



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 12, 2009

House Amendment 1020

PAG LIN

1 1 Amend House File 259 as follows:
1 2 #1. Page 2, by inserting after line 23 the
1 3 following:
1 4 <Sec. _____. Section 299.2, subsection 1, Code 2009,
1 5 is amended to read as follows:
1 6 1. a. Who has completed the requirements for
1 7 graduation in an accredited school or has obtained a
1 8 high school equivalency diploma under chapter 259A.
1 9 b. Who is making satisfactory progress towards
1 10 completion of the requirements for a high school
1 11 equivalency diploma under chapter 259A after obtaining
1 12 a written statement from the school district of
1 13 enrollment affirming that the child has withdrawn from
1 14 high school. A school district or accredited
1 15 nonpublic school shall provide the written statement
1 16 to a former student upon request.>
1 17 #2. By renumbering as necessary.
1 18
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1 20
1 21 GAYMAN of Scott
1 22
1 23
1 24
1 25 L. MILLER of Scott
1 26 HF 259.702 83
1 27 kh/rj/12022

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House Amendment 1021

PAG LIN

1 1 Amend House File 259 as follows:
1 2 #1. Page 4, line 23, by striking the word
1 3 <section> and inserting the following: <sections>.
1 4 #2. Page 4, by striking line 24 and inserting the
1 5 following: <providing for school district compulsory
1 6 attendance support reviews and for a compulsory
1 7 attendance working group take>.
1 8
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1 11 WINCKLER of Scott
1 12 HF 259.501 83
1 13 kh/rj/12021
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**Iowa General Assembly
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House Concurrent Resolution 4 - Introduced

PAG LIN

H.C.R. _____ S.C.R. _____

1 1 HOUSE CONCURRENT RESOLUTION NO.
 1 2 BY JACOBY
 1 3 A Concurrent Resolution amending the joint rules of the
 1 4 Senate and House of Representatives relating to the
 1 5 consideration of bills and joint resolutions in
 1 6 successive regular sessions of the same general
 1 7 assembly.
 1 8 BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES, THE
 1 9 SENATE CONCURRING, That Rule 3 of the joint rules of
 1 10 the Senate and House of Representatives, as adopted by
 1 11 the House of Representatives and Senate during the
 1 12 2009 Session in House Concurrent Resolution 3, is
 1 13 amended to read as follows:
 1 14 Rule 3
 1 15 Sessions of a General Assembly
 1 16 1. The election of officers, organization, hiring
 1 17 and compensation of employees, and standing committees
 1 18 in each house of the general assembly and action taken
 1 19 by each house shall carry over from the first to the
 1 20 second regular session and to any extraordinary
 1 21 session of the same general assembly. The status of
 1 22 each bill and resolution shall be the same at the
 1 23 beginning of each second session as it was immediately
 1 24 before adjournment of the previous regular or
 1 25 extraordinary session; however the rules of either
 1 26 house may provide for re-referral of some or all bills
 1 27 and resolutions to standing committees upon
 1 28 adjournment of each session or at the beginning of a
 1 29 subsequent regular or extraordinary session, except
 1 30 those which have been adopted by both houses in



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House Concurrent Resolution 4 - Introduced continued

2 1 different forms and those which are placed on the
2 2 calendar pursuant to subsection 2 of this rule.
2 3 2. a. The standing committees may consider bills
2 4 and joint resolutions during the first regular session
2 5 of a general assembly, beyond the deadline for
2 6 reporting bills and joint resolutions out of committee
2 7 under rule 20, subsection 2.
2 8 b. Such bills and joint resolutions shall be
2 9 reported out of committee with the committee as the
2 10 sponsor and placed on the calendar before the end of
2 11 the first regular session.
2 12 c. Such bills and joint resolutions shall not be
2 13 referred to committee at the end of the first
2 14 regular session, shall retain their place on the
2 15 calendar at the beginning of the second regular
2 16 session of the same general assembly, and shall be
2 17 scheduled for debate as soon as possible.
2 18 3. Upon final adoption of a concurrent resolution
2 19 at any extraordinary session affecting that session,
2 20 or at a regular session affecting any extraordinary
2 21 session which may be held before the next regular
2 22 session, the creation of any calendar by either house
2 23 shall be suspended and the business of the session
2 24 shall consist solely of those bills or subject matters
2 25 stated in the resolution adopted. Bills named in the
2 26 resolution, or bills containing the subject matter
2 27 provided for in the resolution, may, at any time, be
2 28 called up for debate in either house by the majority
2 29 leader of that house.
2 30 LSB 2031YH 83



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House Concurrent Resolution 4 - Introduced continued

3 1 rj/nh/14



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House File 267 - Introduced

HOUSE FILE
BY COMMITTEE ON ECONOMIC GROWTH

(SUCCESSOR TO HSB 21)

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

A BILL FOR

- 1 An Act adding four nonvoting members to the Iowa workforce
- 2 development board.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4 TLSB 1439HV 83
- 5 ak/rj/8



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House File 267 - Introduced continued

PAG LIN

1 1 Section 1. Section 84A.1A, subsection 1, Code 2009, is
1 2 amended to read as follows:
1 3 1. An Iowa workforce development board is created,
1 4 consisting of nine voting members appointed by the governor
1 5 and ~~eight~~ twelve ex officio, nonvoting members. The ex
1 6 officio, nonvoting members are four legislative members; one
1 7 president, or the president's designee, of the university of
1 8 northern Iowa, the university of Iowa, or Iowa state
1 9 university of science and technology, designated by the state
1 10 board of regents on a rotating basis; one representative from
1 11 the largest statewide public employees' organization
1 12 representing state employees; one president, or the
1 13 president's designee, of an independent Iowa college,
1 14 appointed by the Iowa association of independent colleges and
1 15 universities; ~~and~~ one superintendent, or the superintendent's
1 16 designee, of a community college, appointed by the Iowa
1 17 association of community college presidents; one
1 18 representative of the vocational rehabilitation community
1 19 appointed by the state rehabilitation council in the division
1 20 of Iowa vocational rehabilitation services; one representative
1 21 of the department of education appointed by the state board of
1 22 education; one representative of the department of economic
1 23 development appointed by the director; and one representative
1 24 of the United States department of labor, office of
1 25 apprenticeship. The legislative members are two state
1 26 senators, one appointed by the president of the senate after
1 27 consultation with the majority leader of the senate, and one
1 28 appointed by the minority leader of the senate from their
1 29 respective parties; and two state representatives, one
1 30 appointed by the speaker of the house of representatives after
1 31 consultation with the majority leader of the house of
1 32 representatives, and one appointed by the minority leader of
1 33 the house of representatives from their respective parties.
1 34 The legislative members shall serve for terms as provided in
1 35 section 69.16B. Not more than five of the voting members



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House File 267 - Introduced continued

2 1 shall be from the same political party. Of the nine voting
2 2 members, one member shall represent a nonprofit organization
2 3 involved in workforce development services, four members shall
2 4 represent employers, and four members shall represent
2 5 nonsupervisory employees. Of the members appointed by the
2 6 governor to represent nonsupervisory employees, two members
2 7 shall be from statewide labor organizations, one member shall
2 8 be an employee representative of a labor management council,
2 9 and one member shall be a person with experience in worker
2 10 training programs. The governor shall consider
2 11 recommendations from statewide labor organizations for the
2 12 members representing nonsupervisory employees. The governor
2 13 shall appoint the nine voting members of the workforce
2 14 development board for a term of four years beginning and
2 15 ending as provided by section 69.19, subject to confirmation
2 16 by the senate, and the governor's appointments shall include
2 17 persons knowledgeable in the area of workforce development.

2 18 EXPLANATION

2 19 This bill adds four ex officio, nonvoting members to the
2 20 Iowa workforce development board, raising the total number of
2 21 nonvoting members to 12. Of the new members, one
2 22 representative is from the vocational rehabilitation community
2 23 appointed by the state rehabilitation council in the division
2 24 of Iowa vocational rehabilitation services; one representative
2 25 is from the department of education, appointed by the state
2 26 board of education; one representative is from the department
2 27 of economic development appointed by the director; and the
2 28 fourth representative is from the United States department of
2 29 labor, office of apprenticeship.

2 30 LSB 1439HV 83

2 31 ak/rj/8



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House File 268 - Introduced

HOUSE FILE
BY PAULSEN

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

A BILL FOR

- 1 An Act relating to floodplain mapping for the state and providing
- 2 coordinating amendments.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4 TLSB 1060YH 83
- 5 av/nh/8



Iowa General Assembly
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House File 268 - Introduced continued

PAG LIN

1 1 DIVISION I
1 2 FLOODPLAIN MAPPING
1 3 Section 1. NEW SECTION. 455B.262A FLOODPLAIN MAPPING ==
1 4 PLAN AND IMPLEMENTATION.
1 5 1. The department shall devise and deliver to the general
1 6 assembly by December 15, 2009, a plan to develop quality
1 7 floodplain maps for the entire state which are acceptable as
1 8 official national flood insurance program maps.
1 9 2. The plan shall include but is not limited to
1 10 achievement of all of the following objectives:
1 11 a. Obtaining light detection and ranging (LIDAR)
1 12 topographic data for the entire state.
1 13 b. Selecting stream reaches and assigning priorities for
1 14 obtaining LIDAR data and developing floodplain mapping of the
1 15 selected reaches based on consideration of flooding
1 16 characteristics, the type and extent of existing and
1 17 anticipated floodplain development in particular stream
1 18 reaches, the quality of any existing maps of the area, and the
1 19 needs of local governmental bodies for assistance in
1 20 delineating floodplain and floodway boundaries.
1 21 c. Choosing a hydraulic model for use in developing the
1 22 floodplain maps, including consideration of acquiring and
1 23 using a simplified hydraulic model used by the United States
1 24 army corps of engineers, that significantly reduces the need
1 25 for additional survey data and the amount of input data needed
1 26 to run the model in order to create quality floodplain maps
1 27 that meet the requirements for national flood insurance
1 28 program maps.
1 29 d. Obtaining funding and technical assistance involving
1 30 federal, state, and local resources.
1 31 e. Determining staffing requirements to implement the
1 32 plan.
1 33 f. Developing and updating floodplain maps for areas in
1 34 which LIDAR data is already available while resolving any
1 35 technical issues involved with the modification and use of the



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House File 268 - Introduced continued

- 2 1 hydraulic model chosen.
2 2 g. Creating a detailed project plan for completion of
2 3 floodplain mapping for the remainder of the state, based upon
2 4 the initial experience in using the hydraulic model chosen,
2 5 that describes specific work products, priorities, and
2 6 schedules for implementation and completion of the plan.
2 7 h. Developing methods and protocols for preparing
2 8 floodplain maps in special situations that require
2 9 alternative, nonstandard approaches.
2 10 i. Field-testing the plan no later than December 31, 2010.
2 11 3. The plan shall also include a schedule for implementing
2 12 each of the objectives contained in the plan, contingent upon
2 13 funding.

2 14 DIVISION II

2 15 COORDINATING AMENDMENTS

- 2 16 Sec. 2. Section 455B.261, subsections 8, 9, 12, and 13,
2 17 Code 2009, are amended to read as follows:
2 18 8. "~~Flood plains~~ Floodplain" means the area adjoining a
2 19 river or stream which has been or may be covered by flood
2 20 water.
2 21 9. "Floodway" means the channel of a river or stream and
2 22 those portions of the ~~flood plains~~ floodplains adjoining the
2 23 channel which are reasonably required to carry and discharge
2 24 the flood water or flood flow of any river or stream.
2 25 12. "Permit" means a written authorization issued by the
2 26 department to a permittee which authorizes diversion, storage,
2 27 including storage of treated water in an aquifer, or
2 28 withdrawal of water limited as to quantity, time, place, and
2 29 rate in accordance with this part or authorizes construction,
2 30 use, or maintenance of a structure, dam, obstruction, deposit,
2 31 or excavation in a floodway or ~~flood plain~~ floodplain in
2 32 accordance with the principles and policies of protecting life
2 33 and property from floods as specified in this part.
2 34 13. "Permittee" means a person who obtains a permit from
2 35 the department authorizing the person to take possession by



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3 1 diversion, storage in an aquifer, or otherwise and to use and
3 2 apply an allotted quantity of water for a designated
3 3 beneficial use, and who makes actual use of the water for that
3 4 purpose or a person who obtains a permit from the department
3 5 authorizing construction, use, or maintenance of a structure,
3 6 dam, obstruction, deposit, or excavation in a floodway or
3 7 ~~flood plain~~ floodplain for a designated purpose.
3 8 Sec. 3. Section 455B.262, subsection 1, Code 2009, is
3 9 amended to read as follows:
3 10 1. It is recognized that the protection of life and
3 11 property from floods, the prevention of damage to lands from
3 12 floods, and the orderly development, wise use, protection, and
3 13 conservation of the water resources of the state by their
3 14 considered and proper use is of paramount importance to the
3 15 welfare and prosperity of the people of the state, and, to
3 16 realize these objectives, it is the policy of the state to
3 17 correlate and vest the powers of the state in a single agency,
3 18 the department, with the duty and authority to assess the
3 19 water needs of all water users ~~at five-year intervals for the~~
~~3 20 twenty years beginning January 1, 1985, and ending December~~
~~3 21 31, 2004,~~ utilizing a database developed and managed by the
3 22 Iowa geological survey, and to prepare a general plan of water
3 23 allocation in this state considering the quantity and quality
3 24 of water resources available in this state designed to meet
3 25 the specific needs of the water users. ~~The department shall~~
~~3 26 also develop and the department shall adopt no later than June~~
~~3 27 30, 1986, a plan for delineation of flood plain and floodway~~
~~3 28 boundaries for selected stream reaches in the various river~~
~~3 29 basins of the state. Selection of the stream reaches and~~
~~3 30 assignment of priorities for mapping of the selected reaches~~
~~3 31 shall be based on consideration of flooding characteristics,~~
~~3 32 the type and extent of existing and anticipated flood plain~~
~~3 33 development in particular stream reaches, and the needs of~~
~~3 34 local governmental bodies for assistance in delineating flood~~
~~3 35 plain and floodway boundaries. The plan of flood plain~~



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~~4 1 mapping shall be for the period from June 30, 1986, to
4 2 December 31, 2004. After the department adopts a plan of
4 3 flood plain mapping, the department shall submit a progress
4 4 report and proposed implementation schedule to the general
4 5 assembly biennially. The department may modify the flood
4 6 plain mapping plan as needed in response to changing
4 7 circumstances.~~

4 8 Sec. 4. Section 455B.264, subsection 3, Code 2009, is
4 9 amended to read as follows:

4 10 3. Upon application by any person for approval of the
4 11 construction or maintenance of any structure, dam,
4 12 obstruction, deposit, or excavation to be erected, used, or
4 13 maintained in or on the ~~flood plains~~ floodplains of any river
4 14 or stream, the department shall investigate the effect of the
4 15 construction or maintenance project on the efficiency and
4 16 capacity of the floodway. In determining the effect of the
4 17 proposal the department shall consider fully its effect on
4 18 flooding of or flood control for any proposed works and
4 19 adjacent lands and property, on the wise use and protection of
4 20 water resources, on the quality of water, on fish, wildlife,
4 21 and recreational facilities or uses, and on all other public
4 22 rights and requirements.

