; problem solving; safety and
12 25 emergency procedures; infection control and
12 26 occupational safety and health administration
12 27 guidelines; and professional education and training.
12 28 d. Education and training requirements for each of
12 29 the direct care worker classifications.
12 30 e. The standard curriculum required in training of
12 31 direct care workers for each of the direct care worker
12 32 classifications, based on training required for the
12 33 duties specified and related core competencies. The
12 34 curriculum shall be standard notwithstanding the
12 35 entity offering the curriculum, and shall meet or
12 36 exceed federal or state requirements. The curriculum
12 37 shall include a requirement that any direct care
12 38 worker who will be assisting with prescribed
12 39 medications complete a medication aide course.
12 40 f. Education and training equivalency standards
12 41 for individuals who have completed higher education in
12 42 a health care profession based on core competencies
12 43 for each direct care worker classification and in
12 44 correlation with specific institutional curricula in
12 45 health care professions. The standards shall provide
12 46 that those meeting the equivalency standards may take
12 47 any prescribed examination for the appropriate direct
12 48 care worker classification.
12 49 g. Guidelines that allow individuals who are
12 50 members of the direct care workforce prior to the date



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Senate Amendment 5268 continued

13 1 of required certification to be incorporated into the
13 2 new regulatory system based on education, training,
13 3 current certifications, or demonstration of core
13 4 competencies.
13 5 h. Continuing education requirements and standards
13 6 to ensure that direct care workers remain competent
13 7 and adapt to the changing needs of the direct care
13 8 workforce, employers, and consumers. The requirements
13 9 and standards shall meet or exceed federal or state
13 10 continuing education requirements for the applicable
13 11 direct care worker classification existing prior to
13 12 the date of required certification.
13 13 i. Standards to ensure that direct care worker
13 14 educators and trainers retain a level of competency
13 15 and adapt to the changing needs of the direct care
13 16 workforce, employers, and consumers. The standards
13 17 shall meet or exceed federal or state continuing
13 18 education requirements existing prior to the date of
13 19 required certification.
13 20 j. Certification requirements for each
13 21 classification of direct care worker.
13 22 k. Protections for the title "certified direct
13 23 care worker".
13 24 l. (1) Standardized requirements across care
13 25 settings for supervision, if applicable, for each
13 26 classification of direct care worker based on the
13 27 functions being performed.
13 28 (2) The roles and responsibilities of direct care
13 29 worker supervisory positions which shall meet or
13 30 exceed federal and state requirements existing prior
13 31 to the date of required certification.
13 32 m. Required responsibility for maintenance of
13 33 credentialing and continuing education and training by
13 34 individual direct care workers rather than employers.
13 35 n. Provision of information to income maintenance
13 36 workers and case managers under the purview of the
13 37 department of human services about the education and
13 38 training requirements for direct care workers to
13 39 provide the care and services to meet a consumer's
13 40 needs under the home and community-based services
13 41 waiver options under the medical assistance program.
13 42 5. The direct care worker advisory council shall
13 43 report its recommendations to the director by November
13 44 30, 2008, including recommendations for any changes in
13 45 law or rules necessary to implement certification of
13 46 direct care workers beginning July 1, 2009.
13 47 Sec. _____. DIRECT CARE WORKER COMPENSATION ADVISORY
13 48 COMMITTEE == REVIEWS.
13 49 1. a. The general assembly recognizes that direct
13 50 care workers play a vital role and make a valuable



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Senate Amendment 5268 continued

14 1 contribution in providing care to Iowans with a
14 2 variety of needs in both institutional and home and
14 3 community-based settings. Recruiting and retaining
14 4 qualified, highly competent direct care workers is a
14 5 challenge across all employment settings. High rates
14 6 of employee vacancies and staff turnover threaten the
14 7 ability of providers to achieve the core mission of
14 8 providing safe and high quality support to Iowans.
14 9 However, the general assembly also recognizes that the
14 10 high turnover rate and its resulting negative impact
14 11 on the quality of care provided, is perpetuated and
14 12 exacerbated by the inadequate wages and other
14 13 compensation paid to direct care workers.

14 14 b. It is the intent of the general assembly to
14 15 reduce the turnover rate of and improve the quality of
14 16 health care delivered by direct care workers by
14 17 substantially increasing the wages and other
14 18 compensation paid to direct care workers in this
14 19 state.

14 20 c. It is the intent of the general assembly that
14 21 the initial review of and recommendations for
14 22 improving wages and other compensation paid to direct
14 23 care workers focus on nonlicensed direct care workers
14 24 in the nursing facility setting. However, following
14 25 the initial review of wages and other compensation
14 26 paid to direct care workers in the nursing facility
14 27 setting, the department of human services shall
14 28 convene subsequent advisory committees with
14 29 appropriate representatives of public and private
14 30 organizations and consumers to review the wages and
14 31 other compensation paid to and turnover rates of the
14 32 entire spectrum of direct care workers in the various
14 33 settings in which they are employed as a means of
14 34 demonstrating the general assembly's commitment to
14 35 ensuring a stable and quality direct care workforce in
14 36 this state.

14 37 2. The department of human services shall convene
14 38 an initial direct care worker compensation advisory
14 39 committee to develop recommendations for consideration
14 40 by the general assembly during the 2009 legislative
14 41 session regarding wages and other compensation paid to
14 42 direct care workers in nursing facilities. The
14 43 committee shall consist of the following members,
14 44 selected by their respective organizations:

14 45 a. The director of human services, or the
14 46 director's designee.

14 47 b. The director of public health, or the
14 48 director's designee.

14 49 c. The director of the department of elder
14 50 affairs, or the director's designee.



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15 1 d. The director of the department of inspections
15 2 and appeals, or the director's designee.
15 3 e. A representative of the Iowa caregivers
15 4 association.
15 5 f. A representative of the Iowa health care
15 6 association.
15 7 g. A representative of the Iowa association of
15 8 homes and services for the aging.
15 9 h. A representative of the AARP Iowa chapter.
15 10 3. The advisory committee shall also include two
15 11 members of the senate and two members of the house of
15 12 representatives, with not more than one member from
15 13 each chamber being from the same political party. The
15 14 legislative members shall serve in an ex officio,
15 15 nonvoting capacity. The two senators shall be
15 16 appointed respectively by the majority leader of the
15 17 senate and the minority leader of the senate, and the
15 18 two representatives shall be appointed respectively by
15 19 the speaker of the house of representatives and the
15 20 minority leader of the house of representatives.
15 21 4. Public members of the committee shall receive
15 22 actual expenses incurred while serving in their
15 23 official capacity and may also be eligible to receive
15 24 compensation as provided in section 7E.6. Legislative
15 25 members of the committee are eligible for per diem and
15 26 reimbursement of actual expenses as provided in
15 27 section 2.10.
15 28 5. The department of human services shall provide
15 29 administrative support to the committee and the
15 30 director of human services, or the director's designee
15 31 shall serve as chairperson of the committee.
15 32 6. The department shall convene the committee no
15 33 later than May 15, 2008. Prior to the initial
15 34 meeting, the department of human services shall
15 35 provide all members of the committee with a detailed
15 36 analysis of trends in wages and other compensation
15 37 paid to direct care workers.
15 38 7. The committee shall consider options related
15 39 but not limited to all of the following:
15 40 a. Revision of the modified price-based case-mix
15 41 reimbursement system for nursing facilities under the
15 42 medical assistance program.
15 43 b. The shortening of the time delay between a
15 44 nursing facility's submittal of cost reports and
15 45 receipt of the reimbursement based upon these cost
15 46 reports.
15 47 c. The targeting of appropriations to provide
15 48 increases in direct care worker compensation.
15 49 d. Creation of a nursing facility provider tax.
15 50 8. Following its deliberations, the committee



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Senate Amendment 5268 continued

16 1 shall submit a report of its findings and
16 2 recommendations regarding improvement in direct care
16 3 worker wages and compensation in the nursing facility
16 4 setting to the governor and the general assembly no
16 5 later than December 12, 2008.

16 6 9. For the purposes of the initial review, "direct
16 7 care worker" means nonlicensed nursing facility staff
16 8 who provide hands-on care including but not limited to
16 9 certified nurse aides and medication aides.

16 10 Sec. _____. DIRECT CARE WORKER IN NURSING FACILITIES
16 11 == TURNOVER REPORT.

16 12 The department of human services shall modify the
16 13 nursing facility cost reports utilized for the medical
16 14 assistance program to capture data by the distinct
16 15 categories of nonlicensed direct care workers and
16 16 other employee categories for the purposes of
16 17 documenting the turnover rates of direct care workers
16 18 and other employees of nursing facilities. The
16 19 department shall submit a report on an annual basis to
16 20 the governor and the general assembly which provides
16 21 an analysis of direct care worker and other nursing
16 22 facility employee turnover by individual nursing
16 23 facility, a comparison of the turnover rate in each
16 24 individual nursing facility with the state average,
16 25 and an analysis of any improvement or decline in
16 26 meeting any accountability goals or other measures
16 27 related to turnover rates. The annual reports shall
16 28 also include any data available regarding turnover
16 29 rate trends, and other information the department
16 30 deems appropriate. The initial report shall be
16 31 submitted no later than December 1, 2008, and
16 32 subsequent reports shall be submitted no later than
16 33 December 1, annually, thereafter.

16 34 Sec. _____. EMPLOYER=SPONSORED HEALTH CARE COVERAGE
16 35 DEMONSTRATION PROJECT == DIRECT CARE WORKERS.

16 36 1. The department of human services shall
16 37 implement a three-year demonstration project to
16 38 provide a health care coverage premium assistance
16 39 program for nonlicensed direct care workers beginning
16 40 July 1, 2009. The department of human services shall
16 41 convene an advisory council consisting of
16 42 representatives of the Iowa caregivers association,
16 43 the Iowa child and family policy center, the Iowa
16 44 association of homes and services for the aging, the
16 45 Iowa health care association, the AARP Iowa chapter,
16 46 the senior living coordinating unit, and other public
16 47 and private entities with interest in the
16 48 demonstration project to assist in designing the
16 49 project. The department shall also review the
16 50 experiences of other states and the medical assistance



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17 1 premium assistance program in designing the
17 2 demonstration project. The department, in
17 3 consultation with the advisory council, shall
17 4 establish criteria to determine which nonlicensed
17 5 direct care workers shall be eligible to participate
17 6 in the demonstration project. The project shall allow
17 7 up to five hundred direct care workers and their
17 8 dependents to access health care coverage sponsored by
17 9 the direct care worker's employer subject to all of
17 10 the following:

17 11 a. A participating employer provides health care
17 12 coverage that meets certain parameters of coverage and
17 13 cost specified by the department and the health care
17 14 coverage is available to the employee and the
17 15 employee's dependents.

17 16 b. A participating employer contributes payment
17 17 for at least sixty percent of the total premium cost.

17 18 c. The family income of the direct care worker is
17 19 less than four hundred percent of the federal poverty
17 20 level as defined by the most recently revised poverty
17 21 income guidelines published by the United States
17 22 department of health and human services.

17 23 d. The employee meets any requirement for minimum
17 24 number of hours of work necessary to be eligible for
17 25 the employer's health care coverage.

17 26 e. The premium cost to the employee does not
17 27 exceed seventy-five dollars per month for individual
17 28 employee coverage or one hundred ten dollars per month
17 29 for family coverage, and the employee contributes to
17 30 the cost of the premium on a sliding fee schedule
17 31 specified by the department.

17 32 f. The state may offer additional coverage for
17 33 health care services not provided or paid for by the
17 34 employer-sponsored plan that are in addition to the
17 35 requirements specified by the department. To the
17 36 extent possible, the demonstration project shall also
17 37 incorporate a medical home, wellness and prevention
17 38 services, and chronic care management.

17 39 2. Six months prior to the completion of the
17 40 three-year demonstration project, the department of
17 41 human services, in cooperation with the Iowa
17 42 caregivers association, the AARP Iowa chapter,
17 43 representatives of the senior living coordinating
17 44 unit, the Iowa child and family policy center, and
17 45 representatives of the participating employers, shall
17 46 review the project and make recommendations for
17 47 continuation, termination, modification, or expansion
17 48 of the project. The review shall also determine the
17 49 impact that premium and cost-sharing assistance has on
17 50 employee health care coverage take-up rates, on the



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18 1 recruitment and retention of employees, on the ability
18 2 of the state to achieve cost savings by utilizing
18 3 employer contributions to offset the costs of health
18 4 care coverage, and on the lives of the direct care
18 5 workers and their dependents who participate in the
18 6 project. The department shall submit a written
18 7 summary of the review to the general assembly at least
18 8 ninety days prior to the scheduled completion of the
18 9 project.
18 10 Sec. _____. EFFECTIVE DATE. This division of this
18 11 Act, being deemed of immediate importance, takes
18 12 effect upon enactment.>
18 13 #80. Page 32, by striking lines 27 and 28 and
18 14 inserting the following:
18 15 <#____. Title page, by striking line 8 and
18 16 inserting the following: <transparency, health care>.
18 17 #81. Page 32, line 30, by inserting after the word
18 18 <access,> the following: <, the long-term care
18 19 workforce,>.
18 20 #82. Page 32, line 30, by inserting after the word
18 21 <appropriations,> the following: <and providing
18 22 effective date and applicability provisions>.
18 23 #83. By renumbering, relettering, or redesignating
18 24 and correcting internal references as necessary.
18 25
18 26
18 27
18 28 JACK HATCH
18 29 HF 2539.510 82
18 30 pf/nh/10993



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Senate Amendment 5269

PAG LIN

1 1 Amend Senate File 2349, as amended, passed, and
1 2 reprinted by the Senate, as follows:
1 3 #1. Page 1, lines 26 and 27, by striking the words
1 4 <provide a report to> and inserting the following:
1 5 <notify>.
1 6 #2. Page 1, line 28, by striking the word
1 7 <purchase> and inserting the following: <deposit>.
1 8 #3. Page 4, line 8, by striking the words <receive
1 9 a report> and inserting the following: <be notified>.
1 10 #4. Page 4, line 9, by striking the word
1 11 <purchase> and inserting the following: <deposit>.
1 12 #5. Page 4, line 9, by striking the word
1 13 <directly> and inserting the following: <directly, if
1 14 acting as a trustee of trust funds under this
1 15 chapter,>.
1 16 #6. Page 4, line 13, by striking the word <report>
1 17 and inserting the following: <notification>.
1 18 SF 2349.H
1 19 av/jg/25

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Senate Amendment 5270

PAG LIN

1 1 Amend Senate File 2354, as amended, passed, and
1 2 reprinted by the Senate, as follows:
1 3 #1. Page 1, line 12, by inserting after the word
1 4 <service> the following: <beginning on or after
1 5 September 11, 2001,>.
1 6 SF 2354.H
1 7 ec/jg/25
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Senate Amendment 5271

PAG LIN

1 1 Amend Senate File 2361, as passed by the Senate, as
1 2 follows:
1 3 #1. Page 2, by inserting after line 1, the
1 4 following:
1 5 <() The designated biobased product does not
1 6 meet the functional requirements and evaluation
1 7 criteria identified in bid documents. Functional
1 8 requirements to be considered may include but are not
1 9 limited to the designated biobased product's
1 10 conformance with ASTM (American society for testing
1 11 and materials) international standards.
1 12 () The purchase of the designated biobased
1 13 product conflicts with section 8A.311, subsection 1,
1 14 paragraph "a".>
1 15 #2. Page 2, by inserting after line 26 the
1 16 following:
1 17 < . When evaluating a bid for the purchase of
1 18 designated biobased products, the department may take
1 19 into consideration warranty provisions and life cycle
1 20 cost estimates.>
1 21 #3. By renumbering as necessary.
1 22 SF 2361.H
1 23 da/jg/25
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Senate Amendment 5272

PAG LIN

1 1 Amend Senate File 2308, as amended, passed, and
1 2 reprinted by the Senate, as follows:
1 3 #1. Page 1, by inserting before line 1 the
1 4 following:
1 5 <Section 1. NEW SECTION. 714.16D DISCLOSURE OF
1 6 PERSONAL INFORMATION BY A PUBLIC OFFICIAL == CRIMINAL
1 7 PENALTY.
1 8 1. For the purposes of this section:
1 9 a. "Compensation" means any money, thing of value,
1 10 or financial benefit conferred to a public official by
1 11 a person other than the government body that employs
1 12 the public official.
1 13 b. "Personal information" means the same as
1 14 provided in section 715C.1, subsection 11.
1 15 c. "Public official" means an official or employee
1 16 of the state or a local government, or an elected
1 17 official of the state or a local government.
1 18 2. Unless otherwise authorized by state or federal
1 19 law, a public official in possession or control of an
1 20 individual's personal information who intentionally
1 21 discloses or releases the personal information for
1 22 compensation is guilty of a class "D" felony.>
1 23 #2. Page 1, line 5, by inserting after the word
1 24 <maintained> the following: <in computerized form>.
1 25 #3. Page 1, by striking lines 13 through 21 and
1 26 inserting the following: <integrity of the personal
1 27 information.>
1 28 #4. Page 2, lines 27 and 28, by striking the words
1 29 <voice print or recording,>.
1 30 #5. Page 3, by striking line 1 and inserting the
1 31 following: <than five digits of a social security
1 32 number or the last four digits of other>.
1 33 #6. Page 3, line 6, by striking the words <owns,
1 34 maintains, or otherwise possesses> and inserting the
1 35 following: <owns or licenses computerized>.
1 36 #7. Page 3, line 9, by striking the word <who> and
1 37 inserting the following: <that>.
1 38 #8. Page 4, line 3, by inserting after the word
1 39 <notice> the following: <to the last available
1 40 address the person has in the person's records>.
1 41 #9. Page 5, line 2, by inserting before the word
1 42 <harm> the following: <financial>.
1 43 #10. Title page, line 1, by inserting after the
1 44 word <to> the following: <identity determination and
1 45 protection and>.
1 46 #11. Title page, line 3, by inserting after the
1 47 word <information,> the following: <prohibiting
1 48 public officials from intentionally disclosing
1 49 personal information for compensation,>.
1 50 #12. By renumbering, relettering, or redesignating



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Senate Amendment 5272 continued

- 2 1 and correcting internal references as necessary.
- 2 2 SF 2308.H
- 2 3 jg/25



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Senate Amendment 5273

PAG LIN

1 1 Amend Senate File 2161, as passed by the Senate, as
1 2 follows:
1 3 #1. Page 1, line 3, by inserting after the word
1 4 <members.> the following: <At least one voting member
1 5 at all times shall be a member of a minority group.>
1 6 #2. Page 4, by inserting after line 3 the
1 7 following:
1 8 <___. The council shall conduct a study of issues
1 9 relating to the following:
1 10 a. Low=income seniors and low=income persons with
1 11 any form of disability, including but not limited to
1 12 physical disability, developmental disability, mental
1 13 illness, co=occurring mental illness and substance
1 14 abuse disorders, or AIDS and AIDS=related conditions.
1 15 For purposes of this section, "AIDS" and "AIDS=related
1 16 conditions" mean the same as defined in section
1 17 141A.1.
1 18 b. Low=income and moderate=income persons unable
1 19 to afford transportation or housing near work, and
1 20 adequate affordable housing able to support economic
1 21 growth and development of a community, including new
1 22 construction, community redevelopment, and urban
1 23 renewal.
1 24 c. Low=income persons residing in existing
1 25 affordable housing that is in danger of becoming
1 26 unaffordable or lost, and persons determined to be or
1 27 at risk of becoming homeless.
1 28 d. Affordable rental housing, access to available
1 29 financing for housing, first=time home buyers, and
1 30 relationships between landlords and tenants.>
1 31 #3. By renumbering as necessary.
1 32 SF 2161.H
1 33 md/jg/25
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Senate Amendment 5274

PAG LIN

1 1 Amend Senate File 2281, as amended, passed, and
1 2 reprinted by the Senate, as follows:
1 3 #1. Page 1, line 7, by inserting after the word
1 4 <or> the following: <as a plaintiff, defendant, or
1 5 witness>.
1 6 SF 2281.H
1 7 ak/jg/25
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Senate Amendment 5275