4 23 Sec. 5. Section 455B.275, subsections 1, 3, and 4, Code
4 24 2009, are amended to read as follows:

4 25 1. A person shall not permit, erect, use, or maintain a
4 26 structure, dam, obstruction, deposit, or excavation in or on a
4 27 floodway or ~~flood plains~~ floodplain, which will adversely
4 28 affect the efficiency of or unduly restrict the capacity of
4 29 the floodway, or adversely affect the control, development,
4 30 protection, allocation, or utilization of the water resources
4 31 of the state, and the same are declared to be public
4 32 nuisances.

4 33 3. A person shall file a written application with the
4 34 department if the person desires to do any of the following:

4 35 a. Erect, construct, use, or maintain a structure, dam,



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5 1 obstruction, deposit, or excavation in or on any floodway or
5 2 ~~flood plains~~ floodplain.

5 3 b. Erect, construct, maintain, or operate a dam on a
5 4 navigable or meandered stream.

5 5 c. Erect, construct, maintain, or operate a dam on a
5 6 stream for manufacturing or industrial purposes.

5 7 The application shall set forth information as required by
5 8 rule of the commission. The department, after an
5 9 investigation, shall approve or deny the application imposing
5 10 conditions and terms as prescribed by the department.

5 11 4. The department may maintain an action in equity to
5 12 enjoin a person from erecting or making or permitting to be
5 13 made a structure, dam, obstruction, deposit, or excavation for
5 14 which a permit has not been granted. The department may also
5 15 seek judicial abatement of any structure, dam, obstruction,
5 16 deposit, or excavation erected or made without a permit
5 17 required under this part. The abatement proceeding may be
5 18 commenced to enforce an administrative determination of the
5 19 department in a contested case proceeding that a public
5 20 nuisance exists and should be abated. The costs of abatement
5 21 shall be borne by the violator. Notwithstanding section
5 22 352.11, a structure, dam, obstruction, deposit, or excavation
5 23 on a floodway or ~~flood plain~~ floodplain in an agricultural
5 24 area established under chapter 352 is not exempt from the
5 25 sections of this part which relate to regulation of ~~flood~~
5 26 ~~plains floodplains~~ and floodways. As used in this subsection,
5 27 "violator" includes a person contracted to erect or make a
5 28 structure, dam, obstruction, deposit, or excavation in a
5 29 floodway including stream straightening unless the project is
5 30 authorized by a permit required under this part.

5 31 Sec. 6. Section 455B.276, Code 2009, is amended to read as
5 32 follows:

5 33 455B.276 ~~FLOOD PLAINS~~ FLOODPLAINS == ENCROACHMENT LIMITS.

5 34 1. The commission may establish and enforce rules for the
5 35 orderly development and wise use of the ~~flood plains~~



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6 1 floodplains of any river or stream within the state and alter,
6 2 change, or revoke the rules. The commission shall determine
6 3 the characteristics of floods which reasonably may be expected
6 4 to occur and may establish by order encroachment limits,
6 5 protection methods, and minimum protection levels appropriate
6 6 to the flooding characteristics of the stream and to
6 7 reasonable use of the ~~flood plains~~ floodplains. The order
6 8 shall fix the length of ~~flood plains~~ floodplains to be
6 9 regulated at any practical distance, the width of the zone
6 10 between the encroachment limits so as to include portions of
6 11 the ~~flood plains~~ floodplains adjoining the channel, which with
6 12 the channel, are required to carry and discharge the flood
6 13 waters or flood flow of the river or stream, and the design
6 14 discharge and water surface elevations for which protection
6 15 shall be provided for projects outside the encroachment limits
6 16 but within the limits of inundation. Plans for the protection
6 17 of projects proposed for areas subject to inundation shall be
6 18 reviewed as plans for flood control works within the purview
6 19 of section 455B.277. An order establishing encroachment
6 20 limits shall not be issued until notice of the proposed order
6 21 is given and opportunity for public hearing given for the
6 22 presentation of protests against the order. In establishing
6 23 the limits, the commission shall avoid to the greatest
6 24 possible degree the evacuation of persons residing in the area
6 25 of a floodway, the removal of residential structures occupied
6 26 by the persons in the area of a floodway, and the removal of
6 27 structures erected or made prior to July 4, 1965, which are
6 28 located on the ~~flood plains~~ floodplains of a river or stream
6 29 but not within the area of a floodway.

6 30 2. The commission shall cooperate with and assist local
6 31 units of government in the establishment of encroachment
6 32 limits, ~~flood plain~~ floodplain regulations, and zoning
6 33 ordinances relating to ~~flood plain~~ floodplain areas within
6 34 their jurisdiction. Encroachment limits, ~~flood plain~~
6 35 floodplain regulations, or ~~flood plain~~ floodplain zoning



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7 1 ordinances proposed by local units of government shall be
7 2 submitted to the department for review and approval prior to
7 3 adoption by the local units of government. Changes or
7 4 variations from an approved regulation or ordinance as it
7 5 relates to ~~flood plain~~ floodplain use are subject to approval
7 6 by the commission prior to adoption. Individual applications,
7 7 plans, and specifications and individual approval orders shall
7 8 not be required for works on the ~~flood plains~~ floodplains
7 9 constructed in conformity with encroachment limits, ~~flood~~
~~7 10 plain~~ floodplain regulations, or zoning ordinances adopted by

7 11 the local units of government and approved by the commission.
7 12 Sec. 7. Section 455B.304, subsection 16, Code 2009, is
7 13 amended to read as follows:

7 14 16. The commission shall adopt rules which prohibit the
7 15 land application of petroleum contaminated soils on ~~flood~~
~~7 16 plains~~ floodplains.

7 17 Sec. 8. CODE EDITOR DIRECTIVE. The Code editor is
7 18 directed to change the term "flood plain" or "flood plains" to
7 19 "floodplain" or "floodplains" wherever the term appears in the
7 20 Code or in the Acts pending codification.

7 21 EXPLANATION

7 22 Division I of this bill creates new Code section 455B.262A,
7 23 which requires the department of natural resources to devise a
7 24 plan to develop quality floodplain maps for the entire state
7 25 which are acceptable as official national flood insurance
7 26 program maps and to deliver that plan to the general assembly
7 27 by December 15, 2009. The bill specifies the objectives that
7 28 should be included in the plan and requires that the plan
7 29 include a schedule for implementing each of those objectives,
7 30 contingent upon funding. The bill requires field testing of
7 31 the plan no later than December 31, 2010.

7 32 Division II of the bill corrects the spelling of the word
7 33 "floodplain" or "floodplains" in Code chapter 455B.

7 34 Division II of the bill also amends Code section
7 35 455B.262(1) to remove outdated references to duties of the



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House File 268 - Introduced continued

8 1 department of natural resources regarding preparation of a
8 2 general plan of water allocation in this state and to a plan
8 3 of floodplain mapping.
8 4 LSB 1060YH 83
8 5 av/nh/8.1



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House File 269 - Introduced

HOUSE FILE
BY PAULSEN

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

A BILL FOR

1 An Act relating to the compromise or abatement of penalties,
2 interest, fees, and costs related to delinquent property taxes
3 on real property located within a disaster area and including
4 effective date and retroactive applicability date provisions.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
6 TLSB 1043YH 83
7 md/sc/5



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House File 269 - Introduced continued

PAG LIN

1 1 Section 1. COMPROMISE OR ABATEMENT OF PENALTIES, INTEREST,
1 2 FEES, AND COSTS IN CERTAIN DISASTER AREAS.

1 3 1. The county board of supervisors may compromise by
1 4 written agreement or abate by resolution the penalties,
1 5 interest, or fees, and any costs incurred by the county,
1 6 relating to delinquent property taxes on real property located
1 7 within a county or portion of a county that was declared a
1 8 disaster area by the governor or a federal official on or
1 9 after May 1, 2008, and before September 1, 2008. The amount
1 10 of interest subject to compromise or abatement is the amount
1 11 incurred under section 445.39.

1 12 2. If a parcel of property described in subsection 1 is
1 13 sold at tax sale, the board of supervisors shall include on
1 14 the notice provided pursuant to section 446.9, subsection 1, a
1 15 statement informing the party in whose name the parcel was
1 16 taxed of the board of supervisors' compromise and abatement
1 17 authority under this section. This section shall not relieve
1 18 a purchaser at tax sale from paying the total amount due as
1 19 required by section 446.16.

1 20 3. If a parcel of property described in subsection 1 is
1 21 sold at tax sale and the right of redemption is exercised
1 22 under chapter 447, the board of supervisors may compromise by
1 23 written agreement or abate by resolution the penalties,
1 24 interest, or fees, and any costs owing on the property.
1 25 However, the board of supervisors' authority under this
1 26 subsection shall not include interest owed under section 447.1
1 27 to a tax sale certificate holder who is not a city or the
1 28 county.

1 29 4. This section shall apply to taxes due and payable for
1 30 the fiscal year beginning July 1, 2008, and the fiscal year
1 31 beginning July 1, 2009.

1 32 Sec. 2. EFFECTIVE AND APPLICABILITY DATES. This Act,
1 33 being deemed of immediate importance, takes effect upon
1 34 enactment and applies retroactively to July 1, 2008.

1 35 EXPLANATION



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2 1 This bill authorizes a county board of supervisors to
2 2 compromise by written agreement or abate by resolution the
2 3 penalties, interest, or fees, and any costs incurred by the
2 4 county, relating to delinquent property taxes on real property
2 5 located within a county or portion of a county declared a
2 6 disaster area by the governor or a federal official between
2 7 May 1, 2008, and September 1, 2008.

2 8 The bill provides that the board of supervisors' authority
2 9 to compromise or abate interest does not include the interest
2 10 owed under Code section 447.1 to a tax sale certificate holder
2 11 who is not a city or the county. The bill requires the notice
2 12 of tax sale to include a statement informing the taxpayer of
2 13 the board of supervisors' compromise and abatement authority.
2 14 However, the bill does not relieve a purchaser at tax sale
2 15 from paying the total amount due.

2 16 The bill applies to taxes due and payable for the fiscal
2 17 year beginning July 1, 2008, and the fiscal year beginning
2 18 July 1, 2009.

2 19 The bill takes effect upon enactment and applies
2 20 retroactively to July 1, 2008.

2 21 LSB 1043YH 83

2 22 md/sc/5



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House File 270 - Introduced

HOUSE FILE
BY PAULSEN

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

A BILL FOR

1 An Act allowing school districts affected by disaster in 2008 to
2 use the previous year's budget enrollments in the budget year
3 beginning July 1, 2009, and providing an effective date.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 1065YH 83
6 ak/sc/5



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 12, 2009

House File 270 - Introduced continued

PAG LIN

1 1 Section 1. DISASTER RELIEF FOR SCHOOL DISTRICTS == BUDGET
1 2 ENROLLMENT. Notwithstanding any provision of the Code to the
1 3 contrary, for the school budget year beginning July 1, 2009, a
1 4 school district determined by the department of education to
1 5 have been significantly affected during 2008 by a disaster, as
1 6 defined in section 29C.2, with a basic enrollment for the
1 7 budget year, as defined under section 257.6, that is less than
1 8 the previous year's budget enrollment may use the previous
1 9 year's budget enrollment.

1 10 Sec. 2. EFFECTIVE DATE. This Act, being deemed of
1 11 immediate importance, takes effect upon enactment.

1 12 EXPLANATION

1 13 This bill allows a school district that was significantly
1 14 affected by a disaster in 2008 to use predisaster student
1 15 enrollment counts in order to offset a budget enrollment
1 16 decrease for the 2009=2010 budget year. School district
1 17 budgets for fiscal year 2008=2009 were based on October 2007
1 18 enrollments. Any district that was impacted by a disaster and
1 19 had an enrollment in October 2008 that was less than the
1 20 previous year's enrollment would be allowed to use the
1 21 previous year's enrollment for budgeting purposes in fiscal
1 22 year 2009=2010. The department of education shall determine
1 23 which school districts were significantly affected by
1 24 disasters during 2008, as defined in Code section 29C.2.

1 25 The bill is effective upon enactment.