PAG LIN

1 1 Amend House File 2620, as passed by the House, as
 1 2 follows:
 1 3 #1. Page 44, by inserting after line 27, the
 1 4 following:
 1 5 <Sec. _____. Section 49.77, subsection 4, paragraph
 1 6 b, Code Supplement 2007, is amended to read as
 1 7 follows:
 1 8 b. If the voter informs the precinct election
 1 9 official that the voter resides in the precinct and is
 1 10 not registered to vote, the voter may register to vote
 1 11 pursuant to section 48A.7A and cast a ballot. ~~If such~~
~~1 12 a voter is unable to establish identity and residency~~
~~1 13 in the manner provided in section 48A.7A, subsection~~
~~1 14 1, paragraph "b" or "c", the voter shall be allowed to~~
~~1 15 cast a provisional ballot in the manner prescribed by~~
 1 16 section 49.81.>
 1 17 #2. By renumbering as necessary.
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 1 21 JAMES F. HAHN
 1 22 HF 2620.204 82
 1 23 sc/nh/11095
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Senate Amendment 5276

PAG LIN

1 1 Amend Senate File 2410 as follows:
1 2 #1. Page 5, line 8, by inserting after the figure
1 3 <2008> the following: <or 2009>.
1 4
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1 7 MICHAEL CONNOLLY
1 8 SF 2410.501 82
1 9 sc/nh/11096
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1 1 Amend House File 2651, as amended, passed, and
1 2 reprinted by the House, as follows:
1 3 #1. Page 1, by inserting after line 4 the
1 4 following:
1 5 <Sec. ____ . NEW SECTION. 314.29 DICK DRAKE WAY.
1 6 The highway currently known as the industrial
1 7 connector in Muscatine shall be renamed "Dick Drake
1 8 Way" in honor of Richard Drake, who served for
1 9 thirty=six years as a member of the general assembly
1 10 of the state of Iowa.>
1 11 #2. By renumbering as necessary.
1 12
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1 14
1 15 ROBERT E. DVORSKY
1 16 JEFF DANIELSON
1 17 HF 2651.208 82
1 18 dea/nh/21080
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Senate Amendment 5278

PAG LIN

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1 1 Amend Senate File 2408 as follows:
1 2 #1. Page 6, by inserting after line 18 the
1 3 following:
1 4 <DIVISION
1 5 SALES AND USE TAX
1 6 Sec. ____ . Section 423.3, subsection 14, Code
1 7 Supplement 2007, is amended to read as follows:
1 8 14. The sales price from the sales of horses,
1 9 commonly known as draft horses, when purchased for use
1 10 and so used as draft horses.>
1 11
1 12
1 13
1 14 DAVID JOHNSON
1 15 SF 2408.501 82
1 16 mg/mg/10656
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Senate Amendment 5279

PAG LIN

1 1 Amend Senate File 2408 as follows:
 1 2 #1. Page 5, by inserting after line 30 the
 1 3 following:
 1 4 <Sec. _____. Section 422.7, subsection 31, Code
 1 5 Supplement 2007, is amended to read as follows:
 1 6 31. ~~For a person who is disabled, or is fifty-five~~
~~1 7 years of age or older, or is the surviving spouse of~~
~~1 8 an individual or a survivor having an insurable~~
~~1 9 interest in an individual who would have qualified for~~
~~1 10 the exemption under this subsection for the tax year,~~
~~1 11 subtract Subtract, to the extent included, the total~~
 1 12 amount of a governmental or other pension or
 1 13 retirement pay, including, but not limited to, defined
 1 14 benefit or defined contribution plans, annuities,
 1 15 individual retirement accounts, plans maintained or
 1 16 contributed to by an employer, or maintained or
 1 17 contributed to by a self-employed person as an
 1 18 employer, and deferred compensation plans or any
 1 19 earnings attributable to the deferred compensation
 1 20 plans, up to a maximum of six thousand dollars for a
~~1 21 person, other than a husband or wife, who files a~~
~~1 22 separate state income tax return and up to a maximum~~
~~1 23 of twelve thousand dollars for a husband and wife who~~
~~1 24 file a joint state income tax return. However, a~~
~~1 25 surviving spouse who is not disabled or fifty-five~~
~~1 26 years of age or older can only exclude the amount of~~
~~1 27 pension or retirement pay received as a result of the~~
~~1 28 death of the other spouse. A husband and wife filing~~
~~1 29 separate state income tax returns or separately on a~~
~~1 30 combined state return are allowed a combined maximum~~
~~1 31 exclusion under this subsection of up to twelve~~
~~1 32 thousand dollars. The twelve thousand dollar~~
~~1 33 exclusion shall be allocated to the husband or wife in~~
~~1 34 the proportion that each spouse's respective pension~~
~~1 35 and retirement pay received bears to total combined~~
~~1 36 pension and retirement pay received.>~~
 1 37 #2. Page 5, by inserting after line 35 the
 1 38 following:
 1 39 <Sec. _____. RETROACTIVE APPLICABILITY DATE. The
 1 40 section of this division of this Act amending section
 1 41 422.7, subsection 31, applies retroactively to January
 1 42 1, 2008, for tax years beginning on or after that
 1 43 date.>
 1 44
 1 45
 1 46
 1 47 BRAD ZAUN
 1 48 SF 2408.201 82
 1 49 mg/mg/10657
 1 50



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Senate Amendment 5280

PAG LIN

1 1 Amend House File 2651, as amended, passed, and
1 2 reprinted by the House, as follows:
1 3 #1. Page 1, by inserting after line 4 the
1 4 following:
1 5 <Sec. ____ . NEW SECTION. 314.29 DICK DRAKE WAY.
1 6 The highway currently known as the industrial
1 7 connector in Muscatine shall be renamed "Dick Drake
1 8 Way" in honor of Richard Drake, who served for
1 9 thirty=six years as a member of the general assembly
1 10 of the state of Iowa.>
1 11 #2. By renumbering as necessary.
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1 15 ROBERT E. DVORSKY
1 16
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1 19 JEFF DANIELSON
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1 21
1 22
1 23 JAMES F. HAHN
1 24 HF 2651.715 82
1 25 dea/nh/12272
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Senate Amendment 5281

PAG LIN

1 1 Amend Senate File 2407 as follows:
1 2 #1. By striking page 1, line 1, through page 2,
1 3 line 5.
1 4 #2. Page 2, by striking line 9 and inserting the
1 5 following: <fiscal year beginning July 1, 2007, and
1 6 ending June 30, 2008,>.
1 7 #3. Page 2, by inserting after line 14 the
1 8 following:
1 9 <Notwithstanding section 8.33, any moneys from the
1 10 appropriation made in this section remaining
1 11 unencumbered or unobligated at the end of the fiscal
1 12 year beginning July 1, 2007, shall not revert but
1 13 shall be available for expenditure for the purposes
1 14 for which appropriated for the following fiscal year.>
1 15 #4. Page 2, by striking lines 15 through 18.
1 16 #5. Page 2, by inserting before line 19 the
1 17 following:
1 18 <Sec. ____ . EFFECTIVE DATE. The section of this
1 19 Act making an appropriation to the department of
1 20 workforce development, being deemed of immediate
1 21 importance, takes effect upon enactment.>
1 22 #6. Title page, by striking lines 1 and 2 and
1 23 inserting the following: <An Act relating to making a
1 24 supplemental appropriation and including an effective
1 25 date.>
1 26
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1 29 PAT WARD
1 30 SF 2407.201 82
1 31 mg/mg/10654
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Senate Amendment 5282

PAG LIN

1 1 Amend the amendment, S=5262, to House File 2651, as
1 2 amended, passed, and reprinted by the House, as
1 3 follows:
1 4 #1. Page 1, line 17, by striking the word
1 5 <included> and inserting the following: <invited to
1 6 participate>.
1 7 #2. Page 1, line 28, by inserting after the word
1 8 <project.> the following: <Failure of the affected
1 9 parties to respond or participate during the design
1 10 phase shall not in any way affect the ability of the
1 11 federal, state, or local agency to proceed with design
1 12 and construction.>
1 13 #3. By renumbering as necessary.
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1 16
1 17 JEFF DANIELSON
1 18 HF 2651.304 82
1 19 dea/nh/21088
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Senate Amendment 5283

PAG LIN

1 1 Amend House File 2558, as passed by the House, as
1 2 follows:
1 3 #1. By striking everything after the enacting
1 4 clause and inserting the following:
1 5 <Sec. _____. NEW SECTION. 15.118 CONFIDENTIALITY
1 6 OF INFORMATION IN FINANCIAL ASSISTANCE APPLICATIONS.
1 7 1. The board and the department shall give due
1 8 regard to the confidentiality of certain information
1 9 disclosed by applicants for financial assistance
1 10 during the application process, the contract
1 11 administration process, and the period following
1 12 closeout of a contract in the manner described in this
1 13 section.
1 14 2. All information contained in an application for
1 15 financial assistance submitted to the department shall
1 16 remain confidential while the department is reviewing
1 17 the application, processing requests for
1 18 confidentiality, negotiating with the applicant, and
1 19 preparing the application for consideration by the
1 20 director or the board. After the department has
1 21 considered a request for confidentiality, any
1 22 information not deemed confidential shall be made
1 23 publicly available. Any information deemed
1 24 confidential by the department shall also be kept
1 25 confidential during and following administration of a
1 26 contract executed pursuant to a successful
1 27 application.
1 28 3. The department shall consider the written
1 29 request of an applicant or award recipient to keep
1 30 confidential certain details of an application, a
1 31 contract, or the materials submitted in support of an
1 32 application or a contract. If the request includes a
1 33 sufficient explanation as to why the public disclosure
1 34 of such details would give an unfair advantage to
1 35 competitors, the department shall keep certain details
1 36 confidential. If the department elects to keep
1 37 certain details confidential, the department shall
1 38 release only the nonconfidential details in response
1 39 to a request for records pursuant to chapter 22. If
1 40 confidential details are withheld from a request for
1 41 records pursuant to chapter 22, the department shall
1 42 release an explanation of why the information was
1 43 deemed confidential and a summary of the nature of the
1 44 information withheld and the reasons for withholding
1 45 it. In considering requests for confidential
1 46 treatment, the department shall narrowly construe the
1 47 provisions of this section in order to appropriately
1 48 balance an applicant's need for confidentiality
1 49 against the public's right to information about the
1 50 department's activities.



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Senate Amendment 5283 continued

2 1 4. If a request for confidentiality is denied by
2 2 the department, an applicant may withdraw the
2 3 application and any supporting materials, and the
2 4 department shall not retain any copies of the
2 5 application or supporting materials. Upon notice that
2 6 an application has been withdrawn, the department
2 7 shall not release a copy in response to a request for
2 8 records pursuant to chapter 22.
2 9 5. The department shall adopt by rule a process
2 10 for considering requests to keep information
2 11 confidential pursuant to this section. The department
2 12 may adopt emergency rules pursuant to chapter 17A to
2 13 implement this section. The rules shall include
2 14 criteria for guiding the department's decisions about
2 15 the confidential treatment of applicant information.
2 16 The criteria may include but are not limited to the
2 17 following:
2 18 a. The nature and extent of competition in the
2 19 applicant's industry sector.
2 20 b. The likelihood of adverse financial impact to
2 21 the applicant if the information were to be released.
2 22 c. The risk that the applicant will locate in
2 23 another state if the request is denied.
2 24 d. Any other factor the board reasonably considers
2 25 relevant.>
2 26 #2. By renumbering as necessary.
2 27
2 28
2 29
2 30 RICH OLIVE
2 31 HF 2558.202 82
2 32 tw/nh/11463



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Senate Amendment 5284

PAG LIN

1 1 Amend Senate File 2212, as passed by the Senate, as
1 2 follows:
1 3 #1. Page 1, line 4, by inserting before the word
1 4 <terminated> the following: <involuntarily>.
1 5 #2. Page 1, line 17, by inserting before the word
1 6 <terminated> the following: <involuntarily>.
1 7 SF 2212.H
1 8 jm/jg/25
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Senate File 2411 - Introduced

SENATE FILE
BY COMMITTEE ON APPROPRIATIONS

(SUCCESSOR TO SF 2378)
(SUCCESSOR TO SSB 3164)

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

A BILL FOR

- 1 An Act relating to open records and public meetings and providing
- 2 an effective date.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4 TLSB 5233SZ 82
- 5 rh/rj/14



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Senate File 2411 - Introduced continued

PAG LIN

1 1 Section 1. Section 8A.341, subsection 2, Code 2007, is
1 2 amended to read as follows:
1 3 2. If money is appropriated for this purpose, by November
1 4 1 of each year supply a report which contains the name,
1 5 gender, county, or city of residence when possible, official
1 6 title, salary received during the previous fiscal year, base
1 7 salary as computed on July 1 of the current fiscal year, and
1 8 traveling and subsistence expense of the personnel of each of
1 9 the departments, boards, and commissions of the state
1 10 government except personnel who receive an annual salary of
1 11 less than one thousand dollars. The number of the personnel
1 12 and the total amount received by them shall be shown for each
1 13 department in the report. All employees who have drawn
1 14 salaries, fees, or expense allowances from more than one
1 15 department or subdivision shall be listed separately under the
1 16 proper departmental heading. On the request of the director,
1 17 the head of each department, board, or commission shall
1 18 furnish the data covering that agency. The report shall be
1 19 distributed upon request without charge in an electronic
1 20 medium to each caucus of the general assembly, the legislative
1 21 services agency, the chief clerk of the house of
1 22 representatives, and the secretary of the senate. Copies of
1 23 the report shall be made available to other persons in an
1 24 electronic medium upon payment of a fee, which shall not
1 25 exceed the cost of providing the copy of the report. Sections
1 26 22.2 through ~~22.6~~ 22.5 apply to the report. All funds from
1 27 the sale of the report shall be deposited in the printing
1 28 revolving fund established in section 8A.345.
1 29 Sec. 2. Section 8E.202, subsection 1, unnumbered paragraph
1 30 1, Code 2007, is amended to read as follows:
1 31 The department and each agency shall provide for the widest
1 32 possible dissemination of information between agencies and the
1 33 public relating to the enterprise strategic plan and agency
1 34 strategic plans, including but not limited to internet access.
1 35 This section does not require the department or an agency to



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Senate File 2411 - Introduced continued

2 1 release information which is classified as a confidential
2 2 record under this Code, ~~including but not limited to section~~
~~2 3 22.7.~~
2 4 Sec. 3. Section 8E.202, subsection 3, Code 2007, is
2 5 amended to read as follows:
2 6 3. A record which is confidential under this Code,
~~2 7 including but not limited to section 22.7,~~ shall not be
2 8 released to the public under this section.
2 9 Sec. 4. Section 10B.5, subsection 2, Code 2007, is amended
2 10 to read as follows:
2 11 2. Information provided in reports required in this
2 12 chapter is ~~a confidential~~ an optional public record as
2 13 provided in section 22.7. The attorney general may have
2 14 access to the reports, and may use information in the reports
2 15 in any action to enforce state law, including but not limited
2 16 to chapters 9H, 9I, and 10C. The reports shall be made
2 17 available to members of the general assembly and appropriate
2 18 committees of the general assembly in order to determine the
2 19 extent that agricultural land is held in this state by
2 20 corporations and other business and foreign entities and the
2 21 effect of such land ownership upon the economy of this state.
2 22 The secretary of state shall assist any committee of the
2 23 general assembly studying these issues.
2 24 Sec. 5. Section 21.2, subsection 1, Code 2007, is amended
2 25 by adding the following new paragraph:
2 26 NEW PARAGRAPH. i. An entity eligible to exercise
2 27 tax-exempt bonding authority under chapter 7C, including a
2 28 nonprofit tax-exempt bonding authority under chapter 7C
2 29 designated by the state to serve as a secondary market for
2 30 student loans and a nonprofit tax-exempt bonding authority
2 31 under chapter 7C whose board of directors is appointed by the
2 32 governor.
2 33 Sec. 6. Section 21.2, subsection 2, Code 2007, is amended
2 34 to read as follows:
2 35 2. a. "Meeting" means a gathering in person or by



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Senate File 2411 - Introduced continued

3 1 electronic means, formal or informal, of a majority of the
3 2 members of a governmental body where there is deliberation or
3 3 action upon any matter within the scope of the governmental
3 4 body's policy-making duties. A "meeting" includes the
3 5 calculated use of a series of communications, each between
3 6 less than a majority of the members of a governmental body or
3 7 their personal intermediaries, that is intended to reach and
3 8 does in fact reach a majority of the members of the
3 9 governmental body and that is intended to discuss and develop
3 10 a collective final decision of a majority outside of a meeting
3 11 with respect to specific action to be taken by the majority at
3 12 a meeting.

3 13 b. ~~Meetings shall~~ A "meeting" does not include any of the
3 14 following:

3 15 (1) a A gathering of members of a governmental body for
3 16 purely ministerial or social purposes when there is no
3 17 discussion of policy or no intent to avoid the purposes of
3 18 this chapter.

3 19 (2) Written electronic communications by one or more
3 20 members of a governmental body or by its chief executive
3 21 officer that are ordinarily preserved and are accessible and
3 22 that are sent to a majority of the members of the governmental
3 23 body, or a series of such written electronic communications
3 24 each sent only to a minority of the members of the
3 25 governmental body but that in the aggregate are sent to a
3 26 majority of its members that do both of the following:

3 27 (a) Concern a particular matter within the scope of the
3 28 governmental body's policy-making duties.

3 29 (b) Would otherwise constitute a meeting.

3 30 However, this exclusion only applies if the written
3 31 electronic communications, to the extent such communications
3 32 are not exempt from disclosure pursuant to section 22.7 or
3 33 another statute, are either posted on the governmental body's
3 34 internet site or public bulletin board at least twenty-four
3 35 hours prior to the next regular meeting or copies are made



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4 1 available for public inspection at least twenty-four hours
4 2 prior to the governmental body's next regular meeting. If a
4 3 special meeting is held on the subject matter of the
4 4 communications before the next regular meeting, the
4 5 communications shall be posted at least twenty-four hours
4 6 prior to the special meeting or made available for public
4 7 inspection at least twenty-four hours prior to that meeting.
4 8 Sec. 7. Section 21.4, subsections 1 and 3, Code 2007, are
4 9 amended to read as follows:
4 10 1. A Except as provided in subsection 3, a governmental
4 11 body, ~~except township trustees,~~ shall give notice of the time,
4 12 date, and place of each meeting including a reconvened meeting
4 13 of the governmental body, and ~~its~~ the tentative agenda of the
4 14 meeting, in a manner reasonably calculated to apprise the
4 15 public of that information. Reasonable notice shall include
4 16 advising the news media who have filed a request for notice
4 17 with the governmental body and posting the notice on a
4 18 bulletin board or other prominent place which is easily
4 19 accessible to the public and clearly designated for that
4 20 purpose at the principal office of the body holding the
4 21 meeting, or if no such office exists, at the building in which
4 22 the meeting is to be held.
4 23 3. Subsection 1 does not apply to any of the following:
4 24 a. A meeting reconvened within four hours of the start of
4 25 its recess, where an announcement of the time, date, and place
4 26 of the reconvened meeting is made at the original meeting in
4 27 open session and recorded in the minutes of the meeting and
4 28 there is no change in the agenda.
4 29 b. A meeting held by a formally constituted subunit of a
4 30 parent governmental body ~~may conduct a meeting without notice~~
~~4 31 as required by this section during a lawful meeting of the~~
4 32 parent governmental body, ~~or during a recess in that meeting~~
4 33 of up to four hours, or a meeting of that subunit immediately
4 34 following ~~that~~ the meeting of the parent governmental body, if
4 35 the meeting of ~~the~~ that subunit is publicly announced in open



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Senate File 2411 - Introduced continued

5 1 session at the parent meeting and the subject of the meeting
5 2 reasonably coincides with the subjects discussed or acted upon
5 3 by the parent governmental body.

5 4 Sec. 8. Section 21.5, subsection 1, paragraphs j and k,
5 5 Code Supplement 2007, are amended to read as follows:

5 6 j. To discuss the purchase of particular real estate only
5 7 where premature disclosure could be reasonably expected to
5 8 increase the price the governmental body would have to pay for
5 9 that property. The minutes and the ~~tape~~ audio recording of a
5 10 session closed under this paragraph shall be available for
5 11 public examination when the transaction discussed is
5 12 completed.