1 26 LSB 1065YH 83

1 27 ak/sc/5



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 12, 2009

House File 271 - Introduced

HOUSE FILE
BY PAULSEN

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

A BILL FOR

1 An Act creating an evergreen account in the Iowa economic
2 emergency fund for making loans to governmental subdivisions
3 for payment of disaster-related obligations and expenditures,
4 making an appropriation, and providing effective and
5 applicability date provisions.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
7 TLSB 1054YH 83
8 jp/nh/5



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 12, 2009

House File 271 - Introduced continued

PAG LIN

1 1 Section 1. Section 8.55, Code 2009, is amended by adding
1 2 the following new subsection:
1 3 NEW SUBSECTION. 3A. a. For the purposes of this
1 4 subsection, "governmental subdivision" means the same as
1 5 defined in section 29C.20.
1 6 b. An evergreen account is created in the Iowa economic
1 7 emergency fund. If approved by the executive council based
1 8 upon the executive council's determination of a statewide need
1 9 for disaster-related loans from the account, not more than one
1 10 hundred fifty million dollars of the unencumbered, unobligated
1 11 balance within the emergency fund may be credited to the
1 12 evergreen account within a fiscal year. Moneys in the account
1 13 are appropriated to the department of management for making
1 14 loans to governmental subdivisions in accordance with this
1 15 subsection.
1 16 c. A loan made to a governmental subdivision from the
1 17 evergreen account must meet one or more of the following
1 18 requirements:
1 19 (1) The governmental subdivision applied for and met the
1 20 requirements to receive a disaster-related loan from the
1 21 contingent fund under section 29C.20, subsection 1, paragraph
1 22 "a", subparagraph (6), but the application was rejected or the
1 23 governmental subdivision elected not to proceed due to one or
1 24 more of the following reasons:
1 25 (a) The aggregate funding limitation on such loans had
1 26 been reached.
1 27 (b) The loan amount applied for was in excess of
1 28 seventy-five percent of the showing of obligations and
1 29 expenditures but the executive council determined that the
1 30 financial circumstances of the governmental subdivision
1 31 justify making an exception.
1 32 (c) The governmental subdivision is not able to repay the
1 33 loan in one year or less by applying the maximum annual
1 34 emergency levy authorized by section 24.6, or by the
1 35 appropriate levy authorized for a governmental subdivision not



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House File 271 - Introduced continued

2 1 covered by section 24.6. If a loan is authorized under this
2 2 subparagraph subdivision (c), the repayment term shall not
2 3 exceed five years.
2 4 (2) The executive council has determined through
2 5 application information provided by a governmental subdivision
2 6 that there is a disaster-related loss or damage within the
2 7 geographic area encompassed by the governmental subdivision
2 8 that is more than reasonably likely to be mitigated through a
2 9 public or private funding source, that the governmental
2 10 subdivision is able to repay the loan if the anticipated
2 11 funding source becomes unavailable, and that significant costs
2 12 can be avoided by using the loan to mitigate the loss in a
2 13 timely manner rather than waiting until the public or private
2 14 funding source becomes available.
2 15 d. A loan made under this subsection shall be without
2 16 interest. Loan repayment proceeds shall be credited to the
2 17 Iowa economic emergency fund. The executive council shall
2 18 adopt rules establishing procedural requirements for
2 19 administering loans under this subsection.
2 20 Sec. 2. EFFECTIVE AND APPLICABILITY DATE. This Act, being
2 21 deemed of immediate importance, takes effect upon enactment
2 22 and applies to disasters affecting governmental subdivisions,
2 23 as defined by this Act, which occurred on or after May 15,
2 24 2008.

2 25 EXPLANATION

2 26 This bill creates an evergreen account in the Iowa economic
2 27 emergency fund for making loans to governmental subdivisions
2 28 for payment of disaster-related obligations and expenditures.
2 29 Up to \$150 million of moneys available in the fund can be
2 30 credited to the account in a fiscal year if the executive
2 31 council determines there is a statewide need for loans from
2 32 the account. The department of management shall receive a
2 33 standing appropriation from the account to make loans to
2 34 governmental subdivisions in accordance with the bill's
2 35 requirements.



Iowa General Assembly
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House File 271 - Introduced continued

3 1 The definition of the term "governmental subdivision" in
3 2 Code section 29C.20, relating to the contingent fund for
3 3 disaster relief, is incorporated by reference. The term is
3 4 defined to mean any political subdivision of this state.
3 5 To be eligible for a loan from the evergreen account, a
3 6 governmental subdivision must have applied for and met the
3 7 requirements under Code section 29C.20, for a loan from the
3 8 contingent fund. These requirements include a showing of
3 9 obligations and expenditures necessitated by an actual or
3 10 potential disaster along with further information the
3 11 executive council requires, approval is at the discretion of
3 12 the executive council, the loan amount is limited to 75
3 13 percent of the showing, and the loan must either be repaid by
3 14 an annual municipality emergency levy or other levy authorized
3 15 for the governmental subdivision.
3 16 Once the contingent fund loan requirements are met,
3 17 evergreen account loan approval is contingent upon the
3 18 contingent fund loan having been rejected because the
3 19 statutory \$1 million aggregate loan authority under the
3 20 contingent fund has been reached or the loan amount is more
3 21 than the statutory maximum of 75 percent of the anticipated
3 22 expenditures but the executive council determines that making
3 23 this exception is justified. A third provision is applicable
3 24 when repayment of the loan using emergency levy authority, as
3 25 described in the contingent fund provisions, is anticipated to
3 26 take more than one year.
3 27 The executive council is also authorized to make an
3 28 evergreen account loan when it is determined that there is a
3 29 disaster-related loss or damage within the geographic area
3 30 encompassed by the governmental subdivision that is more than
3 31 reasonably likely to be mitigated through a public or private
3 32 funding source, that the governmental subdivision is able to
3 33 repay the loan if the anticipated funding source becomes
3 34 unavailable, and that significant costs can be avoided by
3 35 proceeding with the loan to mitigate the loss in a timely



Iowa General Assembly
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House File 271 - Introduced continued

4 1 manner rather than waiting until the public or private funding
4 2 source becomes available.
4 3 The loans are to be made without interest (same as provided
4 4 in current law for loans made from the contingent fund). Loan
4 5 repayments are to be credited to the Iowa economic emergency
4 6 fund. The executive council is required to adopt rules
4 7 establishing procedural requirements for loans.
4 8 The bill takes effect upon enactment and applies
4 9 retroactively to disasters affecting governmental
4 10 subdivisions, as defined by the bill, which occurred on or
4 11 after May 15, 2008.
4 12 LSB 1054YH 83
4 13 jp/nh/5



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 12, 2009

House File 272 - Introduced

HOUSE FILE
BY DEYOE

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

Passed Senate, Date _____
Vote: Ayes _____ Nays _____

A BILL FOR

- 1 An Act to repeal the excise tax on the handling of grain.
- 2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 3 TLSB 2169YH 83
- 4 mg/sc/24



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 12, 2009

House File 272 - Introduced continued

PAG LIN

1 1 Section 1. Section 445.3, unnumbered paragraph 2, Code
1 2 2009, is amended to read as follows:
1 3 The commencement of actions for ad valorem taxes authorized
1 4 under this section shall not begin until the issuance of a tax
1 5 sale certificate under the requirements of section 446.19.
1 6 The commencement of actions for all other taxes authorized
1 7 under this section shall not begin until ten days after the
1 8 publication of tax sale under the requirements of section
1 9 446.9, subsection 2. This paragraph does not apply to the
1 10 collection of ad valorem taxes under section 445.32, ~~and grain~~
~~1 11 handling taxes under section 428.35.~~

1 12 Sec. 2. Section 428.35, Code 2009, is repealed.

1 13 Sec. 3. Section 25B.7 does not apply to the provisions of
1 14 this Act.

1 15 EXPLANATION

1 16 This bill repeals the grain handling excise tax of
1 17 one-fourth mill per bushel upon all grain handled. For
1 18 purposes of the tax, "handling or handled" means the receiving
1 19 of grain at or in each elevator, warehouse, mill, processing
1 20 plant, or other facility in this state in which it is received
1 21 for storage, accumulation, sale, processing, or for any
1 22 purpose whatsoever. For purposes of the tax, "grain" means
1 23 wheat, corn, barley, oats, rye, flaxseed, field peas,
1 24 soybeans, grain sorghums, spelts, and such other products as
1 25 are usually stored in grain elevators.

1 26 LSB 2169YH 83

1 27 mg/sc/24



Iowa General Assembly
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February 12, 2009

House File 273 - Introduced

HOUSE FILE
BY WESSEL=KROESCHELL

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

A BILL FOR

1 An Act providing a sales tax exemption from the sale of new and
2 used textbooks for postsecondary educational institution
3 classes.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 2106YH 83
6 ak/mg:sc/14



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 12, 2009

House File 273 - Introduced continued

PAG LIN

1 1 Section 1. Section 423.3, Code 2009, is amended by adding
1 2 the following new subsection:

1 3 NEW SUBSECTION. 95. a. The sales price from the sale of
1 4 new and used textbooks for use in attending a postsecondary
1 5 educational institution.

1 6 b. For purposes of this subsection:

1 7 (1) "Textbooks" means books and other instructional
1 8 materials and equipment used in attending a postsecondary
1 9 educational institution in this state. "Textbooks" does not
1 10 include instructional books and materials used in the teaching
1 11 of religious tenets, doctrines, or worship, the purpose of
1 12 which is to inculcate those tenets, doctrines, or worship.

1 13 (2) "Postsecondary educational institution" means an
1 14 accredited higher education institution, as defined in section
1 15 261.92, an Iowa community college, a postsecondary educational
1 16 institution under the control of the state board of regents, a
1 17 school of cosmetology arts and sciences licensed under chapter
1 18 157, or a barber school licensed under chapter 158.

1 19 c. Postsecondary educational institutions are required to
1 20 provide the titles of required and recommended textbooks for
1 21 all courses and the corresponding authors, publishers, and
1 22 international standard book numbers for such textbooks on the
1 23 postsecondary educational institution's internet website for
1 24 access to all booksellers. The department of education shall
1 25 designate the format by which the textbook information shall
1 26 be provided.

1 27 d. In order to receive the sales tax exemption, a person
1 28 is required to show a current official identification card
1 29 from a postsecondary educational institution and show that the
1 30 textbooks intended to be purchased are on a list of textbooks
1 31 provided by a postsecondary educational institution under
1 32 paragraph "c".

1 33 EXPLANATION

1 34 This bill provides a sales tax exemption from the sale of
1 35 textbooks used in attending a public or private Iowa



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House File 273 - Introduced continued

2 1 postsecondary educational institution, including licensed
2 2 cosmetology and barber schools. "Textbooks" are defined as
2 3 books and other instructional materials and equipment but does
2 4 not include instructional books and materials used for
2 5 teaching religious tenets, doctrines, or worship if the
2 6 purpose is to inculcate those tenets, doctrines, or worship.
2 7 Postsecondary educational institutions are required to
2 8 provide the titles of textbooks for all courses and the
2 9 authors, publishers, and corresponding international standard
2 10 book numbers for the textbooks on the institution's internet
2 11 website in order for all booksellers to have access to the
2 12 information. The department of education is required to
2 13 provide the format in which the textbook information must be
2 14 provided.
2 15 In order to receive the sales tax exemption, a person must
2 16 show a current official identification card from a
2 17 postsecondary educational institution and show that the
2 18 textbooks intended to be purchased are on an institution's
2 19 textbooks list.
2 20 LSB 2106YH 83
2 21 ak/mg:sc/14



Iowa General Assembly
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House File 274 - Introduced

HOUSE FILE

BY D. OLSON, T. OLSON, T. TAYLOR,
 PETERSEN, OLDSON, SHOMSHOR,
 BUKTA, WHITAKER, MURPHY,
 H. MILLER, THEDE, HEDDENS,
 KRESSIG, MAREK, MASCHER,
 SWAIM, BERRY, COHOON,
 ZIRKELBACH, GASKILL, FREVERT,
 LYKAM, WHITEAD, WINCKLER,
 HUNTER, KUHN, STECKMAN,
 WESSEL=KROESCHELL, LENSING,
 BEARD, FORD, KEARNS, and FICKEN

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

Passed Senate, Date _____
 Vote: Ayes _____ Nays _____

A BILL FOR

1 An Act relating to absentee ballots delivered to applicants who
 2 are patients or residents of hospitals or health care
 3 facilities.
 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
 5 TLSB 1372YH 83
 6 sc/nh/8



**Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 12, 2009**

House File 274 - Introduced continued

PAG LIN

1 1 Section 1. Section 53.8, subsection 3, Code 2009, is
1 2 amended to read as follows:

1 3 3. a. When an application for an absentee ballot is
1 4 received by the commissioner of any county from a registered
1 5 voter who is a patient in a hospital in that county or a
1 6 resident of any facility in that county shown to be a health
1 7 care facility by the list of licenses provided the
1 8 commissioner under section 135C.29, the absentee ballot shall
1 9 be delivered to the voter and returned to the commissioner in
1 10 the manner prescribed by section 53.22. ~~However, if~~

1 11 b. (1) If the application is received more than five days
1 12 before the ballots are printed and the commissioner has not
1 13 elected to mail absentee ballots to applicants as provided
1 14 under section 53.22, subsection 3, the commissioner shall mail
1 15 to the applicant within twenty-four hours a letter in
1 16 substantially the following form:

1 17 Your application for an absentee ballot for the election to
1 18 be held on has been received. This
1 19 ballot will be personally delivered to you by a bipartisan
1 20 team sometime during the five days after the ballots are
1 21 printed. If you will not be at the address from which your
1 22 application was sent during any or all of the five-day period
1 23 immediately following the printing of the ballots, the ballot
1 24 will be personally delivered to you sometime during the ten
1 25 days preceding the election. If you will not be at the
1 26 address from which your application was sent during either of
1 27 these time periods, contact this office and arrangements will
1 28 be made to have your absentee ballot delivered at a time when
1 29 you will be present at that address.