5 13 k. To discuss information contained in records in the
5 14 custody of a governmental body that are ~~confidential~~ optional
5 15 public records pursuant to section 22.7, subsection 50.

5 16 Sec. 9. Section 21.5, subsection 1, Code Supplement 2007,
5 17 is amended by adding the following new paragraph:

5 18 NEW PARAGRAPH. 1. To discuss patient care quality and
5 19 process improvement initiatives in a meeting of a public
5 20 hospital or to discuss marketing and pricing strategies or
5 21 similar proprietary information in a meeting of a public
5 22 hospital, where public disclosure of such information would
5 23 harm such a hospital's competitive position when no public
5 24 purpose would be served by public disclosure. The minutes and
5 25 the audio recording of a closed session under this paragraph
5 26 shall be available for public inspection when the public
5 27 disclosure would no longer harm the hospital's competitive
5 28 position. For purposes of this paragraph, "public hospital"
5 29 means the same as defined in section 249J.3.

5 30 Sec. 10. Section 21.5, subsection 4, Code Supplement 2007,
5 31 is amended to read as follows:

5 32 4. A governmental body shall keep detailed minutes of all
5 33 discussion, persons present, and action occurring at a closed
5 34 session, and shall also ~~tape~~ audio record all of the closed
5 35 session. The detailed minutes and ~~tape~~ audio recording of a



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Senate File 2411 - Introduced continued

6 1 closed session shall be sealed and shall not be public records
6 2 open to public inspection. However, upon order of the court
6 3 in an action to enforce this chapter, the detailed minutes and
6 4 ~~tape~~ audio recording shall be unsealed and examined by the
6 5 court in camera. The court shall then determine what part, if
6 6 any, of the minutes should be disclosed to the party seeking
6 7 enforcement of this chapter for use in that enforcement
6 8 proceeding. In determining whether any portion of the minutes
6 9 or recording shall be disclosed to such a party for this
6 10 purpose, the court shall weigh the prejudicial effects to the
6 11 public interest of the disclosure of any portion of the
6 12 minutes or recording in question, against its probative value
6 13 as evidence in an enforcement proceeding. After such a
6 14 determination, the court may permit inspection and use of all
6 15 or portions of the detailed minutes and ~~tape~~ audio recording
6 16 by the party seeking enforcement of this chapter. A
6 17 governmental body shall keep the detailed minutes and ~~tape~~
6 18 audio recording of any closed session for a period of at least
6 19 one year from the date of that meeting, except as otherwise
6 20 required by law.

6 21 Sec. 11. Section 21.6, subsection 3, paragraph a, Code
6 22 2007, is amended to read as follows:

6 23 a. Shall assess each member of the governmental body who
6 24 participated in its violation damages in the amount of not
6 25 more than five hundred dollars ~~nor~~ and not less than one
6 26 hundred dollars. However, if a member of a governmental body
6 27 knowingly participated in such a violation, damages shall be
6 28 in the amount of not more than two thousand five hundred
6 29 dollars and not less than one thousand dollars. These damages
6 30 shall be paid by the court imposing it to the state of Iowa,
6 31 if the body in question is a state governmental body, or to
6 32 the local government involved if the body in question is a
6 33 local governmental body. A member of a governmental body
6 34 found to have violated this chapter shall not be assessed such
6 35 damages if that member proves that the member did any of the



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Senate File 2411 - Introduced continued

7 1 following:

7 2 (1) Voted against the closed session.

7 3 (2) Had good reason to believe and in good faith believed
7 4 facts which, if true, would have indicated compliance with all
7 5 the requirements of this chapter.

7 6 (3) Reasonably relied upon a decision of a court, ~~or~~ a
7 7 formal opinion of the Iowa public information board, the
7 8 attorney general, or the attorney for the governmental body,
7 9 given in writing, or as memorialized in the minutes of the
7 10 meeting at which a formal oral opinion was given, or an
7 11 advisory opinion of the Iowa public information board, the
7 12 attorney general, or the attorney for the governmental body,
7 13 given in writing.

7 14 Sec. 12. Section 21.6, subsection 3, paragraph d, Code
7 15 2007, is amended to read as follows:

7 16 d. Shall issue an order removing a member of a
7 17 governmental body from office if that member has engaged in a
7 18 prior violation of this chapter for which damages were
7 19 assessed against the member during the member's term. In
7 20 making this determination, the court shall recognize
7 21 violations for which damages were assessed by the Iowa public
7 22 information board created in section 23.3.

7 23 Sec. 13. NEW SECTION. 22.0A PURPOSE.

7 24 The purpose of this chapter is to provide as much
7 25 transparency in government operations as possible consistent
7 26 with the need to avoid undue invasions of personal privacy and
7 27 the need to avoid significant interference with the
7 28 achievement of other important and legitimate state
7 29 objectives.

7 30 Sec. 14. Section 22.1, Code 2007, is amended to read as
7 31 follows:

7 32 22.1 DEFINITIONS.

7 33 1. "Confidential record" means a government record
7 34 designated by statute as unavailable for examination and
7 35 copying by members of the public.



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Senate File 2411 - Introduced continued

8 1 1- 2. ~~The term "government~~ "Government body" means this
8 2 state, or any county, city, township, school corporation,
8 3 political subdivision, tax-supported district, nonprofit
8 4 corporation other than a fair conducting a fair event as
8 5 provided in chapter 174, whose facilities or indebtedness are
8 6 supported in whole or in part with property tax revenue and
8 7 which is licensed to conduct pari-mutuel wagering pursuant to
8 8 chapter 99D, an entity eligible to exercise tax-exempt bonding
8 9 authority under chapter 7C, including a nonprofit tax-exempt
8 10 bonding authority under chapter 7C designated by the state to
8 11 serve as a secondary market for student loans and a nonprofit
8 12 tax-exempt bonding authority under chapter 7C whose board of
8 13 directors is appointed by the governor, or other entity of
8 14 this state, or any branch, department, board, bureau,
8 15 commission, council, committee, official, or officer of any of
8 16 the foregoing or any employee delegated the responsibility for
8 17 implementing the requirements of this chapter.

8 18 3. "Government record" means a record owned by, created
8 19 by, in the possession of, or under the control of, any unit,
8 20 division, or part of state or local government or the
8 21 officials or employees of such public bodies in the course of
8 22 the performance of their respective duties.

8 23 2- 4. ~~The term "lawful~~ "Lawful custodian" means the
8 24 government body currently in physical possession of the ~~public~~
8 25 government record. The custodian of a ~~public~~ government
8 26 record in the physical possession of persons outside a
8 27 government body is the government body owning that government
8 28 record. The government records relating to the investment of
8 29 public funds are the property of the public body responsible
8 30 for the public funds. Each government body shall delegate to
8 31 particular officials or employees of that government body the
8 32 responsibility for implementing the requirements of this
8 33 chapter and shall publicly announce the particular officials
8 34 or employees to whom responsibility for implementing the
8 35 requirements of this chapter has been delegated. "Lawful



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9 1 custodian" does not mean an automated data processing unit of
9 2 a public body if the data processing unit holds the government
9 3 records solely as the agent of another public body, nor does
9 4 it mean a unit which holds the government records of other
9 5 public bodies solely for storage.

~~9 6 3. As used in this chapter, "public records" includes all
9 7 records, documents, tape, or other information, stored or
9 8 preserved in any medium, of or belonging to this state or any
9 9 county, city, township, school corporation, political
9 10 subdivision, nonprofit corporation other than a fair
9 11 conducting a fair event as provided in chapter 174, whose
9 12 facilities or indebtedness are supported in whole or in part
9 13 with property tax revenue and which is licensed to conduct
9 14 pari-mutuel wagering pursuant to chapter 99D, or tax-supported
9 15 district in this state, or any branch, department, board,
9 16 bureau, commission, council, or committee of any of the
9 17 foregoing.~~

~~9 18 "Public records" also includes all records relating to the
9 19 investment of public funds including but not limited to
9 20 investment policies, instructions, trading orders, or
9 21 contracts, whether in the custody of the public body
9 22 responsible for the public funds or a fiduciary or other third
9 23 party.~~

9 24 5. "Optional public record" means a government record
9 25 designated by statute as unavailable for examination and
9 26 copying by members of the public unless otherwise ordered by a
9 27 court, by the lawful custodian of the records, or by another
9 28 person duly authorized to release such information.

9 29 6. "Public record" means a government record to which
9 30 members of the public have an unqualified right to examine and
9 31 copy and includes a government record not designated by
9 32 statute as either a confidential record or an optional public
9 33 record.

9 34 7. "Record" means information of every kind, nature, and
9 35 form preserved or stored in any medium including but not



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10 1 limited to paper, electronic media, or film media.

10 2 Sec. 15. Section 22.2, subsection 2, Code 2007, is amended
10 3 to read as follows:

10 4 2. A government body shall not prevent the examination or
10 5 copying of a public record by contracting with a nongovernment
10 6 body to perform any of its duties or functions. A record
10 7 created by, in the possession of, or under the control of, any
10 8 nongovernment body or person, which is a direct part of the
10 9 execution or performance of duties imposed upon the
10 10 nongovernment body or person by contract with a government
10 11 body under which the nongovernment body or person performs a
10 12 function of the government body, is a government record. The
10 13 lawful custodian of such a government record is the government
10 14 body with whom the nongovernment body or person has executed
10 15 the contract.

10 16 Sec. 16. NEW SECTION. 22.2A RECORD REQUESTS == TIME
10 17 LIMITS.

10 18 1. Upon receipt of an oral or written request to examine
10 19 or copy a public record, the lawful custodian shall, if
10 20 feasible in the ordinary course of business, permit such
10 21 examination or copying at the time of the request. If it is
10 22 not feasible in the ordinary course of business to permit
10 23 examination or copying of the public record at the time of the
10 24 request, the lawful custodian shall immediately notify the
10 25 requester, orally or in writing, when such examination or
10 26 copying may take place, which shall be no later than five
10 27 business days from the time of the request unless there is
10 28 good cause for further delay. If further delay is necessary
10 29 because of good cause in responding to a request to examine or
10 30 copy a record the lawful custodian knows is a public record,
10 31 the lawful custodian shall provide the requester with a
10 32 written statement detailing the reason or reasons for the
10 33 delay and the date by which the request will be satisfied.

10 34 2. If the lawful custodian is in doubt as to whether the
10 35 record requested is a public record or whether the requester



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11 1 should be permitted to examine or copy an optional public
11 2 record specified in section 22.7, the lawful custodian shall
11 3 make that determination within ten business days from the date
11 4 of the request unless further delay is necessary because of a
11 5 pending request by the lawful custodian to the Iowa public
11 6 information board for an opinion regarding the status of the
11 7 record requested, or other good cause, which is communicated
11 8 in writing to the requester. Examination or copying of the
11 9 government record shall be allowed within five business days
11 10 from the date the lawful custodian makes the decision in such
11 11 circumstances to permit examination or copying of the record
11 12 unless there is good cause for further delay in fulfilling the
11 13 request as provided in subsection 1.

11 14 3. If the lawful custodian denies a request to examine or
11 15 copy a public record, the custodian must provide the requester
11 16 at the time of the denial a written statement denying the
11 17 request and detailing the specific reason or reasons for the
11 18 denial.

11 19 4. If the lawful custodian does not fulfill a request to
11 20 examine or copy a public record within the times prescribed in
11 21 this section, the request shall be deemed denied and the
11 22 requester shall be entitled to file a complaint with the Iowa
11 23 public information board pursuant to section 23.7 or file a
11 24 lawsuit against the lawful custodian pursuant to section
11 25 22.10.

11 26 Sec. 17. Section 22.3, subsection 2, Code 2007, is amended
11 27 to read as follows:

11 28 2. All expenses of the examination and copying shall be
11 29 paid by the person desiring to examine or copy. The lawful
11 30 custodian may charge a reasonable fee for the services of the
11 31 lawful custodian or the custodian's authorized designee in
11 32 supervising the examination and copying of the records or in
11 33 reviewing the records for optional public record information
11 34 or for confidential record information prior to release. If
11 35 the lawful custodian is a state executive branch agency, the



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12 1 lawful custodian shall provide such services at no charge to a
12 2 requester for up to three hours per month. If copy equipment
12 3 is available at the office of the lawful custodian of any
12 4 public records, the lawful custodian shall provide any person
12 5 a reasonable number of copies of any public record in the
12 6 custody of the office upon the payment of a fee. The fee for
12 7 the copying service as determined by the lawful custodian
12 8 shall not exceed the actual cost of providing the service.
12 9 Actual costs shall include only those expenses directly
12 10 attributable to supervising the examination of and making and
12 11 providing copies of public records. Actual costs shall not
12 12 include charges for ordinary expenses or costs such as
12 13 employment benefits, depreciation, maintenance, electricity,
12 14 or insurance associated with the administration of the office
12 15 of the lawful custodian.

12 16 Sec. 18. Section 22.4, Code 2007, is amended to read as
12 17 follows:

12 18 22.4 HOURS WHEN AVAILABLE.

12 19 The rights of persons under this chapter may be exercised
12 20 at any time during the customary office hours of the lawful
12 21 custodian of the government records. However, if the lawful
12 22 custodian does not have customary office hours of at least
12 23 thirty hours per week, such right may be exercised at any time
12 24 from nine o'clock a.m. to noon and from one o'clock p.m. to
12 25 four o'clock p.m. Monday through Friday, excluding legal
12 26 holidays, unless the person exercising such right and the
12 27 lawful custodian agree on a different time.

12 28 Sec. 19. Section 22.7, subsection 7, Code Supplement 2007,
12 29 is amended to read as follows:

12 30 7. Appraisals or appraisal information concerning the
12 31 purchase of real or personal property for public purposes,
12 32 prior to ~~public announcement of a project~~ the submission of
12 33 the appraisal to the property owner or other interest holders
12 34 as provided in section 6B.45.

12 35 Sec. 20. Section 22.7, subsection 10, Code Supplement



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13 1 2007, is amended by striking the subsection.

13 2 Sec. 21. Section 22.7, subsection 11, Code Supplement

13 3 2007, is amended to read as follows:

13 4 11. a. Personal information in confidential personnel
13 5 records of public government bodies ~~including but not limited~~
~~13 6 to cities, boards of supervisors and school districts~~ relating
13 7 to identified or identifiable individuals who are officials,
13 8 officers, or employees of the government bodies. However, the
13 9 following information relating to such individuals contained
13 10 in personnel records shall be public records:

13 11 (1) The name and compensation of the individual including
13 12 any written agreement establishing compensation or any other
13 13 terms of employment excluding any information otherwise
13 14 excludable from public information pursuant to this section or
13 15 any other applicable provision of law. For purposes of this
13 16 paragraph, "compensation" means payment of, or agreement to
13 17 pay, any money, thing of value, or financial benefit conferred
13 18 in return for labor or services rendered by an officer,
13 19 employee, or other person plus the value of benefits including
13 20 but not limited to casualty, disability, life, or health
13 21 insurance, other health or wellness benefits, vacation,
13 22 holiday, and sick leave, severance payments, retirement
13 23 benefits, and deferred compensation.

13 24 (2) The date the individual was employed by the government
13 25 body.

13 26 (3) The positions the individual holds or has held with
13 27 the government body.

13 28 (4) The individual's qualifications for the position that
13 29 the individual holds or has held including but not limited to
13 30 educational background and work experience.

13 31 (5) Any final disciplinary action taken against the
13 32 individual that resulted in the individual's discharge.

13 33 b. Personal information in confidential personnel records
13 34 of government bodies relating to student employees shall only
13 35 be released pursuant to 20 U.S.C. } 1232g.



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14 1 Sec. 22. Section 22.7, subsection 18, Code Supplement
14 2 2007, is amended to read as follows:
14 3 18. a. Communications not required by law, rule,
14 4 procedure, or contract that are made to a government body or
14 5 to any of its employees by identified persons outside of
14 6 government, to the extent that the government body receiving
14 7 those communications from such persons outside of government
14 8 could reasonably believe that those persons would be
14 9 discouraged from making them to that government body if they
14 10 were available for general public examination. As used in
14 11 this subsection, "persons outside of government" does not
14 12 include persons or employees of persons who are communicating
14 13 with respect to a consulting or contractual relationship with
14 14 a government body or who are communicating with a government
14 15 body with whom an arrangement for compensation exists.
14 16 Notwithstanding this provision:
14 17 ~~a.~~ (1) The communication is a public record to the extent
14 18 that the person outside of government making that
14 19 communication consents to its treatment as a public record.
14 20 ~~b.~~ (2) Information contained in the communication is a
14 21 public record to the extent that it can be disclosed without
14 22 directly or indirectly indicating the identity of the person
14 23 outside of government making it or enabling others to
14 24 ascertain the identity of that person.
14 25 ~~c.~~ (3) Information contained in the communication is a
14 26 public record to the extent that it indicates the date, time,
14 27 specific location, and immediate facts and circumstances
14 28 surrounding the occurrence of a crime or other illegal act,
14 29 except to the extent that its disclosure would plainly and
14 30 seriously jeopardize a continuing investigation or pose a
14 31 clear and present danger to the safety of any person. In any
14 32 action challenging the failure of the lawful custodian to
14 33 disclose any particular information of the kind enumerated in
14 34 this paragraph, the burden of proof is on the lawful custodian
14 35 to demonstrate that the disclosure of that information would



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15 1 jeopardize such an investigation or would pose such a clear
15 2 and present danger.

15 3 b. This subsection does not apply to information relating
15 4 to applications to a government body for employment.

15 5 Sec. 23. Section 22.7, subsections 40, 43, and 48, Code
15 6 Supplement 2007, are amended to read as follows:

15 7 40. The portion of a record request that contains an
15 8 internet protocol number ~~which identifies the computer from~~
~~15 9 which a person requests a record, whether the person using~~
~~15 10 such computer makes the request through the IowAccess network~~
~~15 11 or directly to a lawful custodian. However, such record may~~
~~15 12 be released with the express written consent of the person~~
~~15 13 requesting the record.~~

15 14 43. Information obtained by the commissioner of insurance
15 15 pursuant to section 502.607, subsection 2.

15 16 48. Sex offender registry records under chapter 692A,
~~15 17 except shall only be released as provided in section 692A.13.~~

15 18 Sec. 24. Section 22.7, subsection 52, paragraphs a and c,
15 19 Code Supplement 2007, are amended to read as follows:

15 20 a. The following records relating to a charitable donation
15 21 ~~made to a foundation acting solely for the support of an~~
~~15 22 institution governed by the state board of regents, to a~~
~~15 23 foundation acting solely for the support of an institution~~
~~15 24 governed by chapter 260C, to a private foundation as defined~~
~~15 25 in section 509 of the Internal Revenue Code organized for the~~
~~15 26 support of a government body, or to an endow Iowa qualified~~
~~15 27 community foundation, as defined in section 15E.303, organized~~
~~15 28 for the support of a government body:~~

15 29 (1) Portions of records that disclose a donor's or
15 30 prospective donor's personal, financial, estate planning, or
15 31 gift planning matters.

15 32 (2) Records received from a donor or prospective donor
15 33 regarding such donor's prospective gift or pledge.

15 34 (3) Records containing information about a donor or a
15 35 prospective donor in regard to the appropriateness of the



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16 1 solicitation and dollar amount of the gift or pledge.

16 2 (4) Portions of records that identify a prospective donor
16 3 and that provide information on the appropriateness of the
16 4 solicitation, the form of the gift or dollar amount requested
16 5 by the solicitor, and the name of the solicitor.

16 6 (5) Portions of records disclosing the identity of a donor
16 7 or prospective donor, including the specific form of gift or
16 8 pledge that could identify a donor or prospective donor,
16 9 directly or indirectly, when such donor has requested
16 10 anonymity in connection with the gift or pledge. This
16 11 subparagraph does not apply to a gift or pledge from a
16 12 publicly held business corporation.

16 13 c. Except as provided in paragraphs "a" and "b", portions
16 14 of records relating to the receipt, holding, and disbursement
16 15 of gifts made for the benefit of regents institutions and made
16 16 through foundations established for support of regents
16 17 institutions, including but not limited to written
16 18 fund-raising policies and documents evidencing fund-raising
16 19 practices, shall be subject to this chapter. Unless otherwise
16 20 provided, the lawful custodian of all records subject to this
16 21 paragraph is the regents institution to be benefited by such
16 22 gifts.