1 30 (2) If the application is received more than ten calendar
1 31 days before the election, and after the first delivery of
1 32 ballots during the five days after the ballots are printed,
1 33 and the commissioner has not elected to mail absentee ballots
1 34 to ~~the applicant~~ applicants as provided under section 53.22,
1 35 subsection 3, the commissioner shall mail to the applicant



Iowa General Assembly
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House File 274 - Introduced continued

2 1 within twenty-four hours a letter in substantially the
 2 2 following form:
 2 3 Your application for an absentee ballot for the election to
 2 4 be held on has been received. This
 2 5 ballot will be personally delivered to you by a bipartisan
 2 6 team sometime during the ten days preceding the election. If
 2 7 you will not be at the address from which your application was
 2 8 sent during any or all of the ten-day period immediately
 2 9 preceding the election, contact this office and arrangements
 2 10 will be made to have your absentee ballot delivered at a time
 2 11 when you will be present at that address.

2 12 ~~b.~~ c. Nothing in this subsection nor in section 53.22
 2 13 shall be construed to prohibit a registered voter who is a
 2 14 hospital patient or resident of a health care facility, or who
 2 15 anticipates entering a hospital or health care facility before
 2 16 the date of a forthcoming election, from casting an absentee
 2 17 ballot in the manner prescribed by section 53.10 or 53.11.

2 18 Sec. 2. Section 53.22, subsection 1, paragraph a,
 2 19 subparagraph (1), Code 2009, is amended to read as follows:

2 20 (1) A registered voter who has applied for an absentee
 2 21 ballot, in a manner other than that prescribed by section
 2 22 53.10 or 53.11, and who is a resident or patient in a health
 2 23 care facility or hospital located in the county to which the
 2 24 application has been submitted shall be delivered the
 2 25 appropriate absentee ballot by two special precinct election
 2 26 officers, one of whom shall be a member of each of the
 2 27 political parties referred to in section 49.13, who shall be
 2 28 appointed by the commissioner from the election board panel
 2 29 for the special precinct established by section 53.20. The
 2 30 special precinct election officers shall be sworn in the
 2 31 manner provided by section 49.75 for election board members,
 2 32 shall receive compensation as provided in section 49.20, and
 2 33 shall perform their duties during the five calendar days after
 2 34 the ballots are printed, during the ten calendar days
 2 35 preceding the election, and on election day if all ballots



Iowa General Assembly
Daily Bills, Amendments & Study Bills
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House File 274 - Introduced continued

3 1 requested under section 53.8, subsection 3, have not
3 2 previously been delivered and returned.
3 3 Sec. 3. Section 53.22, subsection 1, paragraph b, Code
3 4 2009, is amended to read as follows:
3 5 b. If an applicant under this subsection notifies the
3 6 commissioner that the applicant will not be available at the
3 7 health care facility or hospital address at any time during
3 8 the five-day period after the ballots are printed or during
3 9 the ten-day period immediately prior to the election, but will
3 10 be available there at some ~~earlier~~ other time prior to the
3 11 election or on election day, the commissioner shall direct the
3 12 two special precinct election officers to deliver the
3 13 applicant's ballot at an appropriate time ~~prior to the ten-day~~
~~3 14 period immediately preceding the election or on election day.~~
3 15 If a person who so requested an absentee ballot has been
3 16 dismissed from the health care facility or hospital, the
3 17 special precinct election officers may take the ballot to the
3 18 voter if the voter is currently residing in the county.

3 19 EXPLANATION

3 20 This bill makes changes relating to delivery of absentee
3 21 ballots to applicants who are patients or residents of
3 22 hospitals or health care facilities.
3 23 Under current law, an absentee ballot applied for by a
3 24 patient or resident of a hospital or health care facility is
3 25 to be personally delivered sometime during the 10 days
3 26 preceding the election, or on election day in some
3 27 circumstances. This bill provides that, in addition to that
3 28 delivery, absentee ballots applied for by patients or
3 29 residents of a hospital or health care facility shall also be
3 30 delivered within five days after the ballots have been
3 31 printed.
3 32 LSB 1372YH 83
3 33 sc/nh/8



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 12, 2009

House File 275 - Introduced

HOUSE FILE
BY HEATON, TYMESON,
and BAILEY

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

Passed Senate, Date _____
Vote: Ayes _____ Nays _____

A BILL FOR

- 1 An Act providing for the issuance of special wild turkey and deer
- 2 hunting licenses to certain nonresident disabled veterans.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4 TLSB 1939HH 83
- 5 av/sc/8



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 12, 2009

House File 275 - Introduced continued

PAG LIN

1 1 Section 1. Section 483A.24, Code 2009, is amended by
1 2 adding the following new subsection:
1 3 NEW SUBSECTION. 10A. The commission shall issue up to
1 4 fifty special wild turkey hunting licenses and up to fifty
1 5 special any sex deer hunting licenses each year on a
1 6 first-come, first-served basis to nonresidents who have served
1 7 in the armed forces of the United States on active federal
1 8 service and who have a service-connected disability rating in
1 9 excess of forty percent, as certified by the United States
1 10 veterans administration. The licenses shall be issued as
1 11 follows:
1 12 a. The commission shall prepare an application to be used
1 13 by the person requesting the special license, which shall
1 14 require documentation that the person has the requisite
1 15 disability rating and is eligible for the special license.
1 16 b. The licenses provided pursuant to this subsection shall
1 17 be in addition to the number of nonresident wild turkey
1 18 hunting licenses authorized pursuant to section 483A.7 and
1 19 nonresident deer hunting licenses authorized pursuant to
1 20 section 483A.8.
1 21 c. The wild turkey hunting licenses are valid in all zones
1 22 open to wild turkey hunting and shall be available for
1 23 issuance and use during any wild turkey hunting season. The
1 24 deer hunting licenses are valid in all zones open to deer
1 25 hunting and shall be available for issuance and use during any
1 26 deer hunting season.
1 27 d. A nonresident veteran who receives a special license
1 28 pursuant to this subsection shall purchase a hunting license
1 29 and a wild turkey or any sex deer hunting license and pay the
1 30 wildlife habitat fee, all for the same fee that is charged to
1 31 a resident hunter. The person shall also pay a one dollar fee
1 32 that shall be used and is appropriated for the purpose of deer
1 33 herd population management, including assisting with the cost
1 34 of processing deer donated to the help us stop hunger program
1 35 administered by the commission.



Iowa General Assembly
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House File 275 - Introduced continued

2 1 e. A nonresident veteran who receives a special license
2 2 pursuant to this subsection is not required to complete the
2 3 hunter safety and ethics education course if the person is
2 4 accompanied and aided by a person who is at least eighteen
2 5 years of age. The accompanying person must be qualified to
2 6 hunt and have a hunting license. During the hunt, the
2 7 accompanying person must be within arm's reach of the
2 8 nonresident licensee.

2 9 f. The commission shall adopt rules under chapter 17A for
2 10 the administration of this subsection.

2 11 EXPLANATION

2 12 This bill requires the natural resource commission to issue
2 13 up to 50 special wild turkey hunting licenses and 50 special
2 14 any sex deer hunting licenses each year on a first-come,
2 15 first-served basis to nonresidents who have served in the
2 16 armed forces of the United States on active federal service
2 17 and who have a service-connected disability rating in excess
2 18 of 40 percent as certified by the United States veterans
2 19 administration. A person applying for the special license
2 20 must provide documentation that the person has the requisite
2 21 disability rating.

2 22 The special licenses issued are in addition to the number
2 23 of nonresident wild turkey hunting licenses authorized
2 24 pursuant to Code section 483A.7 and nonresident deer hunting
2 25 licenses authorized pursuant to Code section 483A.8. The
2 26 special licenses are valid in all zones open to wild turkey
2 27 and deer hunting and are available for issuance and use during
2 28 any wild turkey or deer hunting season.

2 29 A nonresident disabled veteran receiving a special license
2 30 under the bill who receives one of the special licenses must
2 31 purchase a hunting license and the applicable wild turkey or
2 32 deer hunting license, and pay the wildlife habitat and deer
2 33 herd population management fees, but only at the rate charged
2 34 to resident hunters.

2 35 The nonresident disabled veteran receiving a special



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House File 275 - Introduced continued

3 1 license under the bill is not required to complete the hunter
3 2 safety and ethics education course if the person is
3 3 accompanied and aided by a person who is at least 18 years of
3 4 age, is qualified to hunt, and has a hunting license. The
3 5 accompanying person must be within arm's reach of the
3 6 nonresident licensee during the hunt.
3 7 The natural resource commission is required to adopt rules
3 8 under Code chapter 17A for the administration of the new
3 9 license provision.
3 10 LSB 1939HH 83
3 11 av/sc/8



Iowa General Assembly
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February 12, 2009

House File 276 - Introduced

HOUSE FILE
BY KAUFMANN and KELLEY

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

A BILL FOR

- 1 An Act requiring institutions of higher learning and community
- 2 colleges to provide students with specific textbook
- 3 information.
- 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 5 TLSB 1334YH 83
- 6 ak/rj/8



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 12, 2009

House File 276 - Introduced continued

PAG LIN

1 1 Section 1. Section 261.7, subsection 2, Code 2009, is
1 2 amended to read as follows:
1 3 2. ~~The general assembly recommends that every~~ Every public
1 4 and private institution of higher education in this state,
1 5 including those institutions referenced in chapters 260C and
1 6 262 and section 261.9, shall post the list of required and
1 7 suggested textbooks for all courses and the corresponding
1 8 international standard book numbers for such textbooks at
1 9 least fourteen days before the start of each semester or term,
1 10 to the extent possible, at the locations where textbooks are
1 11 sold on campus and on the website for the respective
1 12 institution of higher education.

1 13 Sec. 2. Section 261.7, subsection 3, Code 2009, is amended
1 14 by striking the subsection.

1 15 EXPLANATION

1 16 This bill amends Code section 261.7 by requiring, rather
1 17 than recommending, that all institutions of higher learning
1 18 post information on campus and on a website identifying
1 19 textbooks necessary for collegiate courses and the textbooks'
1 20 corresponding international standard book numbers. Code
1 21 section 261.7(3) is stricken from the Code; the subsection
1 22 directs the college student aid commission to convey the
1 23 legislative recommendation about posting textbook information.

1 24 LSB 1334YH 83

1 25 ak/rj/8



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 12, 2009

House File 277 - Introduced

HOUSE FILE
BY PAULSEN

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

A BILL FOR

1 An Act relating to disaster recovery by providing tax credits for
2 costs incurred in cleanup or redevelopment of certain damaged
3 property and including effective and retroactive applicability
4 date provisions.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
6 TL5B 1035YH 83
7 tw/sc/8



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 12, 2009

House File 277 - Introduced continued

PAG LIN

1 1 Section 1. NEW SECTION. 15.231 DISASTER RECOVERY TAX
1 2 CREDITS.
1 3 1. a. A tax credit shall be allowed against the taxes
1 4 imposed in chapter 422, divisions II, III, and V, and in
1 5 chapter 432, and against the moneys and credits tax imposed in
1 6 section 533.329, for a portion of a taxpayer's payment of
1 7 disaster recovery project costs incurred as a result of a
1 8 natural disaster.
1 9 b. To qualify as a disaster recovery project, a property,
1 10 and the activities affecting the property, shall meet all of
1 11 the following conditions:
1 12 (1) The property is owned by a taxpayer who is an
1 13 individual or business subject to taxation under one of the
1 14 taxes described in paragraph "a".
1 15 (2) The taxpayer employs at least one person.
1 16 (3) The property is uninsured or underinsured.
1 17 (4) The property is located in an area declared a disaster
1 18 area by the governor or by a federal official.
1 19 (5) The property has been damaged by the natural disaster
1 20 and is being cleaned up or redeveloped.
1 21 c. An individual may claim a tax credit under this section
1 22 of a partnership, limited liability company, S corporation,
1 23 estate, or trust electing to have income taxed directly to the
1 24 individual. The amount claimed by the individual shall be
1 25 based upon the pro rata share of the individual's earnings
1 26 from the partnership, limited liability company, S
1 27 corporation, estate, or trust.
1 28 d. Any tax credit in excess of the taxpayer's liability
1 29 for the tax year is refundable, or the taxpayer may elect to
1 30 have the excess credited to the tax liability for the
1 31 following five years or until depleted, whichever is earlier.
1 32 A tax credit shall not be carried back to a tax year prior to
1 33 the tax year in which the taxpayer first receives the tax
1 34 credit.
1 35 2. a. To claim a disaster recovery tax credit under this



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House File 277 - Introduced continued

2 1 section, a taxpayer must attach one or more tax credit
2 2 certificates to the taxpayer's tax return. A tax credit
2 3 certificate attached to the taxpayer's tax return shall be
2 4 issued in the taxpayer's name, expire on or after the last day
2 5 of the taxable year for which the taxpayer is claiming the tax
2 6 credit, and show a tax credit amount equal to or greater than
2 7 the tax credit claimed on the taxpayer's tax return.

2 8 b. After verifying the eligibility of a taxpayer for a tax
2 9 credit pursuant to this section, the department shall issue a
2 10 disaster recovery tax credit certificate to be attached to the
2 11 taxpayer's tax return. The tax credit certificate shall
2 12 contain the taxpayer's name, address, tax identification
2 13 number, the amount of the credit, and any other information
2 14 required by the department of revenue.

2 15 c. The tax credit certificate, unless otherwise void,
2 16 shall be accepted by the department of revenue as payment for
2 17 taxes imposed pursuant to chapter 422, divisions II, III, and
2 18 V, and chapter 432, and for the moneys and credits tax imposed
2 19 pursuant to section 533.329, subject to any conditions or
2 20 restrictions placed by the department upon the face of the tax
2 21 credit certificate and subject to the limitations of this
2 22 section.

2 23 d. Tax credit certificates issued under this section are
2 24 not transferable to any person or entity.

2 25 3. The amount of the tax credit shall be determined as
2 26 follows:

2 27 a. Twenty percent of the first one hundred thousand
2 28 dollars of the costs incurred in a disaster recovery project.

2 29 b. Ten percent of any amount greater than one hundred
2 30 thousand dollars but no greater than one million dollars of
2 31 the costs incurred in a disaster recovery project.

2 32 4. For purposes of the individual and corporate income
2 33 taxes, the insurance premiums tax, the moneys and credits tax,
2 34 and the franchise tax, the increase in the basis of the
2 35 property that would otherwise result from the qualified



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3 1 disaster recovery costs shall be reduced by the amount of the
3 2 credit allowed under this part.

3 3 5. The maximum amount of tax credits issued by the
3 4 department under this part shall not exceed thirty million
3 5 dollars.

3 6 6. A payment shall be deemed to have been made on the date
3 7 the qualifying disaster recovery project is completed. A
3 8 payment made prior to July 1, 2008, or after June 30, 2010,
3 9 shall not qualify for a tax credit under this part.

3 10 Sec. 2. NEW SECTION. 15.232 APPROVAL == REQUIREMENTS ==
3 11 REPAYMENT.

3 12 1. A taxpayer seeking to claim a tax credit pursuant to
3 13 section 15.231 shall apply to the department which shall have
3 14 the power to approve the amount of tax credit available for
3 15 each disaster recovery project. The department shall not
3 16 approve a tax credit for a taxpayer unless the taxpayer agrees
3 17 to compensate employees at the same wage and benefit levels
3 18 after completion of the disaster recovery project as the
3 19 taxpayer compensated employees before the natural disaster
3 20 occurs.

3 21 2. A taxpayer applying for a tax credit shall provide the
3 22 department with all of the following:

3 23 a. Information showing the total amount invested in the
3 24 disaster recovery project.

3 25 b. Information about the financing sources of the costs
3 26 that are directly related to the disaster recovery project for
3 27 which the taxpayer is seeking the tax credit.

3 28 c. Information about the compensation of employees,
3 29 including pre-disaster wages and benefits.

3 30 3. If a taxpayer receives a tax credit pursuant to section
3 31 15.231, but fails to comply with any of the requirements, the
3 32 tax credit is void, and the department of revenue shall seek
3 33 recovery of the value of the credit received.

3 34 Sec. 3. NEW SECTION. 422.11X DISASTER RECOVERY PROJECT
3 35 TAX CREDIT.



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4 1 The taxes imposed under this division, less the credits
4 2 allowed under section 422.12, shall be reduced by a disaster
4 3 recovery project tax credit allowed under chapter 15, part 3.

4 4 Sec. 4. Section 422.33, Code 2009, is amended by adding
4 5 the following new subsection:

4 6 NEW SUBSECTION. 27. The taxes imposed under this division
4 7 shall be reduced by a disaster recovery project tax credit
4 8 allowed under chapter 15, part 3.

4 9 Sec. 5. Section 422.60, Code 2009, is amended by adding
4 10 the following new subsection:

4 11 NEW SUBSECTION. 15. The taxes imposed under this division
4 12 shall be reduced by a disaster recovery project tax credit
4 13 allowed under chapter 15, part 3.

4 14 Sec. 6. NEW SECTION. 432.12M DISASTER RECOVERY PROJECT
4 15 TAX CREDIT.

4 16 The taxes imposed under this chapter shall be reduced by a
4 17 disaster recovery project tax credit allowed under chapter 15,
4 18 part 3.

4 19 Sec. 7. Section 533.329, subsection 2, Code 2009, is
4 20 amended by adding the following new paragraph:

4 21 NEW PARAGRAPH. n. The moneys and credits tax imposed
4 22 under this section shall be reduced by a disaster recovery
4 23 project tax credit authorized pursuant to chapter 15, part 3.

4 24 Sec. 8. EFFECTIVE AND RETROACTIVE APPLICABILITY DATES.
4 25 This Act, being deemed of immediate importance, takes effect
4 26 upon enactment and applies retroactively to January 1, 2008,
4 27 for tax years beginning on or after that date.

4 28 EXPLANATION

4 29 This bill relates to disaster recovery by providing tax
4 30 credits to individuals and businesses for the costs incurred
4 31 in the cleanup and redevelopment of property damaged in a
4 32 natural disaster.

4 33 The bill provides that an individual or business claiming
4 34 the tax credit must be a taxpayer subject to the individual or
4 35 corporate income taxes, the insurance premiums tax, the



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House File 277 - Introduced continued

5 1 franchise tax, or the moneys and credits tax, employing at
5 2 least one person, whose property is uninsured or underinsured
5 3 property located in an area declared a disaster area by the
5 4 governor or by a federal official, which has been damaged by
5 5 the natural disaster, and which is being cleaned up and
5 6 redeveloped.

5 7 The tax credit is allowed against the individual or
5 8 corporate income taxes, the franchise tax, and the moneys and
5 9 credit tax. The tax credit is refundable or, at the
5 10 taxpayer's election, may be credited until depletion to the
5 11 taxpayer's tax liability for up to five subsequent tax years.
5 12 The tax credits are not transferable. Any increase in a
5 13 property's basis is reduced by the amount of tax credits
5 14 received. Payments of costs are deemed to have been made on
5 15 the date the disaster recovery project is completed. Payments
5 16 made prior to July 1, 2008, or after June 30, 2010, do not
5 17 qualify for the tax credit.

5 18 A taxpayer may receive a credit in an amount equal to 20
5 19 percent of the first \$100,000 and 10 percent of any amount
5 20 over \$100,000 but not over \$1 million spent on a disaster
5 21 recovery project. The maximum amount of tax credits is
5 22 limited to \$30 million.

5 23 The department of economic development would approve the
5 24 tax credits and issue tax credit certificates to taxpayers. A
5 25 taxpayer must agree to pay employees at the same wage and
5 26 benefit levels after the disaster as it did before the
5 27 disaster in order to be approved for the tax credit. A
5 28 taxpayer that does not comply with the requirements loses any
5 29 right to the credit and the department of revenue shall seek
5 30 recovery of the value of the credit received.

5 31 The bill takes effect upon enactment and applies
5 32 retroactively to January 1, 2008, for tax years beginning on
5 33 or after that date.

5 34 LSB 1035YH 83

5 35 tw/sc/8



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House File 278 - Introduced

HOUSE FILE
BY FORD

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

A BILL FOR

1 An Act requiring notification of occupancy rates for certain
2 premises licensed to permit on-premises consumption of
3 alcohol.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 2164HH 83
6 ec/nh/8



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House File 278 - Introduced continued

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1 1 Section 1. Section 123.32, Code 2009, is amended by adding
1 2 the following new subsection:
1 3 NEW SUBSECTION. 4A. OCCUPANCY RATES. A local authority
1 4 located in a county with a population that exceeds three
1 5 hundred thousand persons, as a condition of obtaining and
1 6 holding a license or permit for on-premises consumption, shall
1 7 require the applicant, licensee, or permittee, to provide, and
1 8 update if necessary, the occupancy rate of the licensed
1 9 premises.

1 10 EXPLANATION
1 11 This bill provides that local authorities in a county with
1 12 a population in excess of 300,000 persons shall require
1 13 persons obtaining or holding a liquor control license for
1 14 on-premises consumption of alcohol to provide, and update if
1 15 necessary, the occupancy rate of the licensed premises.
1 16 LSB 2164HH 83
1 17 ec/nh/8



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House File 279 - Introduced

HOUSE FILE
BY FORD

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

A BILL FOR

1 An Act relating to the certification and registration of real
2 estate appraisers, providing a penalty, and making an
3 appropriation.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 2181HH 83
6 jr/nh/5



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House File 279 - Introduced continued

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1 1 Section 1. NEW SECTION. 543D.3A REGISTRATION REQUIRED.

1 2 A person engaged in the business or acting in the capacity
1 3 of a real estate appraiser for compensation within this state
1 4 shall register annually with the board. The board shall
1 5 maintain a list of registrations at the board office, which
1 6 list shall be available for public inspection.

1 7 Sec. 2. Section 543D.17, subsection 1, paragraph f, Code
1 8 2009, is amended to read as follows:

1 9 f. Negligence, ~~or incompetence in developing an appraisal,~~
~~1 10 in preparing an appraisal report, or in communicating an~~
~~1 11 appraisal, or acting with advocacy or bias while involved in~~
1 12 valuation assignments in real property appraisal practice.

1 13 Sec. 3. Section 543D.17, subsection 3, Code 2009, is
1 14 amended to read as follows:

1 15 3. Notwithstanding the limitations of section 272C.3,
1 16 subsection 2, paragraph "e", the board shall adopt a rule
1 17 providing for civil penalties in amounts and for the reasons
1 18 authorized by federal law where federal law requires the board
1 19 to have the authority to impose the civil penalties in order
1 20 to obtain or to retain the board's designation as a qualified
1 21 state appraiser certifying agency. An administrative penalty
1 22 imposed under this section shall not be more than one thousand
1 23 dollars in the case of a first violation and not more than
1 24 five thousand dollars for each second or subsequent violation.
1 25 All administrative penalties collected pursuant to this
1 26 chapter shall be deposited in the housing trust fund created
1 27 in section 16.181.

1 28 Sec. 4. Section 543D.17, Code 2009, is amended by adding
1 29 the following new subsection:

1 30 NEW SUBSECTION. 4. The board may investigate complaints
1 31 and initiate complaints against compensated real estate
1 32 appraisers who are not certified pursuant to this chapter and
1 33 may impose a penalty as provided in this chapter.

1 34 Sec. 5. NEW SECTION. 543D.22 EXCLUSIONS.

1 35 1. This chapter does not apply to any of the following:



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2 1 a. An individual licensed under chapter 543B who does not
2 2 provide an appraisal, but who in the ordinary course of a real
2 3 estate brokerage business provides a recommendation of price
2 4 or pricing of real estate in connection with the listing of
2 5 property for sale or lease, or to assist a potential purchaser
2 6 or lessee in developing an offer to purchase or lease
2 7 property. No compensation, fee, or other consideration shall
2 8 be charged for such recommendation other than a real estate
2 9 commission or brokerage fee unless the recommendation is in
2 10 writing and includes a prominent disclosure stating that the
2 11 recommendation is not an appraisal, is intended only for the
2 12 benefit of the addressee in connection with the listing, sale,
2 13 lease, or purchase of real estate, and is not intended for any
2 14 other purpose, including but not limited to lending purposes.
2 15 Providing a recommendation pursuant to this paragraph is not
2 16 subject to the uniform standards of professional appraisal
2 17 practice adopted by the appraisal foundation.

2 18 b. An individual who provides administrative services to a
2 19 certified real estate appraiser, such as taking photographs,
2 20 preparing charts, or typing reports, who is not an associate
2 21 real estate appraiser and who does not provide any assistance
2 22 in developing the analysis, valuation, opinions, or
2 23 conclusions associated with the appraisal assignment.

2 24 c. Unless otherwise required by federal, state, or local
2 25 law, rule, ordinance, or policy, an employee of any of the
2 26 following:

2 27 (1) The federal government.

2 28 (2) The state, or any agency, department, or political
2 29 subdivision of the state, except as provided for an employee
2 30 of the state department of transportation pursuant to section
2 31 543D.3.

2 32 (3) A financial institution as defined in section 535A.1.

2 33 (4) An insurance company authorized to transact the
2 34 business of insurance in this state.

2 35 2. An individual under subsection 1, paragraph "a", may



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3 1 provide a recommendation of price or pricing of real estate if
 3 2 rendered solely for the purpose of real estate taxation.
 3 3 3. An employee under subsection 1, paragraph "c", shall
 3 4 not provide appraisal services or complete an appraisal
 3 5 assignment for anyone other than the person's employer unless
 3 6 certified under this chapter.

3 7 Sec. 6. APPROPRIATION. There is appropriated from the
 3 8 general fund of the state to the real estate appraiser
 3 9 examining board for the fiscal year beginning July 1, 2009,
 3 10 and ending June 30, 2010, the following amount, or so much
 3 11 thereof as is necessary, to be used for the purpose
 3 12 designated:

3 13 For the purpose of funding full-time equivalent positions
 3 14 for enforcement of the provisions of chapter 543D:
 3 15 \$ 150,000

EXPLANATION

3 17 This bill requires that any person who provides real estate
 3 18 appraisal services in this state, for compensation, must
 3 19 register with the board. The board shall maintain a list of
 3 20 registrations at the board office, available for public
 3 21 inspection. The bill provides, in new Code section 543D.22, a
 3 22 list of persons who are not subject to the provisions of Code
 3 23 chapter 543D.

3 24 The bill also prohibits an appraiser from acting with
 3 25 advocacy or bias while involved in valuation assignments in
 3 26 real property appraisal practice and imposes a penalty.

3 27 The bill appropriates \$150,000 for the purpose of funding
 3 28 staff positions to enforce these licensing provisions.