16 23 Sec. 25. Section 22.7, subsection 55, Code Supplement
16 24 2007, is amended to read as follows:

16 25 55. An intelligence assessment and intelligence data under
16 26 chapter 692, ~~except~~ shall only be released as provided in
16 27 section 692.8A.

16 28 Sec. 26. Section 22.7, Code Supplement 2007, is amended by
16 29 adding the following new subsections:

16 30 NEW SUBSECTION. 60. PUBLIC EMPLOYMENT APPLICATIONS.

16 31 a. The identity and qualifications of an applicant for
16 32 employment by a government body if the applicant requests
16 33 anonymity in writing and the government body determines that
16 34 anonymity is necessary to induce the applicant to apply for
16 35 the employment position. Such information shall be exempt



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17 1 from disclosure until an applicant is considered by the
17 2 government body to be a finalist for the position. For
17 3 purposes of this subsection, "finalist" means any applicant
17 4 who is determined to be among those who are under final
17 5 consideration for the position, and at least includes the five
17 6 most qualified applicants as determined by the recommending or
17 7 selecting authority. If there are five or fewer applicants
17 8 for the particular position, all of the applicants shall be
17 9 considered finalists for purposes of this subsection. The
17 10 identities and qualifications of the finalists shall be made
17 11 available for public inspection at least three business days
17 12 prior to a final decision.

17 13 b. Documents relating to a government body's evaluation of
17 14 the qualifications and merits of an applicant for employment
17 15 by that government body.

17 16 NEW SUBSECTION. 62. TENTATIVE, PRELIMINARY, OR DRAFT
17 17 MATERIALS. Tentative, preliminary, draft, speculative, or
17 18 research material, created prior to its completion for the
17 19 purpose for which it is intended and in a form prior to the
17 20 form in which it is submitted for use or used in the actual
17 21 formulation, recommendation, adoption, or execution of any
17 22 official policy or action by a public official authorized to
17 23 make such decisions for the government body. Such materials
17 24 shall be treated as a public record at the time the materials
17 25 are actually used for the final formulation, recommendation,
17 26 adoption, or execution of any official policy or action of a
17 27 government body.

17 28 NEW SUBSECTION. 63. CLOSED SESSION RECORDS. Information
17 29 in records that would permit a governmental body subject to
17 30 chapter 21 to hold a closed session pursuant to section 21.5
17 31 in order to avoid public disclosure of that information.

17 32 Sec. 27. Section 22.8, subsection 1, Code 2007, is amended
17 33 to read as follows:

17 34 1. The district court may grant an injunction restraining
17 35 the examination, including copying, of a specific public



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18 1 record or a narrowly drawn class of public records. A hearing
18 2 shall be held on a request for injunction upon reasonable
18 3 notice as determined by the court to persons requesting access
18 4 to the record which is the subject of the request for
18 5 injunction. It shall be the duty of the lawful custodian and
18 6 any other person seeking an injunction to ensure compliance
18 7 with the notice requirement. Such an injunction may be issued
18 8 only if the petition supported by affidavit shows and if the
18 9 court finds ~~both~~ any of the following:

18 10 a. That the examination would clearly not be in the public
18 11 interest because the potential harm to the public interest
18 12 from disclosure of the particular information involved clearly
18 13 outweighs any potential benefit to the public interest from
18 14 disclosure.

18 15 b. That the examination would substantially and
18 16 irreparably injure any person or persons because it would
18 17 invade the personal privacy of the identified subject of the
18 18 record and the harm to that person from such disclosure is not
18 19 outweighed by the public interest in its disclosure.

18 20 c. That the record at issue is not a public record.

18 21 d. That the record at issue is a record exempt from
18 22 mandatory disclosure pursuant to section 22.7 and that a
18 23 determination by the custodian to permit inspection of the
18 24 record by one or more members of the public is a violation of
18 25 law or is arbitrary, capricious, unreasonable, or an abuse of
18 26 discretion.

18 27 Sec. 28. Section 22.8, subsection 4, paragraphs c and d,
18 28 Code 2007, are amended to read as follows:

18 29 c. To determine whether the government record in question
18 30 is a public record, an optional public record, or a
18 31 confidential record.

18 32 d. To determine whether ~~a confidential~~ an optional public
18 33 record should be available for inspection and copying to the
18 34 person requesting the right to do so. A reasonable delay for
18 35 this purpose shall not exceed ~~twenty calendar days and~~



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~~19 1 ordinarily should not exceed ten business days.~~

19 2 Sec. 29. Section 22.10, subsection 3, paragraph b, Code
19 3 2007, is amended to read as follows:

19 4 b. Shall assess the persons who participated in its
19 5 violation damages in the amount of not more than five hundred
19 6 dollars ~~nor~~ and not less than one hundred dollars. However,
19 7 if a member of a governmental body knowingly participated in
19 8 such a violation, damages shall be in the amount of not more
19 9 than two thousand five hundred dollars and not less than one
19 10 thousand dollars. These damages shall be paid by the court
19 11 imposing them to the state of Iowa if the body in question is
19 12 a state government body, or to the local government involved
19 13 if the body in question is a local government body. A person
19 14 found to have violated this chapter shall not be assessed such
19 15 damages if that person proves that the person ~~either voted~~ did
19 16 any of the following:

19 17 (1) Voted against the action violating this chapter,
19 18 refused to participate in the action violating this chapter,
19 19 or engaged in reasonable efforts under the circumstances to
19 20 resist or prevent the action in violation of this chapter;
~~19 21 had.~~

19 22 (2) Had good reason to believe and in good faith believed
19 23 facts which, if true, would have indicated compliance with the
19 24 requirements of this chapter; ~~or reasonably.~~

19 25 (3) Reasonably relied upon a decision of a court, ~~or an a~~
19 26 formal opinion of the Iowa public information board, the
19 27 attorney general, or the attorney for the government body,
19 28 given in writing, or as memorialized in the minutes of the
19 29 meeting at which a formal oral opinion was given, or an
19 30 advisory opinion of the Iowa public information board, the
19 31 attorney general, or the attorney for the governmental body,
19 32 given in writing.

19 33 Sec. 30. Section 22.10, subsection 3, paragraph d, Code
19 34 2007, is amended to read as follows:

19 35 d. Shall issue an order removing a person from office if



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20 1 that person has engaged in a prior violation of this chapter
20 2 for which damages were assessed against the person during the
20 3 person's term. In making this determination, the court shall
20 4 recognize violations for which damages were assessed by the
20 5 Iowa public information board created in section 23.3.

20 6 Sec. 31. Section 22.10, subsection 5, Code 2007, is
20 7 amended by striking the subsection.

20 8 Sec. 32. Section 22.13, Code 2007, is amended to read as
20 9 follows:

20 10 22.13 SETTLEMENTS == ~~GOVERNMENTAL~~ GOVERNMENT BODIES.

20 11 1. A written summary of the terms of settlement, including
20 12 amounts of payments made to or through a claimant, or other
20 13 disposition of any claim for damages made against a
20 14 ~~governmental~~ government body or against an employee, officer,
20 15 or agent of a ~~governmental~~ government body, by an insurer
20 16 pursuant to a contract of liability insurance issued to the
20 17 ~~governmental~~ government body, shall be filed with the
20 18 ~~governmental~~ government body and shall be a public record.

20 19 2. A final binding settlement agreement between any
20 20 government body of this state or unit or official of such a
20 21 government body that resolves a legal dispute between such a
20 22 government body and another person or entity shall be filed
20 23 with the government body. For each such settlement agreement,
20 24 the government body shall prepare and file, together with the
20 25 settlement agreement, a brief summary indicating the identity
20 26 of the parties involved, the nature of the dispute, any
20 27 underlying relevant facts, and the terms of the settlement.
20 28 The settlement agreement and summary shall be available for
20 29 public inspection.

20 30 Sec. 33. Section 22.14, subsection 3, Code 2007, is
20 31 amended to read as follows:

20 32 3. If a fiduciary or other third party with custody of
20 33 public investment transactions records fails to produce public
20 34 records within a reasonable period of time as requested by the
20 35 ~~public~~ government body, the ~~public~~ government body shall make



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21 1 no new investments with or through the fiduciary or other
21 2 third party and shall not renew existing investments upon
21 3 their maturity with or through the fiduciary or other third
21 4 party. The fiduciary or other third party shall be liable for
21 5 the penalties imposed under ~~section 22.6~~ statute, common law,
21 6 or contract due to the acts or omissions of the fiduciary or
21 7 other third party ~~and any other remedies available under~~
~~21 8 statute, common law, or contract.~~

21 9 Sec. 34. NEW SECTION. 22.15 JUDICIAL BRANCH == RULES.

21 10 This chapter does not apply to government records owned,
21 11 created, possessed, or under the control of the judicial
21 12 branch related to the performance by the courts of their
21 13 judicial functions. The supreme court shall prescribe rules
21 14 governing access to such records consistent with the purposes
21 15 of this chapter.

21 16 Sec. 35. NEW SECTION. 23.1 CITATION AND PURPOSE.

21 17 This chapter may be cited as the "Iowa Public Information
21 18 Board Act". The purpose of this chapter is to provide an
21 19 alternative means by which to secure compliance with and
21 20 enforcement of the requirements of chapters 21 and 22 through
21 21 the provision by the Iowa public information board to all
21 22 interested parties of an efficient, informal, and
21 23 cost-effective process for resolving disputes.

21 24 Sec. 36. NEW SECTION. 23.2 DEFINITIONS.

21 25 1. "Board" means the Iowa public information board created
21 26 in section 23.3.

21 27 2. "Complainant" means a person who files a complaint with
21 28 the board.

21 29 3. "Complaint" means a written and signed document filed
21 30 with the board alleging a violation of chapter 21 or 22.

21 31 4. "Custodian" means a government body, government
21 32 official, or government employee designated as the lawful
21 33 custodian of a government record pursuant to section 22.1.

21 34 5. "Government body" means the same as defined in section
21 35 22.1.



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22 1 6. "Person" means an individual, partnership, association,
22 2 corporation, legal representative, trustee, receiver,
22 3 custodian, government body, or official, employee, agency, or
22 4 political subdivision of this state.

22 5 7. "Respondent" means any agency or other unit of state or
22 6 local government, custodian, government official, or
22 7 government employee who is the subject of a complaint.

22 8 Sec. 37. NEW SECTION. 23.3 BOARD APPOINTED.

22 9 1. An Iowa public information board is created consisting
22 10 of five members appointed by the governor, subject to
22 11 confirmation by the senate. Membership shall be balanced as
22 12 to political affiliation as provided in section 69.16 and
22 13 gender as provided in section 69.16A. Members appointed to
22 14 the board shall serve staggered, four-year terms, beginning
22 15 and ending as provided by section 69.19. A quorum shall
22 16 consist of three members.

22 17 2. A vacancy on the board shall be filled by the governor
22 18 by appointment for the unexpired part of the term. A board
22 19 member may be removed from office by the governor for good
22 20 cause. The board shall select one of its members to serve as
22 21 chair and shall employ a director who shall serve as the
22 22 executive officer of the board.

22 23 Sec. 38. NEW SECTION. 23.4 COMPENSATION AND EXPENSES.

22 24 Board members shall be paid a per diem as specified in
22 25 section 7E.6 and shall be reimbursed for actual and necessary
22 26 expenses incurred while on official board business. Per diem
22 27 and expenses shall be paid from funds appropriated to the
22 28 board.

22 29 Sec. 39. NEW SECTION. 23.5 ELECTION OF REMEDIES.

22 30 1. An aggrieved person, any taxpayer to or citizen of this
22 31 state, the attorney general, or any county attorney may seek
22 32 enforcement of the requirements of chapters 21 and 22 by
22 33 electing either to file an action pursuant to section 17A.19,
22 34 21.6, or 22.10, whichever is applicable, or in the
22 35 alternative, to file a timely complaint with the board.



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23 1 2. If more than one person seeks enforcement of chapter 21
23 2 or 22 with respect to the same incident involving an alleged
23 3 violation, and one or more of such persons elects to do so by
23 4 filing an action under section 17A.19, 21.6, or 22.10 and one
23 5 or more of such persons elects to do so by filing a timely
23 6 complaint with the board, the court in which the action was
23 7 filed shall dismiss the action without prejudice, authorizing
23 8 the complainant to file a complaint with respect to the same
23 9 incident with the board without regard to the timeliness of
23 10 the filing of the complaint at the time the action in court is
23 11 dismissed.

23 12 3. If a person files an action pursuant to section 22.8
23 13 seeking to enjoin the inspection of a public record, the
23 14 respondent or person requesting access to the record which is
23 15 the subject of the request for injunction may remove the
23 16 proceeding to the board for its determination by filing,
23 17 within thirty days of the commencement of the judicial
23 18 proceeding, a complaint with the board alleging a violation of
23 19 chapter 22 in regard to the same matter.

23 20 Sec. 40. NEW SECTION. 23.6 BOARD POWERS AND DUTIES.

23 21 The board shall have all of the following powers and
23 22 duties:

23 23 1. Employ such employees as are necessary to execute its
23 24 authority, including administrative law judges, and attorneys
23 25 to prosecute respondents in proceedings before the board and
23 26 to represent the board in proceedings before a court.
23 27 Notwithstanding section 8A.412, all of the board's employees,
23 28 except for the executive director and attorneys, shall be
23 29 employed subject to the merit system provisions of chapter 8A,
23 30 subchapter IV.

23 31 2. Adopt rules with the force of law pursuant to chapter
23 32 17A calculated to implement, enforce, and interpret the
23 33 requirements of chapters 21 and 22 and to implement any
23 34 authority delegated to the board by this chapter.

23 35 3. Issue, consistent with the requirements of section



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24 1 17A.9, declaratory orders with the force of law determining
24 2 the applicability of chapter 21 or 22 to specified fact
24 3 situations and issue informal advice to any person concerning
24 4 the applicability of chapters 21 and 22.
24 5 4. Receive complaints alleging violations of chapter 21 or
24 6 22, seek resolution of such complaints through informal
24 7 assistance or through mediation and settlement, formally
24 8 investigate such complaints, decide after such an
24 9 investigation whether there is probable cause to believe a
24 10 violation of chapter 21 or 22 has occurred, and if probable
24 11 cause has been found prosecute the respondent before the board
24 12 in a contested case proceeding conducted according to the
24 13 provisions of chapter 17A.
24 14 5. Request and receive from a government body assistance
24 15 and information as necessary in the performance of its duties.
24 16 The board may examine a record of a government body that is
24 17 the subject matter of a complaint, including any record that
24 18 is confidential by law. Confidential records provided to the
24 19 board by a governmental body shall continue to maintain their
24 20 confidential status. Any member or employee of the board is
24 21 subject to the same policies and penalties regarding the
24 22 confidentiality of the document as an employee of the
24 23 government body.
24 24 6. Issue subpoenas enforceable in court for the purpose of
24 25 investigating complaints and to facilitate the prosecution and
24 26 conduct of contested cases before the board.
24 27 7. After appropriate board proceedings, issue orders with
24 28 the force of law, determining whether there has been a
24 29 violation of chapter 21 or 22, requiring compliance with
24 30 specified provisions of those chapters, imposing civil
24 31 penalties equivalent to and to the same extent as those
24 32 provided for in section 21.6 or 22.10, as applicable, on a
24 33 respondent who has been found in violation of chapter 21 or
24 34 22, and imposing any other appropriate remedies calculated to
24 35 declare, terminate, or remediate any violation of those



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25 1 chapters.

25 2 8. Represent itself in judicial proceedings to enforce or
25 3 defend its orders and rules through attorneys on its own
25 4 staff, through the office of the attorney general, or through
25 5 other attorneys retained by the board, at its option.

25 6 9. Make training opportunities available to lawful
25 7 custodians, government bodies, and other persons subject to
25 8 the requirements of chapters 21 and 22 and require, in its
25 9 discretion, appropriate persons who have responsibilities in
25 10 relation to chapters 21 and 22 to receive periodic training
25 11 approved by the board.

25 12 10. Disseminate information calculated to inform members
25 13 of the public about the public's right to access government
25 14 information in this state including procedures to facilitate
25 15 this access and including information relating to the
25 16 obligations of government bodies under chapter 21 and lawful
25 17 custodians under chapter 22 and other laws dealing with this
25 18 subject.

25 19 11. Prepare and transmit to the governor and to the
25 20 general assembly, at least annually, reports describing
25 21 complaints received, board proceedings, investigations,
25 22 hearings conducted, decisions rendered, and other work
25 23 performed by the board.

25 24 12. Make recommendations to the general assembly proposing
25 25 legislation relating to public access to government
25 26 information deemed desirable by the board in light of the
25 27 policy of this state to provide as much public access as
25 28 possible to government information as is consistent with the
25 29 public interest and the need to protect individuals against
25 30 undue invasions of personal privacy.

25 31 Sec. 41. NEW SECTION. 23.7 FILING OF COMPLAINTS WITH THE
25 32 BOARD.

25 33 1. The board shall adopt rules with the force of law and
25 34 pursuant to chapter 17A providing for the timing, form,
25 35 content, and means by which any aggrieved person, any taxpayer



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26 1 to or citizen of this state, the attorney general, or any
26 2 county attorney may file a complaint with the board alleging a
26 3 violation of chapter 21 or 22. The complaint must be filed
26 4 within sixty days from the time the alleged violation occurred
26 5 or the complainant could have become aware of the violation
26 6 with reasonable diligence.

26 7 2. All board proceedings in response to the filing of a
26 8 complaint shall be conducted as expeditiously as possible.

26 9 3. The board shall not charge a complainant any fee in
26 10 relation to the filing of a complaint, the processing of a
26 11 complaint, or any board proceeding or judicial proceeding
26 12 resulting from the filing of a complaint.

26 13 Sec. 42. NEW SECTION. 23.8 INITIAL PROCESSING OF
26 14 COMPLAINT.

26 15 Upon receipt of a complaint alleging a violation of chapter
26 16 21 or 22, the board shall do either of the following:

26 17 1. Determine that, on its face, the complaint is within
26 18 the board's jurisdiction, appears legally sufficient, and
26 19 could have merit. In such a case the board shall accept the
26 20 complaint, and shall notify the parties of that fact in
26 21 writing.

26 22 2. Determine that, on its face, the complaint is outside
26 23 its jurisdiction, is legally insufficient, is frivolous, is
26 24 without merit, involves harmless error, or relates to a
26 25 specific incident that has previously been finally disposed of
26 26 on its merits by the board or a court. In such a case the
26 27 board shall decline to accept the complaint. If the board
26 28 refuses to accept a complaint, the board shall provide the
26 29 complainant with a written order explaining its reasons for
26 30 the action.

26 31 Sec. 43. NEW SECTION. 23.9 INFORMAL ASSISTANCE ==
26 32 MEDIATION AND SETTLEMENT.

26 33 1. After accepting a complaint, the board shall promptly
26 34 work with the parties through its employees to reach an
26 35 informal, expeditious resolution of the complaint. If an



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27 1 informal resolution satisfactory to the parties cannot be
27 2 reached, the board or the board's designee shall offer the
27 3 parties an opportunity to resolve the dispute through
27 4 mediation and settlement.

27 5 2. The mediation and settlement process shall enable the
27 6 complainant to attempt to resolve the dispute with the aid of
27 7 a neutral mediator employed and selected by the board, in its
27 8 discretion, from either its own staff or an outside source.

27 9 3. Mediation shall be conducted as an informal,
27 10 nonadversarial process and in a manner calculated to help the
27 11 parties reach a mutually acceptable and voluntary settlement
27 12 agreement. The mediator shall assist the parties in
27 13 identifying issues and shall foster joint problem solving and
27 14 the exploration of settlement alternatives.

27 15 Sec. 44. NEW SECTION. 23.10 ENFORCEMENT.

27 16 1. If any party declines mediation or settlement or if
27 17 mediation or settlement fails to resolve the matter to the
27 18 satisfaction of all parties, the board shall initiate a formal
27 19 investigation concerning the facts and circumstances set forth
27 20 in the complaint. The board shall, after an appropriate
27 21 investigation, make a determination as to whether the
27 22 complaint is within the board's jurisdiction and whether there
27 23 is probable cause to believe that the facts and circumstances
27 24 alleged in the complaint constitute a violation of chapter 21
27 25 or 22.

27 26 2. If the board finds the complaint is outside the board's
27 27 jurisdiction or there is no probable cause to believe there
27 28 has been a violation of chapter 21 or 22, the board shall
27 29 issue a written order explaining the reasons for the board's
27 30 conclusions and dismissing the complaint, and shall transmit a
27 31 copy to the complainant and to the party against whom the
27 32 complaint was filed.

27 33 3. a. If the board finds the complaint is within the
27 34 board's jurisdiction and there is probable cause to believe
27 35 there has been a violation of chapter 21 or 22, the board



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28 1 shall issue a written order to that effect and shall commence
28 2 a contested case proceeding under chapter 17A against the
28 3 respondent. An attorney selected by the director of the board
28 4 shall prosecute the respondent in the contested case
28 5 proceeding. At the termination of the contested case
28 6 proceeding the board shall, by a majority vote of its members,
28 7 render a final decision as to the merits of the complaint. If
28 8 the board finds that the complaint has merit, the board may
28 9 issue any appropriate order to ensure enforcement of chapter
28 10 21 or 22 including but not limited to an order requiring
28 11 specified action or prohibiting specified action and any
28 12 appropriate order to remedy any failure of the respondent to
28 13 observe any provision of those chapters.

28 14 b. If the board determines, by a majority vote of its
28 15 members, that the respondent has violated chapter 21 or 22,
28 16 the board may also do any or all of the following:

28 17 (1) Require the respondent to pay damages as provided for
28 18 in section 21.6 or 22.10, whichever is applicable, to the
28 19 extent that provision would make such damages payable if the
28 20 complainant had sought to enforce a violation in court instead
28 21 of through the board.

28 22 (2) Void any action taken in violation of chapter 21 if a
28 23 court would be authorized to do so in similar circumstances
28 24 pursuant to section 21.6.

28 25 c. The board shall not have the authority to remove a
28 26 person from public office for a violation of chapter 21 or 22.
28 27 The board may file an action under chapter 21 or 22 to remove
28 28 a person from office for violations that would subject a
28 29 person to removal under those chapters.

28 30 d. A final board order resulting from such proceedings may
28 31 be enforced by the board in court and is subject to judicial
28 32 review pursuant to section 17A.19.

28 33 Sec. 45. NEW SECTION. 23.11 DEFENSES IN A CONTESTED CASE
28 34 PROCEEDING.

28 35 A respondent may defend against a proceeding before the



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29 1 board charging a violation of chapter 21 or 22 on the ground
29 2 that if such a violation occurred it was only harmless error
29 3 or that clear and convincing evidence demonstrated that
29 4 grounds existed to justify a court to issue an injunction
29 5 against disclosure pursuant to section 22.8.

29 6 Sec. 46. NEW SECTION. 23.12 JURISDICTION.

29 7 The board shall not have jurisdiction over the judicial or
29 8 legislative branches of state government or any entity,
29 9 officer, or employee of those branches, or over the governor
29 10 or the office of the governor.

29 11 Sec. 47. Section 34A.7A, subsection 4, Code Supplement
29 12 2007, is amended to read as follows:

29 13 4. The amount collected from a wireless service provider
29 14 and deposited in the fund, pursuant to section 22.7,
29 15 subsection 6, information provided by a wireless service
29 16 provider to the program manager consisting of trade secrets,
29 17 pursuant to section 22.7, subsection 3, and other financial or
29 18 commercial operations information provided by a wireless
29 19 service provider to the program manager, shall be ~~kept~~
~~29 20 confidential~~ an optional public record as provided under
29 21 section 22.7. This subsection does not prohibit the inclusion
29 22 of information in any report providing aggregate amounts and
29 23 information which does not identify numbers of accounts or
29 24 customers, revenues, or expenses attributable to an individual
29 25 wireless communications service provider.

29 26 Sec. 48. Section 68B.32B, subsection 11, Code Supplement
29 27 2007, is amended to read as follows:

29 28 11. A complaint shall be a public record, but some or all
29 29 of the contents may be treated as ~~confidential~~ an optional
29 30 public record under section 22.7, subsection 18, to the extent
29 31 necessary under subsection 3 of this section. Information
29 32 informally reported to the board and board staff which results
29 33 in a board-initiated investigation shall be a public record
29 34 but may be treated as ~~confidential information~~ an optional
29 35 public record consistent with the provisions of section 22.7,



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30 1 subsection 18. If the complainant, the person who provides
30 2 information to the board, or the person who is the subject of
30 3 an investigation publicly discloses the existence of an
30 4 investigation, the board may publicly confirm the existence of
30 5 the disclosed formal complaint or investigation and, in the
30 6 board's discretion, make the complaint or the informal
30 7 referral public, as well as any other documents that were
30 8 issued by the board to any party to the investigation.
30 9 However, investigative materials may be furnished to the
30 10 appropriate law enforcement authorities by the board at any
30 11 time. Upon the commencement of a contested case proceeding by
30 12 the board, all investigative material relating to that
30 13 proceeding shall be made available to the subject of the
30 14 proceeding. The entire record of any contested case
30 15 proceeding initiated under this section shall be a public
30 16 record.

30 17 Sec. 49. Section 76.11, Code 2007, is amended to read as
30 18 follows:

30 19 76.11 CONFIDENTIALITY OF BOND HOLDERS == EXCEPTIONS.

30 20 Records of identity of owners of public bonds or
30 21 obligations maintained as provided in section 76.10 or by the
30 22 issuer of the bonds are ~~confidential~~ optional public records
30 23 ~~entitled to protection~~ under section 22.7, subsection 17-
30 24 ~~However, and~~ the issuer of the bonds or a state or federal
30 25 agency may obtain information as necessary.

30 26 Sec. 50. Section 124.553, subsection 3, Code Supplement
30 27 2007, is amended to read as follows:

30 28 3. Information contained in the program and any
30 29 information obtained from it, and information contained in the
30 30 records of requests for information from the program, is
30 31 privileged and strictly confidential information. Such
30 32 information is a ~~confidential~~ optional public record
30 33 pursuant to section 22.7, and is not subject to discovery,
30 34 subpoena, or other means of legal compulsion for release
30 35 except as provided in this division. Information from the



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31 1 program shall not be released, shared with an agency or
31 2 institution, or made public except as provided in this
31 3 division.

31 4 Sec. 51. Section 135.43, subsection 7, paragraphs a and b,
31 5 Code Supplement 2007, are amended to read as follows:

31 6 a. The Iowa department of public health and the department
31 7 of human services shall adopt rules providing for disclosure
31 8 of optional public record information ~~which is confidential~~
31 9 under chapter 22 or any confidential record information under
31 10 any other provision of state law, to the review team for

31 11 purposes of performing its child death and child abuse review
31 12 responsibilities.

31 13 b. A person in possession or control of medical,
31 14 investigative, assessment, or other information pertaining to
31 15 a child death and child abuse review shall allow the
31 16 inspection and reproduction of the information by the
31 17 department upon the request of the department, to be used only
31 18 in the administration and for the duties of the Iowa child
31 19 death review team. Except as provided for a report on a child
31 20 fatality by an ad hoc child fatality review committee under
31 21 subsection 4, information and records produced under this
31 22 section which are ~~confidential~~ optional public records under
31 23 section 22.7 and confidential records under chapter 235A, and
31 24 information or records received from the confidential records,
31 25 remain confidential under this section. A person does not
31 26 incur legal liability by reason of releasing information to
31 27 the department as required under and in compliance with this
31 28 section.

31 29 Sec. 52. Section 147A.26, subsection 2, Code 2007, is
31 30 amended to read as follows:

31 31 2. The data collected by and furnished to the department
31 32 pursuant to this section are ~~confidential~~ optional public
31 33 records of the condition, diagnosis, care, or treatment of
31 34 patients or former patients, including outpatients, pursuant
31 35 to section 22.7. The compilations prepared for release or



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32 1 dissemination from the data collected are not confidential
32 2 under section 22.7, subsection 2. However, information which
32 3 individually identifies patients shall not be disclosed and
32 4 state and federal law regarding patient confidentiality shall
32 5 apply.

32 6 Sec. 53. Section 202A.2, subsection 3, paragraph b, Code
32 7 2007, is amended to read as follows:

32 8 b. The department, in consultation with the office of
32 9 attorney general, shall designate information in purchase
32 10 reports that reveals the identity of a packer or livestock
32 11 seller as ~~confidential~~ optional public records pursuant to
32 12 section 22.7.

32 13 Sec. 54. Section 232.149, subsection 2, Code 2007, is
32 14 amended to read as follows:

32 15 2. Records and files of a criminal or juvenile justice
32 16 agency concerning a child involved in a delinquent act are
32 17 public records, except that release of criminal history data,
32 18 intelligence data, and law enforcement investigatory files is
32 19 subject to the provisions of section 22.7 and chapter 692, and
32 20 juvenile court social records, as defined in section 232.2,
32 21 subsection 31, shall be deemed ~~confidential~~ optional public
32 22 record criminal identification files under section 22.7,

32 23 subsection 9. The records are subject to sealing under
32 24 section 232.150 unless the juvenile court waives its
32 25 jurisdiction over the child so that the child may be
32 26 prosecuted as an adult for a public offense.

32 27 Sec. 55. Section 252B.24, subsection 3, Code 2007, is
32 28 amended to read as follows:

32 29 3. The records of the state case registry are ~~confidential~~
32 30 optional public records pursuant to chapter 22 and may only be
32 31 disclosed or used as provided in section 252B.9.

32 32 Sec. 56. Section 252G.5, unnumbered paragraph 1, Code
32 33 2007, is amended to read as follows:

32 34 The records of the centralized employee registry are
32 35 confidential records pursuant to ~~sections 22.7 and~~ section



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33 1 252B.9, and may be accessed only by state agencies as provided
33 2 in this section and section 252B.9. When a state agency
33 3 accesses information in the registry, the agency may use the
33 4 information to update the agency's own records. Access to and
33 5 use of the information contained in the registry shall be
33 6 limited to the following:

33 7 Sec. 57. Section 321.189A, subsection 6, Code 2007, is
33 8 amended to read as follows:

33 9 6. The department shall keep ~~as confidential public~~
~~33 10 records under section 22.7,~~ all records regarding licenses
33 11 issued under this section as optional public records under
33 12 section 22.7.

33 13 Sec. 58. Section 452A.33, subsection 1, paragraph d, Code
33 14 2007, is amended to read as follows:

33 15 d. The information included in a report submitted by a
33 16 retail dealer is deemed to be a trade secret, ~~protected as a~~
~~33 17 confidential record~~ and is an optional public record pursuant
33 18 to section 22.7.

33 19 Sec. 59. Section 452A.33, subsection 2, paragraph c, Code
33 20 2007, is amended to read as follows:

33 21 c. The report shall not provide information regarding
33 22 motor fuel or biofuel which is sold and dispensed by an
33 23 individual retail dealer or at a particular retail motor fuel
33 24 site. The report shall not include a trade secret ~~protected~~
~~33 25 as a confidential record pursuant~~ as referred to in section
33 26 22.7.

33 27 Sec. 60. Section 455K.4, subsection 4, Code 2007, is
33 28 amended to read as follows:

33 29 4. Information that is disclosed under subsection 2,
33 30 paragraph "b", is confidential and is not subject to
33 31 disclosure under chapter 22. ~~A governmental entity,~~
~~33 32 governmental employee, or governmental official who discloses~~
~~33 33 information in violation of this subsection is subject to the~~
~~33 34 penalty provided in section 22.6.~~

33 35 Sec. 61. Section 476.74, subsection 4, Code 2007, is



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34 1 amended to read as follows:

34 2 4. VERIFIED COPIES REQUIRED. Every public utility shall
34 3 file with the board a verified copy of the contract or
34 4 arrangement referred to in this section, or a verified summary
34 5 of the unwritten contract or arrangement, and also of all the
34 6 contracts and arrangements or a verified summary of the
34 7 unwritten contracts or arrangements, whether written or
34 8 unwritten, entered into prior to July 1, 1989, and in force
34 9 and effect at that time. Any contract or agreement determined
34 10 by the board to be ~~a confidential~~ an optional public record
34 11 pursuant to section 22.7 shall be returned to the public
34 12 utility filing the ~~confidential~~ record within sixty days after
34 13 the contract or agreement is filed.

34 14 Sec. 62. Section 477A.7, subsection 3, paragraph b, Code
34 15 Supplement 2007, is amended to read as follows:

34 16 b. For purposes of this subsection, the number of
34 17 customers of a cable service provider or video service
34 18 provider shall be determined based on the relative number of
34 19 subscribers in that municipality at the end of the prior
34 20 calendar year as reported to the municipality by all incumbent
34 21 cable providers and holders of a certificate of franchise
34 22 authority. Any records showing the number of subscribers
34 23 shall be considered ~~confidential~~ optional public records
34 24 pursuant to section 22.7. The incumbent cable provider shall
34 25 provide to the municipality, on an annual basis, the
34 26 maintenance and support costs of the institutional network,
34 27 subject to an independent audit. A municipality acting under
34 28 this subsection shall notify and present a bill to competitive
34 29 cable service providers or competitive video service providers
34 30 for the amount of such support on an annual basis, beginning
34 31 one year after issuance of the certificate of franchise
34 32 authority. The annual institutional network support shall be
34 33 due and paid by the providers to the municipality in four
34 34 quarterly payments, not later than forty-five days after the
34 35 close of each quarter. The municipality shall reimburse the



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35 1 incumbent cable provider for the amounts received from
35 2 competitive cable service providers or competitive video
35 3 service providers.
35 4 Sec. 63. Section 502.607, subsection 2, Code 2007, is
35 5 amended to read as follows:
35 6 2. ~~NONPUBLIC RECORDS~~ OPTIONAL PUBLIC RECORDS.
35 7 Notwithstanding chapter 22, the following records are ~~not~~
35 8 optional public records and are not available for public
35 9 examination under subsection 1:
35 10 a. A record obtained by the administrator in connection
35 11 with an audit or inspection under section 502.411, subsection
35 12 4, or an investigation under section 502.602.
35 13 b. A part of a record filed in connection with a
35 14 registration statement under sections 502.301 and 502.303
35 15 through 502.305 or a record under section 502.411, subsection
35 16 4, that contains trade secrets or confidential information if
35 17 the person filing the registration statement or report has
35 18 asserted a claim of confidentiality or privilege that is
35 19 authorized by law.
35 20 c. A record that is not required to be provided to the
35 21 administrator or filed under this chapter and is provided to
35 22 the administrator only on the condition that the record will
35 23 not be subject to public examination or disclosure.
35 24 d. A nonpublic record received from a person specified in
35 25 section 502.608, subsection 1.
35 26 e. Any social security number, residential address unless
35 27 used as a business address, and residential telephone number
35 28 unless used as a business telephone number, contained in a
35 29 record that is filed.
35 30 f. A record obtained by the administrator through a
35 31 designee that the administrator determines by rule or order
35 32 has been appropriately expunged from its own records by that
35 33 designee, if the administrator finds that such expungement is
35 34 in the public interest and does not impair investor
35 35 protection.



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36 1 Sec. 64. Section 507.14, subsections 1 through 3, 5, and
36 2 6, Code Supplement 2007, are amended to read as follows:
36 3 1. A preliminary report of an examination of a domestic or
36 4 foreign insurer, and all notes, work papers, or other
36 5 documents related to an examination of an insurer are
36 6 ~~confidential~~ optional public records under chapter 22 except
36 7 when sought by the insurer to whom they relate, an insurance
36 8 regulator of another state, or the national association of
36 9 insurance commissioners, and shall be privileged and
36 10 confidential in any judicial or administrative proceeding
36 11 except any of the following:
36 12 a. An action commenced by the commissioner under chapter
36 13 507C.
36 14 b. An administrative proceeding brought by the insurance
36 15 division under chapter 17A.
36 16 c. A judicial review proceeding under chapter 17A brought
36 17 by an insurer to whom the records relate.
36 18 d. An action or proceeding which arises out of the
36 19 criminal provisions of the laws of this state or the United
36 20 States.
36 21 e. An action brought in a shareholders' derivative suit
36 22 against an insurer.
36 23 f. An action brought to recover moneys or to recover upon
36 24 an indemnity bond for embezzlement, misappropriation, or
36 25 misuse of insurer funds.
36 26 2. A report of an examination of a domestic or foreign
36 27 insurer which is preliminary under the rules of the division
36 28 is ~~a confidential~~ an optional public record under chapter 22
36 29 except when sought by the insurer to which the report relates
36 30 or an insurance regulator of another state, and is privileged
36 31 and confidential in any judicial or administrative proceeding.
36 32 3. All work papers, notes, recorded information,
36 33 documents, market conduct annual statements, and copies
36 34 thereof that are produced or obtained by or disclosed to the
36 35 commissioner or any other person in the course of analysis by



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37 1 the commissioner of the financial condition or market conduct
37 2 of an insurer are ~~confidential~~ optional public records under
37 3 chapter 22 and shall be privileged and confidential in any
37 4 judicial or administrative proceeding except any of the
37 5 following:

37 6 a. An action commenced by the commissioner under chapter
37 7 507C.

37 8 b. An administrative proceeding brought by the insurance
37 9 division under chapter 17A.

37 10 c. A judicial review proceeding under chapter 17A brought
37 11 by an insurer to whom the records relate.

37 12 d. An action or proceeding which arises out of the
37 13 criminal provisions of the laws of this state or the United
37 14 States.

37 15 5. A financial statement filed by an employer
37 16 self-insuring workers' compensation liability pursuant to
37 17 section 87.11, or the working papers of an examiner or the
37 18 division in connection with calculating appropriate security
37 19 and reserves for the self-insured employer are ~~confidential~~
37 20 optional public records under chapter 22 except when sought by
37 21 the employer to which the financial statement or working
37 22 papers relate or an insurance or workers' compensation
37 23 self-insurance regulator of another state, and are privileged
37 24 and confidential in any judicial or administrative proceeding.
37 25 The financial information of a nonpublicly traded employer
37 26 which self-insures for workers' compensation liability
37 27 pursuant to section 87.11 is protected as proprietary trade
37 28 secrets to the extent consistent with the commissioner's
37 29 duties to oversee the security of self-insured workers'
37 30 compensation liability.

37 31 6. Analysis notes, work papers, or other documents related
37 32 to the analysis of an insurer are ~~confidential~~ optional public
37 33 records under chapter 22.

37 34 Sec. 65. Section 507A.4, subsection 10, paragraph b, Code
37 35 Supplement 2007, is amended to read as follows:



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38 1 b. The sponsor of the health benefit plan shall file an
38 2 application for waiver from the provisions of this chapter
38 3 with the commissioner as prescribed by the commissioner and
38 4 shall file periodic statements and information as required by
38 5 the commissioner. The commissioner shall adopt rules pursuant
38 6 to chapter 17A implementing this subsection. All statements
38 7 and information filed with or disclosed to the commissioner
38 8 pursuant to this subsection are ~~confidential~~ optional public
38 9 records pursuant to chapter 22.

38 10 Sec. 66. Section 507E.5, subsection 1, Code 2007, is
38 11 amended to read as follows:

38 12 1. All investigation files, investigation reports, and all
38 13 other investigative information in the possession of the
38 14 bureau are confidential records ~~under chapter 22~~ except as
38 15 specifically provided in this section and are not subject to
38 16 discovery, subpoena, or other means of legal compulsion for
38 17 their release until opened for public inspection by the
38 18 bureau, or upon the consent of the bureau, or until a court of
38 19 competent jurisdiction determines, after notice to the bureau
38 20 and hearing, that the bureau will not be unnecessarily
38 21 hindered in accomplishing the purposes of this chapter by
38 22 their opening for public inspection. However, investigative
38 23 information in the possession of the bureau may be disclosed,
38 24 in the commissioner's discretion, to appropriate licensing
38 25 authorities within this state, another state or the District
38 26 of Columbia, or a territory or country in which a licensee is
38 27 licensed or has applied for a license.