3 29 LSB 2181HH 83

3 30 jr/nh/5



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House File 280 - Introduced

HOUSE FILE
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 30)

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

A BILL FOR

- 1 An Act relating to the compensation of a guardian ad litem in
- 2 certain criminal cases involving a child witness.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4 TLSB 1344HV 83
- 5 jm/nh/14



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House File 280 - Introduced continued

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1 1 Section 1. Section 910.1, subsection 4, Code 2009, is
1 2 amended to read as follows:
1 3 4. "Restitution" means payment of pecuniary damages to a
1 4 victim in an amount and in the manner provided by the
1 5 offender's plan of restitution. "Restitution" also includes
1 6 fines, penalties, and surcharges, the contribution of funds to
1 7 a local anticrime organization which provided assistance to
1 8 law enforcement in an offender's case, the payment of crime
1 9 victim compensation program reimbursements, payment of
1 10 guardian ad litem compensation pursuant to section 915.37,
1 11 payment of restitution to public agencies pursuant to section
1 12 321J.2, subsection 9, paragraph "b", court costs including
1 13 correctional fees approved pursuant to section 356.7,
1 14 court-appointed attorney fees ordered pursuant to section
1 15 815.9, including the expense of a public defender, and the
1 16 performance of a public service by an offender in an amount
1 17 set by the court when the offender cannot reasonably pay all
1 18 or part of the court costs including correctional fees
1 19 approved pursuant to section 356.7, or court-appointed
1 20 attorney fees ordered pursuant to section 815.9, including the
1 21 expense of a public defender.
1 22 Sec. 2. Section 910.2, Code 2009, is amended to read as
1 23 follows:
1 24 910.2 RESTITUTION OR COMMUNITY SERVICE TO BE ORDERED BY
1 25 SENTENCING COURT.
1 26 1. In all criminal cases in which there is a plea of
1 27 guilty, verdict of guilty, or special verdict upon which a
1 28 judgment of conviction is rendered, the sentencing court shall
1 29 order that restitution be made by each offender to the victims
1 30 of the offender's criminal activities, to the clerk of court
1 31 for fines, penalties, surcharges, and, to the extent that the
1 32 offender is reasonably able to pay, for crime victim
1 33 assistance reimbursement, payment of guardian ad litem
1 34 compensation pursuant to section 915.37, restitution to public
1 35 agencies pursuant to section 321J.2, subsection 9, paragraph



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2 1 "b", court costs including correctional fees approved pursuant
2 2 to section 356.7, court=appointed attorney fees ordered
2 3 pursuant to section 815.9, including the expense of a public
2 4 defender, when applicable, or contribution to a local
2 5 anticrime organization. However, victims shall be paid in
2 6 full before fines, penalties, and surcharges, crime victim
2 7 compensation program reimbursement, payment of guardian ad
2 8 litem compensation pursuant to section 915.37, public
2 9 agencies, court costs including correctional fees approved
2 10 pursuant to section 356.7, court=appointed attorney fees
2 11 ordered pursuant to section 815.9, including the expenses of a
2 12 public defender, or contributions to a local anticrime
2 13 organization are paid. In structuring a plan of restitution,
2 14 the court shall provide for payments in the following order of
2 15 priority: victim, fines, penalties, and surcharges, crime
2 16 victim compensation program reimbursement, guardian ad litem
2 17 compensation, public agencies, court costs including
2 18 correctional fees approved pursuant to section 356.7,
2 19 court=appointed attorney fees ordered pursuant to section
2 20 815.9, including the expense of a public defender, and
2 21 contribution to a local anticrime organization.
2 22 2. When the offender is not reasonably able to pay all or
2 23 a part of the crime victim compensation program reimbursement,
2 24 guardian ad litem compensation, public agency restitution,
2 25 court costs including correctional fees approved pursuant to
2 26 section 356.7, court=appointed attorney fees ordered pursuant
2 27 to section 815.9, including the expense of a public defender,
2 28 or contribution to a local anticrime organization, the court
2 29 may require the offender in lieu of that portion of the crime
2 30 victim compensation program reimbursement, guardian ad litem
2 31 compensation, public agency restitution, court costs including
2 32 correctional fees approved pursuant to section 356.7,
2 33 court=appointed attorney fees ordered pursuant to section
2 34 815.9, including the expense of a public defender, or
2 35 contribution to a local anticrime organization for which the



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3 1 offender is not reasonably able to pay, to perform a needed
3 2 public service for a governmental agency or for a private
3 3 nonprofit agency which provides a service to the youth,
3 4 elderly, or poor of the community. When community service is
3 5 ordered, the court shall set a specific number of hours of
3 6 service to be performed by the offender which, for payment of
3 7 guardian ad litem compensation pursuant to section 915.37, and
3 8 for payment of court-appointed attorney fees ordered pursuant
3 9 to section 815.9, including the expenses of a public defender,
3 10 shall be approximately equivalent in value to those costs.
3 11 The judicial district department of correctional services
3 12 shall provide for the assignment of the offender to a public
3 13 agency or private nonprofit agency to perform the required
3 14 service.

3 15 Sec. 3. Section 910.9, unnumbered paragraph 3, Code 2009,
3 16 is amended to read as follows:

3 17 Fines, penalties, and surcharges, crime victim compensation
3 18 program reimbursement, payment of guardian ad litem
3 19 compensation pursuant to section 915.37, public agency
3 20 restitution, court costs including correctional fees claimed
3 21 by a sheriff or municipality pursuant to section 356.7, and
3 22 court-appointed attorney fees ordered pursuant to section
3 23 815.9, including the expenses for public defenders, shall not
3 24 be withheld by the clerk of court until all victims have been
3 25 paid in full. Payments to victims shall be made by the clerk
3 26 of court at least quarterly. Payments by a clerk of court
3 27 shall be made no later than the last business day of the
3 28 quarter, but may be made more often at the discretion of the
3 29 clerk of court. The clerk of court receiving final payment
3 30 from an offender shall notify all victims that full
3 31 restitution has been made. Each office or individual charged
3 32 with supervising an offender who is required to perform
3 33 community service as full or partial restitution shall keep
3 34 records to assure compliance with the portions of the plan of
3 35 restitution and restitution plan of payment relating to



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4 1 community service and, when the offender has complied fully
4 2 with the community service requirement, notify the sentencing
4 3 court.

4 4 Sec. 4. Section 915.37, Code 2009, is amended to read as
4 5 follows:

4 6 915.37 GUARDIAN AD LITEM FOR PROSECUTING CHILD WITNESSES.

4 7 1. A prosecuting witness who is a child, as defined in
4 8 section 702.5, in a case involving a violation of chapter 709
4 9 or section 710.10, 726.2, 726.3, 726.6, or 728.12, is entitled
4 10 to have the witness's interests represented by a guardian ad
4 11 litem at all stages of the proceedings arising from such
4 12 violation. The guardian ad litem shall be a practicing
4 13 attorney and shall be designated by the court after due
4 14 consideration is given to the desires and needs of the child
4 15 and the compatibility of the child and the child's interests
4 16 with the prospective guardian ad litem. If a guardian ad
4 17 litem has previously been appointed for the child in a
4 18 proceeding under chapter 232 or a proceeding in which the
4 19 juvenile court has waived jurisdiction under section 232.45,
4 20 the court shall appoint the same guardian ad litem under this
4 21 section. The guardian ad litem shall receive notice of and
4 22 may attend all depositions, hearings, and trial proceedings if
4 23 the child's interests or welfare are affected in order to
4 24 support the child and advocate for the protection of the child
4 25 but shall not be allowed to separately introduce evidence or
4 26 to directly examine or cross-examine witnesses. However, the
4 27 guardian ad litem shall file reports to the court as required
4 28 by the court. If a prosecuting witness is fourteen, fifteen,
4 29 sixteen, or seventeen years of age, and would be entitled to
4 30 the appointment of a guardian ad litem if the prosecuting
4 31 witness were a child, the court may appoint a guardian ad
4 32 litem if the requirements for guardians ad litem in this
4 33 section are met, and the guardian ad litem agrees to
4 34 participate without compensation.

4 35 2. The clerk of the district court of the county where the



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5 1 case occurred shall pay from funds appropriated to the
5 2 judicial branch reasonable compensation to a guardian ad litem
5 3 appointed by the court pursuant to this section, if such
5 4 compensation is permissible pursuant to subsection 1.

5 5 3. References in this section to a guardian ad litem shall
5 6 be interpreted to include references to a court appointed
5 7 special advocate as defined in section 232.2, subsection 9.

5 8 EXPLANATION

5 9 This bill relates to the compensation of a guardian ad
5 10 litem in certain criminal cases involving a child witness.

5 11 The amendment to Code section 910.1 makes the compensation
5 12 of a guardian ad litem appointed for a child witness pursuant
5 13 to Code section 915.37 recoverable as restitution in a
5 14 criminal case, if such compensation is permissible pursuant to
5 15 Code section 915.37.

5 16 The amendment to Code section 910.2 specifies that payment
5 17 of guardian ad litem compensation pursuant to Code section
5 18 915.37 is restitution and that victim restitution shall be
5 19 paid in full prior to payment of guardian ad litem
5 20 compensation restitution. The amendment to Code section 910.2
5 21 also establishes the order of priority for payment of guardian
5 22 ad litem compensation in a restitution plan.

5 23 The amendment to Code section 910.9 specifies that the
5 24 payment of guardian ad litem compensation restitution shall
5 25 not be paid until the victim restitution has been paid in
5 26 full.

5 27 The amendment to Code section 915.37 establishes that a
5 28 child victim of enticing away a minor under Code section
5 29 710.10 is entitled to have a guardian ad litem appointed to
5 30 represent the interest of the child in all proceedings arising
5 31 out of the criminal offense.

5 32 The amendment to Code section 915.37 limits the notice to
5 33 and attendance of a guardian ad litem to depositions,
5 34 hearings, and other proceedings that affect the interest and
5 35 welfare of the child.



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6 1 The amendment to Code section 915.37 requires that the
6 2 clerk of the district court of the county where the offense
6 3 occurred pay reasonable compensation to the guardian ad litem
6 4 appointed on behalf of a child victim.
6 5 LSB 1344HV 83
6 6 jm/nh/14



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House File 281 - Introduced

HOUSE FILE
 BY COMMITTEE ON ECONOMIC
 GROWTH

(SUCCESSOR TO HSB 123)

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

Passed Senate, Date _____
 Vote: Ayes _____ Nays _____

A BILL FOR

- 1 An Act relating to the administration of the Iowa water pollution
- 2 control works and drinking water facilities financing program.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4 TLSB 1326HV 83
- 5 tm/nh/5



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1 1 Section 1. Section 16.131, subsection 2, Code 2009, is
1 2 amended by striking the subsection.

1 3 Sec. 2. Section 16.131, subsection 3, Code 2009, is
1 4 amended to read as follows:

1 5 3. The authority may issue its bonds and notes for the
1 6 purpose of funding the revolving loan funds created under
1 7 section ~~455B.295~~ 16.133A and defraying the costs of payment of
~~1 8 the twenty percent state matching funds required for federal~~
~~1 9 funds received for projects pursuant to the Clean Water Act~~
1 10 and the Safe Drinking Water Act.

1 11 Sec. 3. Section 16.131, subsection 4, unnumbered paragraph
1 12 1, Code 2009, is amended to read as follows:

1 13 The authority may issue its bonds and notes for the
1 14 purposes established and may enter into one or more ~~lending~~
1 15 loan agreements or purchase agreements with one or more
1 16 bondholders or noteholders containing the terms and conditions
1 17 of the repayment of and the security for the bonds or notes.
1 18 The authority and the bondholders or noteholders or a trustee
1 19 agent designated by the authority may enter into agreements to
1 20 provide for any of the following:

1 21 Sec. 4. Section 16.131, Code 2009, is amended by adding
1 22 the following new subsections:

1 23 NEW SUBSECTION. 7. The authority shall determine the
1 24 interest rate and repayment terms for loans made under the
1 25 program, in cooperation with the department, and the authority
1 26 shall enter into loan agreements with eligible entities in
1 27 compliance with and subject to the terms and conditions of the
1 28 Clean Water Act, the Safe Drinking Water Act, and any other
1 29 applicable federal law.

1 30 NEW SUBSECTION. 8. The authority shall process, review,
1 31 and approve or deny loan applications pursuant to eligibility
1 32 requirements established by rule of the authority and in
1 33 accordance with the intended use plan applications approved by
1 34 the department.

1 35 NEW SUBSECTION. 9. The authority may charge loan



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2 1 recipients fees and assess costs against such recipients
2 2 necessary for the continued operation of the program. Fees
2 3 and costs collected pursuant to this subsection shall be
2 4 deposited in the appropriate fund or funds described in
2 5 section 16.133A.
2 6 Sec. 5. NEW SECTION. 16.131A DEFINITIONS.
2 7 As used in sections 16.131 through 16.134, unless the
2 8 context otherwise requires:
2 9 1. "Clean Water Act" means the federal Water Pollution
2 10 Control Act of 1972, Pub. L. No. 92=500, as amended by the
2 11 Water Quality Act of 1987, Pub. L. No. 100=4, as published in
2 12 33 U.S.C. } 1251=1376, as amended.
2 13 2. "Commission" means the environmental protection
2 14 commission created under section 455A.6.
2 15 3. "Cost" means all costs, charges, expenses, or other
2 16 indebtedness incurred by a loan recipient and determined by
2 17 the department as reasonable and necessary for carrying out
2 18 all works and undertakings necessary or incidental to the
2 19 accomplishment of any project.
2 20 4. "Department" means the department of natural resources
2 21 created in section 455A.2.
2 22 5. "Eligible entity" means a person eligible under the
2 23 provisions of the Clean Water Act, the Safe Drinking Water
2 24 Act, and the commission rules to receive loans for projects
2 25 from any of the revolving loan funds.
2 26 6. "Loan recipient" means an eligible entity that has
2 27 received a loan under the program.
2 28 7. "Municipality" means a city, county, sanitary district,
2 29 state agency, or other governmental body or corporation
2 30 empowered to provide sewage collection and treatment services
2 31 or drinking water, or any combination of two or more of the
2 32 governmental bodies or corporations acting jointly, in
2 33 connection with a project.
2 34 8. "Program" means the Iowa water pollution control works
2 35 and drinking water facilities financing program created



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3 1 pursuant to section 455B.294.

3 2 9. "Project" means one of the following:

3 3 a. In the context of water pollution control facilities,
3 4 the acquisition, construction, reconstruction, extension,
3 5 equipping, improvement, or rehabilitation of any works and
3 6 facilities useful for the collection, treatment, and disposal
3 7 of sewage and industrial waste in a sanitary manner including
3 8 treatment works as defined in section 212 of the Clean Water
3 9 Act, or the implementation and development of management
3 10 programs established under sections 319 and 320 of the Clean
3 11 Water Act, including construction and undertaking of nonpoint
3 12 source water pollution control projects and related
3 13 development activities authorized under those sections.