38 28 Sec. 67. Section 515.103, subsection 6, paragraph b, Code
38 29 Supplement 2007, is amended to read as follows:

38 30 b. Information filed with the commissioner of insurance
38 31 pursuant to this subsection shall be considered a confidential
38 32 record and be recognized ~~and protected~~ as a trade secret
38 33 pursuant to section 22.7, subsection 3.

38 34 Sec. 68. Section 523A.204, subsection 3, Code Supplement
38 35 2007, is amended to read as follows:



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39 1 3. All records maintained by the commissioner under this
39 2 section shall be ~~confidential~~ optional public records pursuant
39 3 to section 22.7, subsection 58, and shall not be made
39 4 available for inspection or copying except upon the approval
39 5 of the commissioner or the attorney general.

39 6 Sec. 69. Section 523A.502A, subsection 2, Code Supplement
39 7 2007, is amended to read as follows:

39 8 2. All records maintained by the commissioner under this
39 9 section shall be ~~confidential~~ optional public records pursuant
39 10 to section 22.7, subsection 58, and shall not be made
39 11 available for inspection or copying except upon the approval
39 12 of the commissioner or the attorney general.

39 13 Sec. 70. Section 523C.23, subsection 1, paragraph c,
39 14 unnumbered paragraph 1, Code 2007, is amended to read as
39 15 follows:

39 16 Information obtained in the course of an investigation ~~is~~
~~39 17 confidential~~ shall be treated as an optional public record as
39 18 provided in section 22.7. However, upon a determination that
39 19 disclosure of the information is necessary or appropriate in
39 20 the public interest or for the protection of consumers, the
39 21 commissioner may do any of the following:

39 22 Sec. 71. Section 556.24A, subsection 2, Code Supplement
39 23 2007, is amended to read as follows:

39 24 2. Notwithstanding any other provision of law, any other
39 25 identifying information set forth in any report, record,
39 26 claim, or other document submitted to the treasurer of state
39 27 pursuant to this chapter concerning unclaimed or abandoned
39 28 ~~property is a confidential~~ shall be treated as an optional
39 29 public record as provided in section 22.7 and shall be made
39 30 available for public examination or copying only in the
39 31 discretion of the treasurer.

39 32 Sec. 72. Section 692.8A, subsection 4, Code Supplement
39 33 2007, is amended to read as follows:

39 34 4. An intelligence assessment and intelligence data shall
39 35 be deemed a confidential record of the department ~~under~~



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~~40 1 section 22.7, subsection 55,~~ except as otherwise provided in
40 2 this subsection. This section shall not be construed to
40 3 prohibit the dissemination of an intelligence assessment to
40 4 any agency or organization if necessary for carrying out the
40 5 official duties of the agency or organization, or to a person
40 6 if disseminated for an official purpose, and to a person if
40 7 necessary to protect a person or property from a threat of
40 8 imminent serious harm. This section shall also not be
40 9 construed to prohibit the department from disseminating a
40 10 public health and safety threat advisory or alert by press
40 11 release or other method of public communication.

40 12 Sec. 73. Section 692A.13, subsection 8, Code 2007, is
40 13 amended to read as follows:

40 14 8. Sex offender registry records are confidential records
40 15 ~~pursuant to section 22.7~~ and shall only be released as
40 16 provided in this section.

40 17 Sec. 74. Section 708.2B, unnumbered paragraph 2, Code
40 18 2007, is amended to read as follows:

40 19 District departments or contract service providers shall
40 20 receive upon request peace officers' investigative reports
40 21 regarding persons participating in programs under this
40 22 section. The receipt of reports under this section shall not
40 23 waive the confidentiality of the reports ~~under section 22.7.~~

40 24 Sec. 75. Section 716.6B, subsection 1, paragraph a, Code
40 25 2007, is amended to read as follows:

40 26 a. An aggravated misdemeanor if computer data is accessed
40 27 that contains ~~a confidential~~ an optional public record, as
40 28 defined in section 22.7, operational or support data of a
40 29 public utility, as defined in section 476.1, operational or
40 30 support data of a rural water district incorporated pursuant
40 31 to chapter 357A or 504, operational or support data of a
40 32 municipal utility organized pursuant to chapter 388 or 389,
40 33 operational or support data of a public airport, or a trade
40 34 secret, as defined in section 550.2.

40 35 Sec. 76. Section 907.4, Code 2007, is amended to read as



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41 1 follows:

41 2 907.4 DEFERRED JUDGMENT DOCKET.

41 3 A deferment of judgment under section 907.3 shall be
41 4 entered promptly by the clerk of the district court, or the
41 5 clerk's designee, into the deferred judgment database of the
41 6 state, which shall serve as the deferred judgment docket. The
41 7 docket shall contain a permanent record of the deferred
41 8 judgment including the name and date of birth of the
41 9 defendant, the district court docket number, the nature of the
41 10 offense, and the date of the deferred judgment. Before
41 11 granting deferred judgment in any case, the court shall search
41 12 the deferred judgment docket and shall consider any prior
41 13 record of a deferred judgment against the defendant. The
41 14 permanent record provided for in this section is a

~~41 15 confidential~~ an optional public record exempted from public
41 16 access under section 22.7 and shall be available only to
41 17 justices of the supreme court, judges of the court of appeals,
41 18 district judges, district associate judges, judicial
41 19 magistrates, clerks of the district court, judicial district
41 20 departments of correctional services, county attorneys, and
41 21 the department of corrections requesting information pursuant
41 22 to this section, or the designee of a justice, judge,
41 23 magistrate, clerk, judicial district department of
41 24 correctional services, or county attorney, or department.

41 25 Sec. 77. Section 915.90, unnumbered paragraph 1, Code
41 26 2007, is amended to read as follows:

41 27 A person in possession or control of investigative or other
41 28 information pertaining to an alleged crime or a victim filing
41 29 for compensation shall allow the inspection and reproduction
41 30 of the information by the department upon the request of the
41 31 department, to be used only in the administration and
41 32 enforcement of the crime victim compensation program.

41 33 Information and records which are ~~confidential~~ optional public
41 34 records under section 22.7 and information or records received
41 35 from ~~the confidential~~ such information or records remain



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43 1 reach a majority of the members and that is intended to
43 2 discuss and develop a collective final decision of a majority
43 3 outside of a meeting with respect to specific action to be
43 4 taken by the majority at a meeting. The bill specifies that a
43 5 "meeting" does not include written electronic communications
43 6 by one or more members of a governmental body or by its chief
43 7 executive officer that are ordinarily preserved and are
43 8 accessible and that are sent to a majority of the members of
43 9 the governmental body, or a series of such written electronic
43 10 communications each sent only to a minority of the members of
43 11 the governmental body but that in the aggregate are sent to a
43 12 majority of the members, that both concern a particular matter
43 13 within the scope of the governmental body's policymaking
43 14 duties and would otherwise constitute a meeting, if the
43 15 written electronic communications, to the extent such
43 16 communications are not exempt from disclosure, are either
43 17 posted on the governmental body's internet site or public
43 18 bulletin board at least 24 hours prior to the next regular
43 19 meeting or copies are made available for public inspection at
43 20 least 24 hours prior to the governmental body's next meeting.
43 21 If a special meeting is held on the subject matter of the
43 22 communications before the next regular meeting, the
43 23 communications shall be posted at least 24 hours prior to the
43 24 special meeting or made available for public inspection at
43 25 least 24 hours prior to that meeting.
43 26 RECONVENED MEETINGS. The bill provides that except as
43 27 otherwise provided, a reconvened meeting of a governmental
43 28 body is also subject to the meeting notice requirements
43 29 pursuant to Code section 21.4. This requirement does not
43 30 apply to a meeting of a governmental body that is reconvened
43 31 within four hours of the start of its recess, where an
43 32 announcement of the time, date, and place of the reconvened
43 33 meeting is made at the original meeting in open session and
43 34 recorded in the minutes of the meeting and there is no change
43 35 in the agenda. The notice requirement also does not apply to



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44 1 a meeting held by a formally constituted subunit of a parent
44 2 governmental body during a lawful meeting of the parent
44 3 governmental body or during a recess in that meeting of up to
44 4 four hours, or a meeting of that subunit immediately following
44 5 the meeting of the parent governmental body, if the meeting of
44 6 the subunit is publicly announced in open session at the
44 7 parent meeting and the subject of the meeting reasonably
44 8 coincides with the subjects discussed or acted upon by the
44 9 parent governmental body.

44 10 MEETINGS OF PUBLIC HOSPITALS. The bill provides a new
44 11 exemption from the open meetings law relating to meetings of
44 12 public hospitals, as defined in Code section 249J.3. The bill
44 13 provides that a meeting of such a public hospital may be
44 14 closed to discuss patient care quality and process improvement
44 15 initiatives or to discuss marketing and pricing strategies or
44 16 similar proprietary information where public disclosure of
44 17 such information would harm such a hospital's competitive
44 18 position. The minutes and the audio recording of such a
44 19 closed session shall be available for public inspection when
44 20 the public disclosure would no longer harm the hospital's
44 21 competitive position.

44 22 CIVIL AND CRIMINAL PENALTY PROVISIONS. The bill increases
44 23 the civil penalty damage amounts for violations of the open
44 24 meetings and public records laws for each member of the
44 25 governmental body or each person who knowingly participated in
44 26 the violation from not less than \$100 and not more than \$500
44 27 to not less than \$1,000 and not more than \$2,500 subject to
44 28 the existing defenses contained in Code sections 21.6 and
44 29 22.10.

44 30 The bill repeals the criminal penalty provision for knowing
44 31 violations or attempts to violate any provisions of the public
44 32 records law.

44 33 RECORDS == DEFINITIONS. The bill provides a purpose
44 34 provision in the public records law and amends the terms used
44 35 to identify records and different classes of records under the



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45 1 public records law.

45 2 The bill defines a "record" under Code chapter 22 to mean
45 3 information of every kind, nature, and form preserved or
45 4 stored in any medium including but not limited to paper,
45 5 electronic media, or film media. The bill also designates the
45 6 following categories of records in Code chapter 22:

45 7 1. "Government record" means a record owned by, created
45 8 by, in the possession of, or under the control of, any unit,
45 9 division, or part of state or local government or the
45 10 officials or employees of such bodies in the course of the
45 11 performance of their respective duties.

45 12 2. "Public record" means a government record which a
45 13 member of the public has an unqualified right to examine and
45 14 copy and includes a government record not designated by
45 15 statute as either a confidential record or an optional public
45 16 record.

45 17 3. "Confidential record" means a government record
45 18 designated by statute as unavailable for examination and
45 19 copying by a member of the public.

45 20 4. "Optional public record" means a government record
45 21 designated by statute as unavailable for examination and
45 22 copying by a member of the public unless otherwise ordered by
45 23 a court, by the lawful custodian of the records, or by another
45 24 person duly authorized to release such information.

45 25 The bill makes conforming changes throughout the Code based
45 26 upon the new identification terms for various classes of
45 27 records established in the bill for Code chapter 22. The
45 28 conforming terminology changes provide for a continuation of
45 29 the current public disclosure status of records. Additional
45 30 conforming changes to these and other Code provisions may be
45 31 necessary to fully implement the new identification terms for
45 32 various classes of records established by the bill.

45 33 RECORDS ACCESS == GOVERNMENT BODY CONTRACTS WITH
45 34 NONGOVERNMENT BODY. Current law provides that a government
45 35 body may not avoid application of the public records law by



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46 1 contracting out any of its functions to a nongovernment person
46 2 or entity. The bill provides that a record created by, in the
46 3 possession of, or under the control of, any nongovernment body
46 4 or person which is a direct part of the execution or
46 5 performance of duties imposed upon the nongovernment body or
46 6 person by contract with a government body under which the
46 7 nongovernment body or person performs a function of the
46 8 government body is a government record. The lawful custodian
46 9 of such a government record is the government body with whom
46 10 the nongovernment body or person has executed the contract.
46 11 Consistent with this change, the bill makes a conforming
46 12 amendment relating to records involving charitable donations
46 13 and specifies that, unless otherwise provided, the lawful
46 14 custodian of all records relating to the receipt, holding, and
46 15 disbursement of gifts made for the benefit of regents
46 16 institutions and made through foundations established for the
46 17 support of regents institutions is the regents institution to
46 18 be benefited by such gifts.
46 19 RECORDS REQUESTS == TIME LIMITS. The bill provides that
46 20 upon receipt of an oral or written request to examine or copy
46 21 a public record, the lawful custodian shall, if the lawful
46 22 custodian knows the record requested is a public record and if
46 23 feasible in the ordinary course of business, permit such
46 24 examination or copying at the time of the request. If it is
46 25 not feasible in the ordinary course of business to permit
46 26 examination or copying of the public record at the time of the
46 27 request, the lawful custodian shall immediately notify the
46 28 requester, orally or in writing, when such examination or
46 29 copying may take place which shall be no later than five
46 30 business days from the time of the request unless there is
46 31 good cause for further delay. If further delay is necessary
46 32 because of good cause, the lawful custodian shall provide the
46 33 requester with a written statement detailing the reason or
46 34 reasons for the delay and the date by which the request will
46 35 be satisfied. If the lawful custodian is in doubt as to



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47 1 whether the record requested is a public record or whether the
47 2 requester should be permitted to examine or copy a record
47 3 specified in Code section 22.7, the lawful custodian shall
47 4 make that determination within 10 business days from the date
47 5 of the request unless further delay is necessary because of a
47 6 pending request by the lawful custodian to the Iowa public
47 7 information board, or other good cause. Examination or
47 8 copying of the record shall be allowed within five business
47 9 days from the date the lawful custodian makes the decision to
47 10 permit examination or copying of the record unless there is
47 11 good cause for further delay in fulfilling the request. If
47 12 the lawful custodian denies a request to examine or copy a
47 13 record, the custodian must provide the requester at the time
47 14 of the denial a written statement denying the request and
47 15 detailing the specific reason or reasons for the denial. If
47 16 the lawful custodian does not fulfill a request to examine or
47 17 copy a public record within the time frames prescribed, the
47 18 request shall be deemed denied and the requester shall be
47 19 entitled to file a complaint with the Iowa public information
47 20 board created in Code section 23.7 or may file a lawsuit
47 21 against the lawful custodian pursuant to Code section 22.10.
47 22 RECORDS REQUESTS == FEES. The bill provides that if a
47 23 lawful custodian is a state executive branch agency, the
47 24 lawful custodian shall provide services in supervising the
47 25 review, examination, and copying of records at no charge for
47 26 up to three hours per month.
47 27 The bill amends a confidentiality provision of the public
47 28 records law relating to appraisal concerning the purchase of
47 29 real or personal property for a public purpose for consistency
47 30 with changes made to the eminent domain law.
47 31 PERSONAL INFORMATION IN CONFIDENTIAL PERSONNEL RECORDS.
47 32 Current law provides that personal information in confidential
47 33 personnel records of government bodies shall be confidential,
47 34 unless otherwise ordered by a court, by the lawful custodian,
47 35 or by another duly authorized person to release such



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48 1 information. The bill specifies that the following shall be
48 2 public records: the name and compensation of the individual
48 3 including any written compensation or employment agreements
48 4 except for information otherwise excludable; the date the
48 5 individual was employed by the government body; the positions
48 6 the individual holds or has held with the government body; the
48 7 individual's qualifications for the position that the
48 8 individual holds or has held including but not limited to
48 9 educational background and work experience; and any final
48 10 disciplinary action taken against the individual that resulted
48 11 in the individual's discharge. The bill provides that
48 12 personal information in confidential personnel records of
48 13 government bodies relating to student employees shall only be
48 14 released as provided by federal law.

48 15 ADDITIONAL OPTIONAL PUBLIC RECORDS DESIGNATIONS. The bill
48 16 provides that the following records shall be confidential
48 17 unless otherwise ordered by a court, by the lawful custodian,
48 18 or by another duly authorized person:

48 19 1. PUBLIC EMPLOYMENT APPLICATIONS. The identity and
48 20 qualifications of an applicant for employment by a government
48 21 body if the applicant requests anonymity in writing and the
48 22 government body determines that anonymity is necessary to
48 23 induce the applicant to apply for the public employment
48 24 position shall be confidential. Such information shall be
48 25 exempt from disclosure until an applicant is considered by the
48 26 government body to be a finalist for a position in public
48 27 employment. "Finalist" means a person who is one of five or
48 28 fewer applicants under final consideration for a public
48 29 employment position. If there are five or fewer applicants
48 30 for the particular position, all of the applicants shall be
48 31 considered finalists. The identities and qualifications of
48 32 the finalists shall be made available for public inspection at
48 33 least three business days prior to the final decision.
48 34 Documents relating to a government body's evaluation of the
48 35 qualifications and merits of an applicant for employment by a



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49 1 government body are also confidential records unless otherwise
49 2 released by the appropriate person.

49 3 2. TENTATIVE, PRELIMINARY, OR DRAFT MATERIALS. Tentative,
49 4 preliminary, draft, speculative, or research material, created
49 5 prior to its completion for the purpose for which it is
49 6 intended and in a form prior to the form in which it is
49 7 submitted for use or used in the actual formulation,
49 8 recommendation, adoption, or execution of any official policy
49 9 or action by a public official authorized to make such
49 10 decisions for the government body, are confidential unless
49 11 ordered otherwise by the appropriate official. Such materials
49 12 shall be treated as public record at the time they are
49 13 actually used as the basis for the final formulation,
49 14 recommendation, adoption, or execution of any official policy
49 15 or action of a government body.

49 16 3. CLOSED SESSION RECORDS. Information in records that
49 17 would permit a governmental body subject to Code chapter 21 to
49 18 hold a closed session pursuant to Code section 21.5 in order
49 19 to avoid public disclosure of that information.

49 20 INJUNCTION RESTRAINING EXAMINATION OF PUBLIC RECORDS.
49 21 Current law provides that, under specified circumstances, a
49 22 district court may grant an injunction restraining the
49 23 examination, including copying, of a specific public record or
49 24 a narrowly drawn class of public records. Such an injunction
49 25 may be issued only if the petition supported by affidavit
49 26 shows and if the court finds that the examination would
49 27 clearly not be in the public interest and that the examination
49 28 would substantially and irreparably injure any person or
49 29 persons. The bill amends this provision to provide that the
49 30 district court may grant an injunction upon a finding that the
49 31 examination would clearly not be in the public interest
49 32 because the potential harm to the public interest from
49 33 disclosure of the particular information involved clearly
49 34 outweighs any potential benefit to the public interest from
49 35 disclosure, or that the examination would substantially and



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50 1 irreparably injure any person or persons because it would
50 2 invade the personal privacy of the identified subject of the
50 3 record and the harm to that person from such disclosure is not
50 4 outweighed by the public interest in its disclosure, or that
50 5 the record at issue is not a public record or that a
50 6 determination by the custodian to permit inspection of an
50 7 optional public record by one or more members of the public is
50 8 a violation of law or is arbitrary, capricious, unreasonable,
50 9 or an abuse of discretion.

50 10 SETTLEMENT AGREEMENTS. Code chapter 22 currently provides
50 11 that a written summary of the terms of settlement or other
50 12 disposition of any claim for damages made against any
50 13 government body or against an employee, officer, or agent of a
50 14 government body, by an insurer pursuant to a contract of a
50 15 liability insurance issued to the governmental body, shall be
50 16 filed with the governmental body and shall be a public record.
50 17 The bill provides that all final binding settlement agreements
50 18 between any agency of this state or other unit or official of
50 19 such a government body that resolves a legal dispute between
50 20 such a government body and another person or entity shall
50 21 include a brief summary indicating the identity of the parties
50 22 involved, the nature of the dispute, any underlying relevant
50 23 facts, and the terms of the settlement, and shall be filed
50 24 with the government body and shall be available for public
50 25 inspection.

50 26 TAX=EXEMPT BONDING AUTHORITY == 7C == MEETINGS AND RECORDS.
50 27 The bill provides that an entity eligible to exercise
50 28 tax=exempt bonding authority under Code chapter 7C designated
50 29 by the state to serve as a secondary market for student loans
50 30 and a nonprofit tax=exempt bonding authority under chapter 7C
50 31 whose board of directors is appointed by the governor is
50 32 subject to the provisions of the open meetings and open
50 33 records laws.