3 14 b. In the context of drinking water facilities, the
3 15 acquisition, construction, reconstruction, extending,
3 16 remodeling, improving, repairing, or equipping of waterworks,
3 17 water mains, extensions, or treatment facilities useful for
3 18 providing potable water to residents served by a water system,
3 19 including the acquisition of real property needed for any of
3 20 the foregoing purposes, and such other purposes and programs
3 21 as may be authorized under the Safe Drinking Water Act.

3 22 10. "Revolving loan funds" means the funds of the program
3 23 established under sections 16.133A and 455B.295.

3 24 11. "Safe Drinking Water Act" means Title XIV of the
3 25 federal Public Health Service Act, commonly known as the "Safe
3 26 Drinking Water Act", 42 U.S.C. } 300f et seq., as amended by
3 27 the Safe Drinking Water Amendments of 1996, Pub. L. No.
3 28 104=182, as amended.

3 29 12. "Water system" means any community water system or
3 30 nonprofit noncommunity water system, each as defined in the
3 31 Safe Drinking Water Act, that is eligible under the rules of
3 32 the department to receive a loan under the program for the
3 33 purposes of undertaking a project.

3 34 Sec. 6. Section 16.132, subsection 1, paragraph d, Code
3 35 2009, is amended to read as follows:



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4 1 d. The amounts payable to the ~~department~~ authority by
4 2 eligible entities pursuant to loan agreements with eligible
4 3 entities.
4 4 Sec. 7. Section 16.132, subsection 5, Code 2009, is
4 5 amended to read as follows:
4 6 5. The bonds or notes issued by the authority are not an
4 7 indebtedness or other liability of the state or of a political
4 8 subdivision of the state within the meaning of any
4 9 constitutional or statutory debt limitations but are special
4 10 obligations of the authority, and are payable solely from the
4 11 income and receipts or other funds or property of the
4 12 ~~department~~ authority, and the amounts on deposit in the
4 13 revolving loan funds, and the amounts payable to the
4 14 ~~department~~ authority under its loan agreements with eligible
4 15 entities ~~as defined in section 455B.291~~ to the extent that the
4 16 amounts are designated in the resolution, trust agreement, or
4 17 other instrument of the authority authorizing the issuance of
4 18 the bonds or notes as being available as security for such
4 19 bonds or notes. The authority shall not pledge the faith or
4 20 credit of the state or of a political subdivision of the state
4 21 to the payment of any bonds or notes. The issuance of any
4 22 bonds or notes by the authority does not directly, indirectly,
4 23 or contingently obligate the state or a political subdivision
4 24 of the state to apply money from, or levy or pledge any form
4 25 of taxation whatever to the payment of the bonds or notes.
4 26 Sec. 8. NEW SECTION. 16.133A FUNDS AND ACCOUNTS ==
4 27 PROGRAM FUNDS AND ACCOUNTS NOT PART OF STATE GENERAL FUND.
4 28 1. The authority may establish and maintain funds and
4 29 accounts determined to be necessary to carry out the purposes
4 30 of the program and shall provide for the funding,
4 31 administration, investment, restrictions, and disposition of
4 32 the funds and accounts. The department and the authority may
4 33 combine administration of the revolving loan funds and cross
4 34 collateralize the same to the extent permitted by the Clean
4 35 Water Act, the Safe Drinking Water Act, and other applicable



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5 1 federal law. Moneys appropriated to and used by the authority
5 2 and department for purposes of paying the costs and expenses
5 3 associated with the administration of the program shall be
5 4 administered as determined by the authority and department.

5 5 2. The funds or accounts held by the authority, or a
5 6 trustee acting on behalf of the authority pursuant to a trust
5 7 agreement related to the program, shall not be considered part
5 8 of the general fund of the state, are not subject to
5 9 appropriation for any other purpose by the general assembly,
5 10 and in determining a general fund balance shall not be
5 11 included in the general fund of the state, but shall remain in
5 12 the funds and accounts maintained by the authority or trustee
5 13 pursuant to a trust agreement. Funds and accounts held by the
5 14 authority, or a trustee acting on behalf of the authority
5 15 pursuant to a trust agreement related to the program, are
5 16 separate dedicated funds and accounts under the administration
5 17 and control of the authority and subject to section 16.31.

5 18 Sec. 9. Section 16.134, subsections 1 and 2, Code 2009,
5 19 are amended to read as follows:

5 20 1. The Iowa finance authority shall establish and
5 21 administer a wastewater treatment financial assistance
5 22 program. The purpose of the program shall be to provide
5 23 grants to enhance water quality and to assist communities to
5 24 comply with water quality standards adopted by the department
5 25 of natural resources. The program shall be administered in
5 26 accordance with rules adopted by the authority pursuant to
5 27 chapter 17A. For purposes of this section, "program" means
5 28 the wastewater treatment financial assistance program.

5 29 2. A wastewater treatment financial assistance fund is
5 30 created ~~under the authority of the Iowa finance authority.~~
~~5 31 The fund and~~ shall consist of appropriations made to the fund
5 32 and transfers of interest, earnings, and moneys from other
5 33 funds as provided by law. Moneys in the fund are not subject
5 34 to section 8.33. Notwithstanding section 12C.7, subsection 2,
5 35 interest or earnings on moneys in the fund shall be credited



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6 1 to the fund.

6 2 Sec. 10. Section 16.134, subsection 4, paragraph a, Code
6 3 2009, is amended to read as follows:

6 4 a. Communities shall be eligible for financial assistance
6 5 by qualifying as a disadvantaged community and seeking
6 6 financial assistance for the installation or upgrade of
6 7 wastewater treatment facilities due to regulatory activity in
6 8 response to water quality standards adopted by the department
6 9 of natural resources in calendar year 2006. For purposes of
6 10 this section, the term "disadvantaged community" means the
6 11 same as defined by the department ~~of natural resources for the~~
~~6 12 drinking water facilities revolving loan fund established in~~
~~6 13 section 455B.295.~~ Communities with a population of three
6 14 thousand or more do not qualify for financial assistance under
6 15 the program.

6 16 Sec. 11. Section 455B.291, Code 2009, is amended to read
6 17 as follows:

6 18 455B.291 DEFINITIONS.

6 19 As used in this part, unless the context requires
6 20 otherwise:

6 21 1. "Administration funds" means ~~the water pollution~~
~~6 22 control works administration fund and the drinking water~~
~~6 23 facilities administration fund~~ funds established pursuant to
6 24 this part for the costs and expenses associated with
6 25 administering the program under this part and section 16.133A.

6 26 2. "Authority" means the Iowa finance authority
6 27 established in section 16.2.

6 28 3. "Clean Water Act" means the federal Water Pollution
6 29 Control Act of 1972, Pub. L. No. 92=500, as amended by the
6 30 Water Quality Act of 1987, Pub. L. No. 100=4, as published in
6 31 33 U.S.C. } 1251=1376, as amended.

6 32 4. "Cost" means all costs, charges, expenses, or other
6 33 indebtedness incurred by a loan recipient and determined by
6 34 the ~~director~~ department as reasonable and necessary for
6 35 carrying out all works and undertakings necessary or



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7 1 incidental to the accomplishment of any project.

7 2 ~~5. "Drinking water facilities administration fund" means~~
~~7 3 the drinking water facilities administration fund established~~
~~7 4 in section 455B.295.~~

7 5 ~~6. "Drinking water facilities revolving loan fund" means~~
~~7 6 the drinking water facilities revolving loan fund established~~
~~7 7 in section 455B.295.~~

7 8 ~~7.~~ 5. "Eligible entity" means a person eligible under the
7 9 provisions of the Clean Water Act, the Safe Drinking Water
7 10 Act, and the commission rules to receive loans for projects
7 11 from ~~either~~ any of the revolving loan funds.

7 12 ~~8.~~ 6. "Loan recipient" means an eligible entity that has
7 13 received a loan from ~~either~~ any of the revolving loan funds.

7 14 ~~9.~~ 7. "Municipality" means a city, county, sanitary
7 15 district, state agency, or other governmental body or
7 16 corporation empowered to provide sewage collection and
7 17 treatment services, or any combination of two or more of the
7 18 governmental bodies or corporations acting jointly, in
7 19 connection with a project.

7 20 ~~10.~~ 8. "Program" means the Iowa water pollution control
7 21 works and drinking water facilities financing program created
7 22 pursuant to section 455B.294.

7 23 ~~11.~~ 9. "Project" means one of the following:

7 24 a. In the context of water pollution control facilities,
7 25 the acquisition, construction, reconstruction, extension,
7 26 equipping, improvement, or rehabilitation of any works and
7 27 facilities useful for the collection, treatment, and disposal
7 28 of sewage and industrial waste in a sanitary manner including
7 29 treatment works as defined in section 212 of the Clean Water
7 30 Act, or the implementation and development of management
7 31 programs established under sections 319 and 320 of the Clean
7 32 Water Act, including construction and undertaking of nonpoint
7 33 source water pollution control projects and related
7 34 development activities authorized under those sections.

7 35 b. In the context of drinking water facilities, the



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8 1 acquisition, construction, reconstruction, extending,
8 2 remodeling, improving, repairing, or equipping of waterworks,
8 3 water mains, extensions, or treatment facilities useful for
8 4 providing potable water to residents served by a water system,
8 5 including the acquisition of real property needed for any of
8 6 the foregoing purposes, and such other purposes and programs
8 7 as may be authorized under the Safe Drinking Water Act.
8 8 ~~12. 10. "Revolving loan funds" means the water pollution~~
~~8 9 control works revolving loan fund and the drinking water~~
~~8 10 facilities revolving loan fund funds of the program~~
8 11 established under sections 16.133A and 455B.295.
8 12 ~~13. 11. "Safe Drinking Water Act" means Title XIV of the~~
8 13 federal Public Health Service Act, commonly known as the "Safe
8 14 Drinking Water Act", 42 U.S.C. } 300f et seq., as amended by
8 15 the Safe Drinking Water Amendments of 1996, Pub. L. No.
8 16 104=182, as amended.
8 17 ~~14. "Water pollution control works administration fund"~~
~~8 18 means the water pollution control works administration fund~~
~~8 19 established in section 455B.295.~~
8 20 ~~15. "Water pollution control works revolving loan fund"~~
~~8 21 means the water pollution control works revolving loan fund~~
~~8 22 established in section 455B.295.~~
8 23 ~~16. 12. "Water system" means any community water system~~
8 24 or nonprofit noncommunity water system, each as defined in the
8 25 Safe Drinking Water Act, that is eligible under the rules of
8 26 the department to receive a loan under the program for the
8 27 purposes of undertaking a project.
8 28 Sec. 12. Section 455B.295, subsections 1, 2, and 3, Code
8 29 2009, are amended by striking the subsections.
8 30 Sec. 13. Section 455B.295, subsection 4, Code 2009, is
8 31 amended to read as follows:
8 32 ~~4. 1. The department and the authority may establish and~~
8 33 maintain ~~other~~ funds or accounts determined to be necessary to
8 34 carry out the purposes of this part and shall provide for the
8 35 funding, administration, investment, restrictions, and



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9 1 disposition of the funds and accounts. The department and the
9 2 authority may combine administration of the revolving loan
9 3 funds, and cross collateralize the same, ~~and the~~
~~9 4 administration funds~~ to the extent permitted by the Clean
9 5 Water Act, the Safe Drinking Water Act, and other applicable
9 6 federal law. Moneys appropriated to the department and the
9 7 authority for purposes of paying the costs and expenses
9 8 associated with the administration of the program shall be
9 9 administered as determined by the department and the
9 10 authority.

9 11 Sec. 14. Section 455B.295, Code 2009, is amended by adding
9 12 the following new subsection:

9 13 NEW SUBSECTION. 2. The funds or accounts held by the
9 14 department, or a trustee acting on behalf of the department
9 15 pursuant to a trust agreement related to the program, shall
9 16 not be considered part of the general fund of the state, are
9 17 not subject to appropriation for any other purpose by the
9 18 general assembly, and in determining a general fund balance
9 19 shall not be included in the general fund of the state, but
9 20 shall remain in the funds and accounts maintained by the
9 21 department or trustee pursuant to a trust agreement. Funds
9 22 and accounts held by the department, or a trustee acting on
9 23 behalf of the department pursuant to a trust agreement related
9 24 to the program, are separate dedicated funds and accounts
9 25 under the administration and control of the department.

9 26 Sec. 15. Section 455B.296, subsections 2 and 3, Code 2009,
9 27 are amended to read as follows:

9 28 2. The department and the authority shall establish fiscal
9 29 controls and accounting procedures during appropriate
9 30 accounting periods for payments received for deposit in and
9 31 disbursements received and made by from the revolving loan
9 32 funds, and the administration funds, and other funds
~~9 33 established pursuant to section 455B.295, subsection 4, and to~~
9 34 fund balances at the beginning and end of the accounting
9 35 periods.



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10 1 3. Upon receipt of the joint recommendation of the
10 2 department and the authority with respect to the amounts to be
10 3 so reserved and transferred, and subject in all respects to
10 4 the applicable provisions of the Clean Water Act, Safe
10 5 Drinking Water Act, and other applicable federal law, the
10 6 governor may direct that the recommended portion of a
10 7 capitalization grant made in respect of one of the revolving
10 8 loan funds in any year be reserved for the transfer to ~~the~~
~~10 9 other another~~ revolving loan fund. The authority and the
10 10 department may effect the transfer of any funds reserved for
10 11 such purpose, as directed by the governor, and shall cause the
10 12 records of the program to reflect the transfer. Any sums so
10 13 transferred shall be expended in accordance with the intended
10 14 use plan for the applicable revolving loan fund.

10 15 Sec. 16. Section 455B.297, Code 2009, is amended to read
10 16 as follows:

10 17 455B.297 LOANS TO ELIGIBLE ENTITIES.