50 34 IOWA PUBLIC INFORMATION BOARD. The bill creates the Iowa
50 35 public information board to provide an alternative means by



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51 1 which to secure compliance with and enforcement of the
51 2 requirements of Code chapters 21 and 22, to consist of five
51 3 members appointed by the governor, subject to confirmation by
51 4 the senate, to serve four-year staggered terms. The board
51 5 shall be balanced as to political affiliation and gender.
51 6 Vacancies on the board shall be filled by the governor by
51 7 appointment for the unexpired part of the term of the vacancy.
51 8 Any board member may be removed from office by the governor
51 9 for good cause. The board shall select one of its members to
51 10 serve as chair and shall hire a director who shall serve as
51 11 the executive officer of the board. Board members shall be
51 12 paid a per diem and shall be reimbursed for actual and
51 13 necessary expenses incurred while on official board business.
51 14 All per diem and expense moneys paid to board members shall be
51 15 paid from funds appropriated to the board. The board shall
51 16 not have jurisdiction over the judicial or legislative
51 17 branches of state government or any entity, officer, or
51 18 employee of those branches, or over the governor or the office
51 19 of the governor, but the bill does not alter the current
51 20 applicability of Code chapter 22 and the enforcement
51 21 mechanisms provided in Code chapter 22 to any of those bodies.
51 22 The bill provides that any aggrieved person, any taxpayer
51 23 to or citizen of the state of Iowa, the attorney general, or
51 24 any county attorney, may seek enforcement of the requirements
51 25 of Code chapters 21 and 22 by electing either to file an
51 26 action pursuant to Code section 17A.19, 21.6, or 22.9,
51 27 whichever is applicable, or in the alternative, to file a
51 28 timely complaint with the board. If more than one person
51 29 seeks enforcement of Code chapter 21 or 22 with respect to the
51 30 same incident involving an alleged violation, and one or more
51 31 of such persons elects to do so by filing an action under Code
51 32 section 17A.19, 21.6, or 22.9, and one or more of such persons
51 33 elects to do so by filing a timely complaint with the board,
51 34 the court in which the action was filed shall dismiss the
51 35 action without prejudice authorizing the complainant to file a



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52 1 complaint with respect to that same incident with the board
52 2 without regard to the timeliness of the filing of that
52 3 complaint at the time the action in court is dismissed. If a
52 4 person files an action seeking to enjoin the inspection of a
52 5 public record, the respondent may remove the proceeding to the
52 6 board for its determination by filing, within 30 days of the
52 7 commencement of that judicial proceeding, a complaint with the
52 8 board alleging a violation of Code chapter 22 in regard to the
52 9 same matter.

52 10 The bill provides that the board shall have the authority
52 11 to employ such employees as are necessary to execute its
52 12 authority, adopt rules with the force of law, interpret the
52 13 requirements of Code chapters 21 and 22, implement any
52 14 authority delegated to the board, issue declaratory orders
52 15 with the force of law, issue informal advice to any person
52 16 concerning the applicability of Code chapters 21 and 22,
52 17 receive complaints alleging violations of Code chapter 21 or
52 18 22, seek resolution of such complaints through mediation and
52 19 settlement, formally investigate such complaints, decide after
52 20 such an investigation whether there is probable cause to
52 21 believe a violation of Code chapter 21 or 22 has occurred, and
52 22 if probable cause has been found, prosecute the respondent
52 23 before the board in a contested case proceeding conducted
52 24 according to the provisions of Code chapter 17A. The board
52 25 shall also have the authority to issue subpoenas enforceable
52 26 in court, issue orders with the force of law, represent itself
52 27 in judicial proceedings, make training opportunities
52 28 available, disseminate information to inform the public about
52 29 the public's right to access government information, prepare
52 30 and transmit reports to the governor and the general assembly,
52 31 at least annually, describing complaints received, board
52 32 proceedings, investigations, hearings conducted, decisions
52 33 rendered, and other work performed by the board, and make
52 34 recommendations to the general assembly concerning legislation
52 35 relating to public information access.



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53 1 The bill provides that a complaint must be filed within 60
53 2 days from the time the alleged violation occurred or the
53 3 complainant could have become aware of the violation with
53 4 reasonable diligence. The board shall not charge a
53 5 complainant any fee in relation to the filing of a complaint,
53 6 the processing of a complaint, or any board proceeding or
53 7 judicial proceeding resulting from the filing of a complaint.
53 8 The bill provides that upon receipt of a complaint, the
53 9 board shall either make a determination that, on its face, the
53 10 complaint is within the board's jurisdiction, appears legally
53 11 sufficient, and could have merit, in which case the board
53 12 shall accept the complaint, or make a determination that, on
53 13 its face, the complaint is outside the board's jurisdiction,
53 14 is legally insufficient, is frivolous, or without merit, or
53 15 involves harmless error, or relates to a specific incident
53 16 that has previously been finally disposed of on its merits by
53 17 the board or a court, in which case the board shall decline to
53 18 accept the complaint. If the board declines to accept the
53 19 complaint, the board shall provide the complainant with a
53 20 written statement detailing the reasons for the denial.
53 21 After accepting a complaint, the board shall work with the
53 22 parties to reach an informal resolution of the complaint, but
53 23 if an informal resolution is not possible, the board shall
53 24 offer the parties the opportunity to resolve the dispute
53 25 through mediation and settlement which shall provide the
53 26 complainant the opportunity to resolve the dispute with the
53 27 aid of a neutral mediator employed and selected by the board.
53 28 If any party declines mediation or settlement or if
53 29 mediation or settlement fails to resolve the matter to the
53 30 satisfaction of all parties, the board shall initiate a formal
53 31 investigation concerning the facts and circumstances set forth
53 32 in the complaint. After investigation, the board shall make a
53 33 determination as to whether the complaint is within the
53 34 board's jurisdiction and whether there is probable cause to
53 35 believe that the complaint states a violation of Code chapter



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54 1 21 or 22 and if the board finds the complaint is outside the
54 2 board's jurisdiction or there is not probable cause to believe
54 3 there has been a violation, the board shall issue a written
54 4 order explaining the reasons for the board's conclusions and
54 5 dismissing the complaint. If the board finds the complaint is
54 6 within the board's jurisdiction and there is probable cause to
54 7 believe there has been a violation, the board shall issue a
54 8 written order to that effect and shall commence a contested
54 9 case proceeding against the respondent. An attorney selected
54 10 by the director of the board shall prosecute the respondent in
54 11 the contested case proceeding. At the termination of the
54 12 contested case proceeding the board shall, by a majority vote
54 13 of its members, render a final decision as to the merits of
54 14 the complaint and issue any appropriate order to ensure
54 15 enforcement of Code chapter 21 or 22 or to remedy any failure
54 16 of the respondent to observe any provision of those Code
54 17 chapters. If the board determines, by a majority vote of its
54 18 members, that the respondent has violated Code chapter 21 or
54 19 22, the board may also require the respondent to pay damages
54 20 if such damages would be warranted under either Code chapter
54 21 and may void any action taken in violation of Code chapter 21.
54 22 The board does not have the authority to remove a person from
54 23 public office for a violation of Code chapter 21 or 22 but may
54 24 file an action under either Code chapter to remove a person
54 25 from office for violations that would subject a person to
54 26 removal under those Code chapters. A final board order
54 27 resulting from such proceedings may be enforced by the board
54 28 in court and is subject to judicial review pursuant to Code
54 29 section 17A.19.

54 30 A respondent may defend against a proceeding before the
54 31 board charging a violation of Code chapter 21 or 22 on the
54 32 ground that if such a violation occurred it was only harmless
54 33 error or that clear and convincing evidence demonstrated that
54 34 grounds existed to justify a court to issue an injunction
54 35 against disclosure.



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Senate File 2411 - Introduced continued

55 1 The bill provides that the initial members of the board
55 2 shall be appointed by September 1, 2008, the director and
55 3 employees of the board shall not be hired prior to July 1,
55 4 2009, and the board shall submit a report to include a job
55 5 description for the executive director of the board, goals for
55 6 board operations, and performance measures for the board prior
55 7 to July 1, 2009.

55 8 JUDICIAL BRANCH RECORDS == COURT RULES. The bill provides
55 9 that Code chapter 22 does not apply to government records
55 10 owned, created, possessed, or under the control of the
55 11 judicial branch related to the performance by the court or the
55 12 court's judicial functions. The bill provides that the Iowa
55 13 supreme court shall prescribe rules governing access to such
55 14 records consistent with the purposes of Code chapter 22.

55 15 APPROPRIATION == IOWA PUBLIC INFORMATION BOARD. The bill
55 16 appropriates \$6,000 from the general fund to the department of
55 17 management for FY 2008=2009 for the initial expenses of the
55 18 Iowa public information board.

55 19 EFFECTIVE DATE. Except as otherwise provided, the bill
55 20 takes effect July 1, 2009.

55 21 LSB 5233SZ 82

55 22 rh/rj/14



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Senate Resolution 133 - Introduced

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S.R. _____ H.R. _____

1 1 SENATE RESOLUTION NO.
1 2 BY HARTSUCH, SENG, and WOOD
1 3 A Resolution to recognize April 2008 as Fall Prevention
1 4 Awareness Month for Older Iowans.
1 5 WHEREAS, falls are a leading cause of injuries and
1 6 their associated disabilities among the state's older
1 7 population; and
1 8 WHEREAS, the impact of a fall causes a significant
1 9 reduction in a senior's quality of life and major
1 10 costs to the health care system; and
1 11 WHEREAS, the incidence of falls increases with age
1 12 and one-third of older adults age 65 years and older
1 13 fall each year; and
1 14 WHEREAS, among other adults, falls are the leading
1 15 cause of injury and death and the most common cause of
1 16 nonfatal injuries and hospital admissions of trauma,
1 17 with nine out of 10 hip fractures caused by falls; and
1 18 WHEREAS, accidental injuries are the fifth leading
1 19 cause of death, and falls account for two-thirds of
1 20 accidental deaths; and
1 21 WHEREAS, 75 percent of United States deaths related
1 22 to falls occur with individuals who are 65 years or
1 23 older and more than 60 percent of persons who die from
1 24 falls are age 75 years or older; and
1 25 WHEREAS, persons with hip fractures are 5 to 20
1 26 percent more likely to die in the first year after a
1 27 fall, and following a fall, 15 to 25 percent of
1 28 persons who were living at home will still be in
1 29 long-term care facilities; and
1 30 WHEREAS, hospitalization rates and associated



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Senate Resolution 133 - Introduced continued

2 1 complications increase steadily with age until they
2 2 double at about age 75; and
2 3 WHEREAS, the older American population is projected
2 4 to increase from 34.8 million to 77.2 million between
2 5 2000 and 2040, causing the number of fall-related
2 6 injuries to significantly increase, but research
2 7 supports that 40 percent or more of falls that occur
2 8 are preventable; NOW THEREFORE,
2 9 BE IT RESOLVED BY THE SENATE, That the Senate
2 10 hereby proclaims the month of April 2008 to be "Fall
2 11 Prevention Awareness Month for Older Iowans" in the
2 12 state of Iowa; and
2 13 BE IT FURTHER RESOLVED, That the Senate joins the
2 14 policy board members of the Generations Area Agency on
2 15 Aging, who have initiated a major local project with
2 16 the Scott County Health Department, Genesis Visiting
2 17 Nursing and Hospice, Trinity Visiting Nurse and Home
2 18 Care, and Braaten Health, in promoting awareness and
2 19 disseminating information regarding the high incidence
2 20 and adverse impact of falls among older Iowans, and
2 21 encourages Iowa's thirteen area agencies on aging to
2 22 disseminate information regarding, and encourage the
2 23 use of, the best possible practices intended to reduce
2 24 the incidence of falls and their devastating
2 25 consequences.
2 26 LSB 6607SS 82
2 27 jr/nh/14



Iowa General Assembly
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Senate Study Bill 3295

SENATE FILE
BY (PROPOSED COMMITTEE ON
APPROPRIATIONS BILL BY
CHAIRPERSON DVORSKY)

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

Passed House, Date _____
Vote: Ayes _____ Nays _____

A BILL FOR

1 An Act relating to and making appropriations from the healthy
2 Iowans tobacco trust and the tobacco settlement trust fund,
3 and providing for the repeal of the healthy Iowans tobacco
4 trust, and providing effective dates.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
6 TLSB 5008XC 82
7 pf/jp/24



**Iowa General Assembly
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Senate Study Bill 3295 continued

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1 1                               DIVISION I
1 2             HEALTHY IOWANS TOBACCO TRUST == APPROPRIATIONS
1 3       Section 1. HEALTHY IOWANS TOBACCO TRUST == APPROPRIATIONS
1 4 TO DEPARTMENTS. There is appropriated from the healthy Iowans
1 5 tobacco trust created in section 12.65 to the following
1 6 departments for the fiscal year beginning July 1, 2008, and
1 7 ending June 30, 2009, the following amounts, or so much
1 8 thereof as is necessary, to be used for the purposes
1 9 designated:
1 10      1. To the department of human services:
1 11      a. For child and family services including for
1 12 reimbursement of adoption, independent living, shelter care,
1 13 and home studies services providers, and other service
1 14 providers under the purview of the department of human
1 15 services:
1 16 ..... $ 3,761,677
1 17      b. To continue supplementation of the state supplementary
1 18 assistance program including reimbursements for residential
1 19 care facilities and in-home health services:
1 20 ..... $ 182,381
1 21      c. For general administration of health-related programs:
1 22 ..... $ 274,000
1 23      2. To the Iowa department of public health:
1 24      a. For the tobacco use prevention and control initiative,
1 25 including efforts at the state and local levels, as provided
1 26 in chapter 142A and for not more than the following full-time
1 27 equivalent positions:
1 28 ..... $ 5,928,265
1 29 ..... FTEs 7.00
1 30      (1) The director of public health shall dedicate
1 31 sufficient resources to promote and ensure retailer compliance
1 32 with tobacco laws and ordinances relating to persons under 18
1 33 years of age, and shall prioritize the state's compliance in
1 34 the allocation of available funds to comply with 42 U.S.C. }
1 35 300x=26 and section 453A.2.

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Senate Study Bill 3295 continued

2 1 (2) Of the full-time equivalent positions funded in this
2 2 paragraph "a", 2.00 full-time equivalent positions shall be
2 3 utilized to provide for enforcement of tobacco laws,
2 4 regulations, and ordinances under a chapter 28D agreement
2 5 entered into between the Iowa department of public health and
2 6 the alcoholic beverages division of the department of
2 7 commerce.

2 8 (3) Of the funds appropriated in this paragraph "a", not
2 9 more than \$525,759 shall be expended on administration and
2 10 management of the program.

2 11 (4) Of the funds appropriated in this paragraph "a", not
2 12 less than 80 percent of the amount expended in the fiscal year
2 13 beginning July 1, 2001, for community partnerships shall be
2 14 expended in the fiscal year beginning July 1, 2008, for that
2 15 purpose.

2 16 b. For additional substance abuse treatment under the
2 17 substance abuse treatment program:

2 18 \$ 13,800,000

2 19 (1) The department shall use funds appropriated in this
2 20 paragraph "b" to enhance the quality of and to expand the
2 21 capacity to provide 24-hour substance abuse treatment
2 22 programs.

2 23 (2) The department shall use funds appropriated in this
2 24 paragraph "b" to expand the length of individual client
2 25 substance abuse treatment plans, as necessary to reduce
2 26 program recidivism.

2 27 (3) The department shall use funds appropriated in this
2 28 paragraph "b" to share research-based best practices for
2 29 treatment with substance abuse treatment facilities.

2 30 (4) The department shall use funds appropriated in this
2 31 paragraph "b" to develop a results-based funding approach for
2 32 substance abuse treatment services.

2 33 (5) The department shall use funds appropriated in this
2 34 paragraph "b" to develop a program to encourage individuals
2 35 who are successfully managing their substance abuse problems



**Iowa General Assembly
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Senate Study Bill 3295 continued

3 1 to serve as role models.

3 2 (6) The department shall submit a report annually by March

3 3 1, to the governor and the general assembly delineating the

3 4 success rates of the substance abuse treatment programs that

3 5 receive funding under this paragraph "b".

3 6 c. For the healthy Iowans 2010 plan within the Iowa

3 7 department of public health and for not more than the

3 8 following full-time equivalent positions:

3 9 \$ 2,509,960

3 10 FTEs 4.00

3 11 (1) Of the funds appropriated in this paragraph "c", not

3 12 more than \$1,157,482 shall be used for essential public health

3 13 services that promote healthy aging throughout the lifespan,

3 14 contracted through a formula for local boards of health, to

3 15 enhance health promotion and disease prevention services.

3 16 (2) Of the funds appropriated in this paragraph "c", not

3 17 more than \$387,320 shall be used for the continuation and

3 18 support of a coordinated system of delivery of trauma and

3 19 emergency medical services.

3 20 (3) Of the funds appropriated in this paragraph "c", not

3 21 more than \$600,000 shall be used for the state poison control

3 22 center.

3 23 (4) Of the funds appropriated in this paragraph "c", not

3 24 more than \$288,770 shall be used for the development of

3 25 scientific and medical expertise in environmental

3 26 epidemiology.

3 27 (5) Of the funds appropriated in this paragraph "c", not

3 28 more than \$76,388 shall be used for the childhood lead

3 29 poisoning prevention program.

3 30 d. For the center for congenital and inherited disorders

3 31 established pursuant to section 136A.3:

3 32 \$ 26,000

3 33 e. For a grant program to provide substance abuse

3 34 prevention programming for children:

3 35 \$ 1,050,000



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Senate Study Bill 3295 continued

4 1 (1) Of the funds appropriated in this paragraph "e",
 4 2 \$500,000 shall be utilized to provide funding for
 4 3 organizations that provide programming for children by
 4 4 utilizing mentors. Programs approved for grants under this
 4 5 subparagraph (1) shall be certified or will be certified
 4 6 within six months of receiving the grant award by the Iowa
 4 7 commission on volunteer services as utilizing the standards
 4 8 for effective practice for mentoring programs.

4 9 (2) Of the funds appropriated in this paragraph "e",
 4 10 \$500,000 shall be utilized to provide funding for
 4 11 organizations that provide programming that includes youth
 4 12 development and leadership. The programs shall also be
 4 13 recognized as being programs that are scientifically based
 4 14 with evidence of their effectiveness in reducing substance
 4 15 abuse in children.

4 16 (3) The Iowa department of public health shall utilize a
 4 17 request for proposals process to implement the program under
 4 18 this paragraph "e".

4 19 (4) All grant recipients under this paragraph "e" shall
 4 20 participate in a program evaluation as a requirement for
 4 21 receiving grant funds.

4 22 (5) Of the funds appropriated in this paragraph "e",
 4 23 \$50,000 shall be used to administer substance abuse prevention
 4 24 grants and for program evaluations.

4 25 g. For providing grants to individual patients who have
 4 26 phenylketonuria (PKU) to assist with the costs of necessary
 4 27 special foods:

4 28 \$ 100,000

4 29 h. For additional funding to leverage federal funding
 4 30 through the federal Ryan White Care Act, Title II, AIDS drug
 4 31 assistance program supplemental drug treatment grants:

4 32 \$ 275,000

4 33 i. For a grant to an existing national-affiliated
 4 34 organization to provide education, client-centered programs,
 4 35 and client and family support for people living with epilepsy



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Senate Study Bill 3295 continued

5 1 and their families:
5 2 \$ 100,000
5 3 3. To the department of corrections:
5 4 \$ 4,174,474
5 5 a. Of the funds appropriated in this subsection, \$366,216
5 6 is allocated to the first judicial district department of
5 7 correctional services. Of the funds allocated, \$100,000 shall
5 8 be used for community-based corrections, \$138,000 shall be
5 9 used to regionalize the drug court in Black Hawk, Dubuque, and
5 10 Buchanan counties, and \$128,216 shall be used to replace
5 11 expired federal funding for dual diagnosis offenders.
5 12 b. Of the funds appropriated in this subsection, \$406,217
5 13 is allocated to the second judicial district department of
5 14 correctional services. Of the funds allocated, \$100,000 shall
5 15 be used for community-based corrections, and \$306,217 shall be
5 16 used to replace expired federal funding for day programming
5 17 and to replace expired federal funding for the drug court
5 18 program with \$50,000 of this amount being used for substance
5 19 abuse treatment.
5 20 c. Of the funds appropriated in this subsection, \$200,359
5 21 is allocated to the third judicial district department of
5 22 correctional services. Of the funds allocated, \$100,000 shall
5 23 be used for community-based corrections, and \$100,359 shall be
5 24 used to replace expired federal funding for the drug court
5 25 program.
5 26 d. Of the funds appropriated in this subsection, \$291,731
5 27 is allocated to the fourth judicial district department of
5 28 correctional services. Of the funds allocated, \$100,000 shall
5 29 be used for community-based corrections, and \$191,731 shall be
5 30 used for the drug court program.
5 31 e. Of the funds appropriated in this subsection, \$355,693
5 32 is allocated to the fifth judicial district department of
5 33 correctional services. Of the funds allocated, \$100,000 shall
5 34 be used for community-based corrections, and \$255,693 shall be
5 35 used to replace expired federal funding for the drug court



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Senate Study Bill 3295 continued

6 1 program.

6 2 f. Of the funds appropriated in this subsection, \$494,741
6 3 is allocated to the sixth judicial district department of
6 4 correctional services. Of the funds allocated, \$100,000 shall
6 5 be used for community-based corrections, \$64,741 shall be used
6 6 to replace expired federal funding for dual diagnosis
6 7 offenders, and \$330,000 shall be used to establish drug court
6 8 programs in Johnson and Linn counties.

6 9 g. Of the funds appropriated in this subsection, \$232,232
6 10 is allocated to the seventh judicial district department of
6 11 correctional services. Of the funds allocated, \$100,000 shall
6 12 be used for community-based corrections, and \$132,232 shall be
6 13 used to replace expired federal funding for the drug court
6 14 program.

6 15 h. Of the funds appropriated in this subsection, \$300,000
6 16 is allocated to the eighth judicial district department of
6 17 correctional services. Of the funds allocated, \$100,000 shall
6 18 be used for community-based corrections, and \$200,000 shall be
6 19 used to implement an adult drug court program.

6 20 i. Of the funds appropriated in this subsection,
6 21 \$1,497,285 is allocated to the Fort Madison correctional
6 22 facility for the clinical care unit.

6 23 j. Of the funds appropriated in this subsection, \$30,000
6 24 is allocated for a transitional housing pilot project for
6 25 offenders on parole who are in the early stages of recovery
6 26 from substance abuse. The department of corrections shall
6 27 contract with a private nonprofit substance abuse treatment
6 28 provider in a city with a population exceeding 65,000 but not
6 29 exceeding 75,000 to implement the pilot project. The
6 30 department shall file a report with the co-chairpersons and
6 31 ranking members of the joint appropriations subcommittee on
6 32 the justice system and the legislative services agency by
6 33 February 1, 2009, detailing the number of offenders served by
6 34 the pilot project, the recidivism rate, a description of the
6 35 types of services received by the offenders, and the number of



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Senate Study Bill 3295 continued

7 1 prison bed days saved by the pilot project.

7 2 Sec. 2. PURCHASE OF SERVICE CONTRACT PROVIDERS ==

7 3 REIMBURSEMENT INCREASE. There is appropriated from the

7 4 healthy Iowans tobacco trust created in section 12.65 to the

7 5 property tax relief fund created in section 426B.1 for the

7 6 fiscal year beginning July 1, 2008, and ending June 30, 2009,

7 7 the following amount, or so much thereof as is necessary, to

7 8 be used for the purposes designated:

7 9 For assistance to the counties with limited county mental

7 10 health, mental retardation, and developmental disabilities

7 11 services fund balances which were selected in accordance with

7 12 2000 Iowa Acts, chapter 1221, section 3, to receive such

7 13 assistance in the same amount provided during the fiscal year

7 14 beginning July 1, 2000, and ending June 30, 2001, to pay

7 15 reimbursement increases in accordance with 2000 Iowa Acts,

7 16 chapter 1221, section 3:

7 17 \$ 146,750

7 18 Sec. 3. IOWA EMPOWERMENT FUND. There is appropriated from

7 19 the healthy Iowans tobacco trust created in section 12.65 to

7 20 the Iowa empowerment fund created in section 28.9 for the

7 21 fiscal year beginning July 1, 2008, and ending June 30, 2009,

7 22 for deposit in the school ready children grants account:

7 23 \$ 2,153,250

7 24 Sec. 4. IOWA COMMISSION ON VOLUNTEER SERVICES. There is

7 25 appropriated from the healthy Iowans tobacco trust created in

7 26 section 12.65 to the department of economic development for

7 27 the fiscal year beginning July 1, 2008, and ending June 30,

7 28 2009, the following amount, or so much thereof as is

7 29 necessary, to be used for the purpose designated:

7 30 For allocation to the Iowa commission on volunteer services

7 31 for the Iowa's promise and mentoring partnership program and

7 32 for not more than the following full-time equivalent

7 33 positions:

7 34 \$ 125,000

7 35 FTEs 1.00



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Senate Study Bill 3295 continued

8 1 Sec. 5. DEPARTMENT OF EDUCATION. There is appropriated
8 2 from the healthy Iowans tobacco trust created in section 12.65
8 3 to the department of education for the fiscal year beginning
8 4 July 1, 2008, and ending June 30, 2009, the following amount,
8 5 or so much thereof as is necessary, to be used for the purpose
8 6 designated:

8 7 To continue the competitive grants program to expand the
8 8 availability of the before and after school grant program as
8 9 provided in section 256.26:
8 10 \$ 505,000

8 11 Sec. 6. ENDOWMENT FOR IOWA'S HEALTH ACCOUNT == TRANSFER.
8 12 Notwithstanding any provision of law to the contrary, the
8 13 unencumbered or unobligated balance of the endowment for
8 14 Iowa's health account created in section 12E.12 at the close
8 15 of the fiscal year beginning July 1, 2007, shall be
8 16 transferred to the healthy Iowans tobacco trust created in
8 17 section 12.65.

8 18 Sec. 7. EFFECTIVE DATE. The section of this division of
8 19 this Act transferring the balance at the end of the fiscal
8 20 year beginning July 1, 2007, in the endowment for Iowa's
8 21 health account to the healthy Iowans tobacco trust, being
8 22 deemed of immediate importance, takes effect upon enactment.

DIVISION II

8 24 HEALTHY IOWANS TOBACCO TRUST == REPEAL
8 25 Sec. 8. Section 12E.2, subsection 5, Code 2007, is amended
8 26 by striking the subsection.

8 27 Sec. 9. Section 12E.2, subsection 10, Code 2007, is
8 28 amended to read as follows:

8 29 10. "Program plan" means the tobacco settlement program
8 30 plan dated February 14, 2001, including exhibits to the
8 31 program plan, submitted by the authority to the legislative
8 32 council and the executive council, to provide the state with a
8 33 secure and stable source of funding for the purposes
8 34 designated by section 12E.3A and other provisions of this
8 35 chapter ~~and section 12.65~~.



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9 1 Sec. 10. Section 12E.3, subsection 2, paragraph a, Code
9 2 2007, is amended to read as follows:

9 3 a. To implement and administer the program plan and to
9 4 establish a stable source of revenue to be used for the
9 5 purposes designated in section 12E.3A and other provisions of
9 6 this chapter and section 12.65.

9 7 Sec. 11. NEW SECTION. 12E.3A ENDOWMENT FOR IOWA'S HEALTH
9 8 ACCOUNT == PURPOSES.

9 9 1. The general assembly reaffirms and reenacts the
9 10 purposes stated for the use of moneys deposited in the healthy
9 11 Iowans tobacco trust, as the purposes were enacted in 2000
9 12 Iowa Acts, chapter 1232, section 12, and codified in section
9 13 12.65, Code 2007, as the purposes for the endowment for Iowa's
9 14 health account. The purposes include those purposes related
9 15 to health care, substance abuse treatment and enforcement,
9 16 tobacco use prevention and control, and other purposes related
9 17 to the needs of children, adults, and families in the state.

9 18 2. Any net proceeds from the sale of taxable bonds or
9 19 tax-exempt bonds issued to provide funds for the purposes
9 20 stated in section 12.65, Code 2007, and as reaffirmed and
9 21 reenacted in subsection 1 shall continue to be used for such
9 22 purposes, including but not limited to any such proceeds
9 23 deposited in the endowment for Iowa's health account or
9 24 transferred or otherwise credited to the general fund of the
9 25 state.

9 26 Sec. 12. Section 12E.9, subsection 1, paragraph b,
9 27 subparagraphs (3) and (6), Code 2007, are amended to read as
9 28 follows:

9 29 (3) An agreement that the anticipated use by the state of
9 30 bond proceeds received pursuant to the sales agreement shall
9 31 be for capital projects, certain debt service on outstanding
9 32 obligations that funded capital projects, payment of attorney
9 33 fees related to the master settlement agreement, and to
9 34 provide a secure and stable source of funding to the state for
9 35 purposes designated by section 12E.3A and other provisions of



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Senate Study Bill 3295 continued

10 1 this chapter ~~and section 12.65.~~

10 2 (6) A requirement that the net proceeds received by the
10 3 authority from the sale of taxable bonds or tax-exempt bonds
10 4 issued to provide funds for the purposes specified in section
10 5 ~~12.65~~ 12E.3A be deposited in the endowment for Iowa's health
10 6 account of the tobacco settlement trust fund as moneys of the
10 7 authority until transferred to the state pursuant to section
10 8 12E.12, subsection 1, paragraph "b", subparagraph (2). Each
10 9 amount transferred shall be the consideration received by the
10 10 state for that portion of the state's share.

10 11 Sec. 13. Section 12E.10, subsection 1, paragraph a,
10 12 subparagraph (3), Code 2007, is amended to read as follows:

10 13 (3) The authority may also issue taxable bonds or
10 14 tax-exempt bonds to provide additional amounts to be used for
10 15 the purposes specified in section ~~12.65~~ 12E.3A.

10 16 Sec. 14. Section 12E.11, subsection 1, Code 2007, is
10 17 amended to read as follows:

10 18 1. The authority may issue bonds and, if bonds are issued,
10 19 shall make the proceeds from the bonds available to the state
10 20 pursuant to the sales agreement to fund capital projects,
10 21 certain debt service on outstanding obligations that funded
10 22 capital projects, and attorney fees related to the master
10 23 settlement agreement, and to provide a secure and stable
10 24 source of funding to the state, consistent with the purposes
10 25 of section 12E.3A and other provisions of this chapter ~~and~~
~~10 26 section 12.65.~~ In connection with the issuance of bonds and
10 27 subject to the terms of the sales agreement, the authority
10 28 shall determine the terms and other details of the financing,
10 29 and the method of implementation of the program plan. Bonds
10 30 issued pursuant to this section may be secured by a pledge of
10 31 all or a portion of the state's share and any moneys derived
10 32 from the state's share, and any other sources available to the
10 33 authority with the exception of moneys in the tobacco
10 34 settlement trust fund. The authority may also issue refunding
10 35 bonds, including advance refunding bonds, for the purpose of



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Senate Study Bill 3295 continued

11 1 refunding previously issued bonds, and may issue other types
11 2 of bonds, debt obligations, and financing arrangements
11 3 necessary to fulfill its purposes or the purposes of this
11 4 chapter.

11 5 Sec. 15. Section 12E.12, subsection 1, paragraph b,
11 6 subparagraph (2), Code 2007, is amended to read as follows:

11 7 (2) The endowment for Iowa's health account.

11 8 (a) The net proceeds of any taxable bonds or tax-exempt
11 9 bonds issued to provide funds for the purposes specified in
11 10 section ~~12.65~~ 12E.3A, which the authority is directed to
11 11 deposit in the account, any portion of the state's share which
11 12 is not sold to the authority, and any other moneys
11 13 appropriated by the state for deposit in the account shall be
11 14 deposited in the account and shall be used for the purposes
11 15 specified in section ~~12.65~~ 12E.3A.

11 16 (a) ~~There is transferred from the endowment for Iowa's~~
11 17 ~~health account of the tobacco settlement trust fund to the~~
11 18 ~~healthy Iowans tobacco trust for the fiscal year beginning~~
11 19 ~~July 1, 2001, and ending June 30, 2002, the amount of~~
11 20 ~~fifty-five million dollars, to be used for the purposes~~
11 21 ~~specified in section 12.65.~~

11 22 (b) For each fiscal year beginning July 1, ~~2002~~ 2009, and
11 23 ~~annually thereafter, there is transferred from the moneys~~
11 24 ~~deposited in the endowment for Iowa's health account of the~~
11 25 ~~tobacco settlement trust fund are transferred to the healthy~~
11 26 ~~Iowans tobacco trust fifty-five million dollars plus an~~
11 27 ~~inflationary factor of one and one-half percent of the amount~~
11 28 ~~transferred in the previous fiscal year. Any transfer in an~~
11 29 ~~amount not in accordance with this subparagraph shall not be~~
11 30 ~~made unless authorized by a three-fifths majority of each~~
11 31 ~~house and approved by the governor general fund of the state.~~
11 32 The moneys transferred shall be used for the purposes
11 33 specified in section 12E.3A.

11 34 Sec. 16. Section 12E.17, Code 2007, is amended to read as
11 35 follows:



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12 1 12E.17 DISSOLUTION OF THE AUTHORITY.
12 2 The authority shall dissolve no later than two years from
12 3 the date of final payment of all outstanding bonds and the
12 4 satisfaction of all outstanding obligations of the authority,
12 5 except to the extent necessary to remain in existence to
12 6 fulfill any outstanding covenants or provisions with
12 7 bondholders or third parties made in accordance with this
12 8 chapter. Upon dissolution of the authority, all assets of the
12 9 authority shall be returned to the state and shall be
12 10 deposited in the ~~healthy Iowans tobacco trust~~ general fund of
12 11 the state, unless otherwise directed by the general assembly,
12 12 and the authority shall execute any necessary assignments or
12 13 instruments, including any assignment of any right, title, or
12 14 ownership to the state for receipt of payments under the
12 15 master settlement agreement.
12 16 Sec. 17. Section 12.65, Code 2007, is repealed.
12 17 Sec. 18. EFFECTIVE DATE. This division of this Act takes
12 18 effect June 30, 2009.
12 19 DIVISION III
12 20 APPROPRIATIONS AND BALANCES == REVERSIONS
12 21 Sec. 19. HEALTHY IOWANS TOBACCO TRUST AND ENDOWMENT FOR
12 22 IOWA'S HEALTH ACCOUNT == REVERSION.
12 23 1. Notwithstanding any provision of law to the contrary,
12 24 moneys from appropriations that remain unencumbered or
12 25 unobligated at the close of the fiscal year beginning July 1,
12 26 2008, or the close of any succeeding fiscal year that would
12 27 otherwise be required by law to revert to, be deposited in, or
12 28 to be credited to the healthy Iowans tobacco trust or the
12 29 endowment for Iowa's health account shall instead be credited
12 30 to the general fund of the state.
12 31 2. Notwithstanding any provision of law to the contrary,
12 32 the unencumbered or unobligated balances of the healthy Iowans
12 33 tobacco trust at the close of the fiscal year beginning July
12 34 1, 2008, or the endowment for Iowa's health account at the
12 35 close of the fiscal year beginning July 1, 2008, or the close



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13 1 of any succeeding fiscal year shall be transferred to the
13 2 general fund of the state.

13 3 EXPLANATION

13 4 Division I of this bill relates to and makes appropriations
13 5 from the healthy Iowans tobacco trust to the following
13 6 departments for fiscal year 2008=2009:

13 7 To the department of human services:

13 8 1. For child and family services including for
13 9 reimbursement of adoption, independent living, shelter care,
13 10 and home studies services providers, and other service
13 11 providers under the purview of the department of human
13 12 services.

13 13 2. For supplementation of the state supplementary
13 14 assistance program.

13 15 3. For general administration of health-related programs.

13 16 To the Iowa department of public health:

13 17 1. For the tobacco use prevention and control initiative
13 18 and for additional substance abuse treatment.

13 19 2. For development of a healthy Iowans 2010 plan for the
13 20 following purposes: for essential public health services that
13 21 promote healthy aging throughout the lifespan, contracted
13 22 through a formula by local boards of health, to enhance health
13 23 promotion and disease prevention services; for the
13 24 continuation and support of a coordinated system of delivery
13 25 of trauma and emergency medical services; for the poison
13 26 control center; for development of scientific and medical
13 27 expertise in environmental epidemiology; and for the childhood
13 28 lead poisoning prevention program.

13 29 3. For the center for congenital and inherited disorders.

13 30 4. For a grant program to provide substance abuse
13 31 prevention programming for children with specific criteria.

13 32 5. For a grant program for individuals with
13 33 phenylketonuria (PKU).

13 34 6. For leveraging of federal funds under the federal Ryan
13 35 White Care Act.



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14 1 7. For a grant to provide education, programming, and
14 2 support for people living with epilepsy and their families.
14 3 To the department of corrections: for community-based
14 4 corrections, day programming, the drug court program, for the
14 5 Fort Madison correctional facility for the clinical care unit,
14 6 and for a transitional housing pilot project for offenders on
14 7 parole.

14 8 The bill appropriates funds for fiscal year 2008=2009 to
14 9 the property tax relief fund for the fiscal year beginning
14 10 July 1, 2008, and ending June 30, 2009, for assistance to
14 11 counties with limited county mental health, mental
14 12 retardation, and developmental disabilities services fund
14 13 balances to pay reimbursement increases in the same amount as
14 14 provided in the fiscal year beginning July 1, 2000, and ending
14 15 June 30, 2001.

14 16 The bill appropriates funds to the Iowa empowerment fund
14 17 for the fiscal year beginning July 1, 2008, and ending June
14 18 30, 2009, for deposit in the school ready children grants
14 19 account.

14 20 The bill appropriates funds to the department of economic
14 21 development for fiscal year 2008=2009 for allocation to the
14 22 Iowa commission on volunteer services for the Iowa's promise
14 23 and mentoring partnership program.

14 24 The bill appropriates funds to the department of education
14 25 to continue the competitive grants program to expand the
14 26 availability of the before and after school grant program.

14 27 The bill provides for the transfer of additional funds from
14 28 the endowment for Iowa's health account to the healthy Iowans
14 29 tobacco trust for the fiscal year beginning July 1, 2007, and
14 30 ending June 30, 2008. This provision takes effect upon
14 31 enactment.

14 32 Division II of this Act repeals Code section 12.65, which
14 33 creates the healthy Iowans tobacco trust. New Code section
14 34 12E.3A reaffirms and reenacts the purposes specified in Code
14 35 section 12.65 for the healthy Iowans tobacco trust as the



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15 1 purposes for the endowment for Iowa's health account. The
15 2 purposes are those related to health care, substance abuse
15 3 treatment and enforcement, tobacco use prevention and control,
15 4 and other purposes related to the needs of children, adults,
15 5 and families in the state.

15 6 Under current law, the proceeds of bonds issued and other
15 7 moneys under the tobacco settlement authority are to be
15 8 deposited in various accounts, including the endowment for
15 9 Iowa's health account. Under current law, a portion of the
15 10 moneys in the endowment for Iowa's health account are then
15 11 transferred to the healthy Iowans tobacco trust. Under the
15 12 bill, with the repeal of the healthy Iowans tobacco trust the
15 13 moneys deposited in the endowment for Iowa's health account
15 14 are transferred to the general fund of the state instead of
15 15 the healthy Iowans tobacco trust.

15 16 Division II takes effect June 30, 2009.

15 17 Division III provides that any moneys from an appropriation
15 18 remaining at the close of FY 2008=2009 or the close of any
15 19 succeeding fiscal year that are required by law to revert to
15 20 the healthy Iowans tobacco trust or the endowment for Iowa's
15 21 health account are required to be credited instead to the
15 22 general fund of the state. The unencumbered or unobligated
15 23 balances of the healthy Iowans tobacco trust at the close of
15 24 FY 2008=2009 or the endowment for Iowa's health account at the
15 25 close of FY 2008=2009 or the close of any succeeding fiscal
15 26 year are required to be transferred to the general fund of the
15 27 state.

15 28 LSB 5008XC 82

15 29 pf/jp/24.4