10 18 Moneys deposited in the revolving loan funds shall be used
10 19 for the primary purpose of making loans to eligible entities
10 20 to finance the ~~cost~~ eligible costs of projects in accordance
10 21 with the intended use plans developed by the department under
10 22 section 455B.296. The loan recipients and the purpose, and
10 23 ~~amount, interest rate, and repayment terms~~ of the loans shall
10 24 be determined by the director, in accordance with rules
10 25 adopted by the commission, in compliance with and subject to
10 26 the terms and conditions of the Clean Water Act, the Safe
10 27 Drinking Water Act, and other applicable federal law, as
10 28 applicable, and any resolution, agreement, indenture, or other
10 29 document of the authority, and rules adopted by the authority,
10 30 relating to any bonds, notes, or other obligations issued for
10 31 the program which may be applicable to the loan.

10 32 Sec. 17. Section 455B.298, Code 2009, is amended to read
10 33 as follows:

10 34 455B.298 POWERS AND DUTIES OF THE DIRECTOR.

10 35 The director shall:



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11 1 1. Process, and review loan, and approve or deny intended
11 2 use plan applications to determine if an application meets the
11 3 eligibility requirements set by the rules of the department.
11 4 ~~2. Approve loan applications of eligible entities which~~
11 5 ~~satisfy the rules adopted by the commission, and the intended~~
11 6 ~~use plans developed by the department under section 455B.296.~~
11 7 ~~3.~~ 2. Process and review all documents relating to
11 8 projects and the extending of loans the planning, design,
11 9 construction, and operation of water pollution control works
11 10 and drinking water facilities pursuant to this part.
11 11 ~~4.~~ 3. Prepare and process, in coordination with the
11 12 authority, documents relating to the extending of loans, the
11 13 ~~sale and issuance of bonds, notes, or other obligations of the~~
11 14 ~~authority relating to the program, and the administration of~~
11 15 ~~the program.~~
11 16 ~~5.~~ 4. Include in the budget prepared pursuant to section
11 17 455A.4, subsection 1, paragraph "c", an annual budget for the
11 18 administration of the program and the use and disposition of
11 19 amounts on deposit in the administration funds.
11 20 ~~6. Charge each loan recipient a loan origination fee and~~
11 21 ~~an annual loan servicing fee. The amount of the loan~~
11 22 ~~origination fees and the loan servicing fees established shall~~
11 23 ~~be relative to the amount of a loan made from the revolving~~
11 24 ~~loan fund. The director shall deposit the receipts from the~~
11 25 ~~loan origination fees and the loan servicing fees in the~~
11 26 ~~appropriate administration fund.~~
11 27 ~~7. Consult with and receive the approval of the authority~~
11 28 ~~concerning the terms and conditions of loan agreements as to~~
11 29 ~~the financial integrity of the loan.~~
11 30 5. Receive fees pursuant to the program as determined in
11 31 conjunction with the authority.
11 32 ~~8.~~ 6. Perform other acts and assume other duties and
11 33 responsibilities necessary for the operation of the program
11 34 and for the carrying out of the Clean Water Act and the Safe
11 35 Drinking Water Act.



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12 1

EXPLANATION

12 2 This bill relates to the administration of the Iowa water
12 3 pollution control works and drinking water facilities
12 4 financing program.

12 5 The Iowa water pollution control works and drinking water
12 6 facilities financing program is jointly administered by the
12 7 Iowa finance authority and the department of natural
12 8 resources. The bill modifies the allocation of duties and
12 9 responsibilities of the authority and department under the
12 10 program. The bill adds provisions in Code chapter 16 that are
12 11 currently only in Code chapter 455B relating to definitions
12 12 and establishment and maintenance of funds and accounts under
12 13 the program.

12 14 In dividing the duties under the program, the bill provides
12 15 that the department shall process, review, and approve or deny
12 16 intended use plan applications; process and review all
12 17 documents relating to the planning, design, construction, and
12 18 operation of water facilities; prepare and process, in
12 19 coordination with the authority, documents relating to the
12 20 administration of the program; include in the department's
12 21 annual budget a budget for the administration of the program
12 22 and the use and disposition of amounts on deposit in the
12 23 administration of the funds; receive fees under the program;
12 24 and perform other acts and assume other duties and
12 25 responsibilities necessary for the operation of the program.
12 26 The bill provides that the authority shall cooperate with the
12 27 department in administering and financing the program; may
12 28 issue bonds and notes for the purposes of funding funds under
12 29 the program; may enter into lending agreements or purchase
12 30 agreements with bondholders or noteholders; shall determine
12 31 the interest rate and repayment terms of the loans under the
12 32 program and enter into loan agreements with eligible entities;
12 33 shall process, review, and approve or deny loan applications
12 34 under the program; and may charge fees and costs necessary for
12 35 the continued operation of the program.



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13 1 The bill eliminates specific references to funds under the
13 2 program and provides general provisions relating to the
13 3 creation of funds and accounts under the program. The bill
13 4 provides that funds or accounts held by the department or the
13 5 authority, or a trustee acting on behalf of the department or
13 6 authority, shall not be considered part of the general fund of
13 7 the state, are not subject to appropriation for any other
13 8 purpose by the general assembly, and in determining a general
13 9 fund balance shall not be included in the general fund of the
13 10 state, but shall remain in the funds and accounts maintained
13 11 by the department or authority or trustee pursuant to a trust
13 12 agreement. The bill provides that funds and accounts held by
13 13 the department or authority, or a trustee acting on behalf of
13 14 the department authority, are separate dedicated funds and
13 15 accounts under the administration and control of the
13 16 department or authority.

13 17 The bill provides that moneys appropriated to the
13 18 department and the authority for purposes of paying the
13 19 administration costs and expenses shall be administered as
13 20 determined by the department and the authority.

13 21 The bill makes conforming amendments.

13 22 LSB 1326HV 83

13 23 tm/nh/5



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House File 282 - Introduced

HOUSE FILE
BY COMMITTEE ON EDUCATION

(SUCCESSOR TO HSB 3)

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

Passed Senate, Date _____
Vote: Ayes _____ Nays _____

A BILL FOR

- 1 An Act relating to the funding of school district programs for
- 2 returning dropouts and dropout prevention.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4 TLSB 1535HV 83
- 5 ak/sc/8



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1 1 Section 1. Section 257.38, subsection 2, Code 2009, is
1 2 amended to read as follows:
1 3 2. Program plans shall identify the parts of the plan that
1 4 will be implemented first upon approval of the request. If a
1 5 district is requesting to use modified allowable growth to
1 6 finance the program, the school district shall not identify
1 7 more than ~~five~~ seven percent of its budget enrollment for the
1 8 budget year as returning dropouts and potential dropouts.

1 9 EXPLANATION

1 10 This bill allows a school district to identify up to 7
1 11 percent of the district's budget enrollment as returning
1 12 dropouts and potential dropouts when the district is
1 13 requesting to use modified allowable growth to fund a program
1 14 for returning dropouts and dropout prevention. A school
1 15 district is currently allowed to identify only 5 percent of
1 16 the district's budget enrollment as returning dropouts or
1 17 potential dropouts.

1 18 LSB 1535HV 83

1 19 ak/sc/8



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House File 283 - Introduced

HOUSE FILE
BY COMMITTEE ON VETERANS
AFFAIRS

(SUCCESSOR TO HSB 66)

(COMPANION TO LSB 1263SV BY
COMMITTEE ON VETERANS AFFAIRS)

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

Passed Senate, Date _____
Vote: Ayes _____ Nays _____

A BILL FOR

1 An Act relating to the county commissions of veteran affairs fund
2 and required hours of service for executive directors and
3 administrators.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 1263HV 83
6 md/rj/14



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House File 283 - Introduced continued

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1 1 Section 1. Section 35A.16, subsection 3, as enacted by
 1 2 2008 Iowa Acts, chapter 1130, section 2, is amended to read as
 1 3 follows:
 1 4 3. a. If sufficient moneys are available, the department
 1 5 shall annually allocate ten thousand dollars to each county
 1 6 commission of veteran affairs, or to each county sharing the
 1 7 services of an executive director or administrator pursuant to
 1 8 chapter 28E, to be used ~~for the employment of an executive~~
~~1 9 director or administrator~~ to provide services to veterans
 1 10 pursuant to section 35B.6.
 1 11 b. If a county fails to be in compliance with the
~~1 12 requirements of section 35B.6 on June 30 of each fiscal year,~~
~~1 13 all moneys received by the county pursuant to this subsection~~
~~1 14 during that fiscal year shall be reimbursed to the county~~
~~1 15 commissions of veteran affairs fund.~~
 1 16 c. Moneys distributed to a county under this subsection
~~1 17 shall be used to supplement and not supplant any existing~~
~~1 18 funding provided by the county or received by the county from~~
~~1 19 any other source. The department shall adopt a maintenance of~~
~~1 20 effort requirement for moneys distributed under this~~
~~1 21 subsection.~~
 1 22 Sec. 2. Section 35B.6, subsection 4, paragraph c, as
 1 23 enacted by 2008 Iowa Acts, chapter 1130, section 6, is amended
 1 24 to read as follows:
 1 25 c. Counties sharing the services of an executive director
 1 26 or administrator shall ~~consider the aggregate population of~~
~~1 27 such counties when determining~~ provide the number of hours of
 1 28 service required under paragraph "b" for each county. ~~The~~
~~1 29 number of hours shall be allocated between the counties in the~~
~~1 30 proportion that the population of each county bears to the~~
~~1 31 aggregate population.~~
 1 32 EXPLANATION
 1 33 This bill amends sections of 2008 Iowa Acts, chapter 1130,
 1 34 relating to administration of the county commissions of
 1 35 veteran affairs fund and the hours of service requirement for



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2 1 county commission of veteran affairs executive directors and
2 2 administrators, which become effective on July 1, 2009.
2 3 The bill provides that moneys received by a county from the
2 4 county commissions of veteran affairs fund may be used to
2 5 provide veterans' services rather than only for the employment
2 6 of an executive director or an administrator. The bill also
2 7 provides that if a county fails to be in compliance with the
2 8 requirements of Code section 35B.6 on June 30 of any fiscal
2 9 year, all moneys received by the county from the county
2 10 commissions of veteran affairs fund during that fiscal year
2 11 must be reimbursed to the fund. The bill requires that moneys
2 12 distributed from the county commissions of veteran affairs
2 13 fund only be used to supplement and not supplant any existing
2 14 funding provided by the county or received by the county from
2 15 any other source.
2 16 The bill also amends the hours of service requirement for
2 17 executive directors and administrators that are being shared
2 18 between multiple counties. Instead of allocating the hours of
2 19 service among the counties based on population, the bill
2 20 requires each county to meet the hours of service requirement.
2 21 LSB 1263HV 83
2 22 md/rj/14



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House File 284 - Introduced

HOUSE FILE
BY WESSEL=KROESCHELL and
ABDUL=SAMAD

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

Passed Senate, Date _____
Vote: Ayes _____ Nays _____

A BILL FOR

- 1 An Act establishing a task force to develop a plan for the
- 2 implementation of an online school for certain populations.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4 TLSB 1858HH 83
- 5 kh/rj/5



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1 1 Section 1. DEPARTMENT OF EDUCATION == ONLINE SCHOOL TASK
1 2 FORCE.

1 3 1. The department of education shall convene a task force
1 4 to develop a plan for the implementation of an online school
1 5 for certain populations residing in this state using the
1 6 internet or another telecommunications system. The plan shall
1 7 address, at a minimum, online learning tools, online
1 8 curricula, online course credit, and the issuance of a high
1 9 school diploma for coursework successfully completed online.
1 10 The online school plan shall be designed for populations that
1 11 include but are not limited to persons who have dropped out,
1 12 or are at risk of dropping out, of school; persons who are
1 13 institutionalized underachievers; persons with mental illness,
1 14 mental retardation, or other developmental disabilities;
1 15 persons with learning disabilities; and other persons who face
1 16 barriers to academic achievement.

1 17 2. The director of the department of education shall
1 18 appoint members to the task force which shall include
1 19 education practitioners and stakeholders, persons who
1 20 represent the target populations, and educational technology
1 21 specialists.

1 22 3. The task force shall select a chairperson from its
1 23 membership. A majority of the members of the task force shall
1 24 constitute a quorum.

1 25 4. The task force shall submit its findings and
1 26 recommendations in a report to the state board of education
1 27 and the general assembly by January 15, 2010.

1 28 EXPLANATION

1 29 This bill directs the department of education to convene a
1 30 task force to develop a plan for the implementation of an
1 31 online school for certain populations in the state, including
1 32 but not limited to persons who have dropped out, or are at
1 33 risk of dropping out, of school; persons who are
1 34 institutionalized underachievers; persons with mental illness,
1 35 mental retardation, or other developmental disabilities;



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2 1 persons with learning disabilities; and other persons who face
2 2 barriers to academic achievement. The plan must address
2 3 online learning tools, online curricula, online course credit,
2 4 and the issuance of a high school diploma for coursework
2 5 successfully completed online.

2 6 The director of the department is directed to appoint
2 7 members to the task force which shall include education
2 8 practitioners and stakeholders, persons who represent the
2 9 target populations, and educational technology specialists.

2 10 The task force must submit its findings and recommendations
2 11 in a report to the state board of education and the general
2 12 assembly by January 15, 2010.

2 13 LSB 1858HH 83

2 14 kh/rj/5



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House File 285 - Introduced

HOUSE FILE
BY PAULSEN and WAGNER

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

A BILL FOR

1 An Act authorizing counties and cities to establish disaster
2 revitalization areas, providing for a disaster revitalization
3 property tax exemption, and including effective date and
4 retroactive applicability date provisions.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
6 TLSB 1063YH 83
7 md/sc/5



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1 1 Section 1. Section 364.19, Code 2009, is amended to read
1 2 as follows:
1 3 364.19 CONTRACTS TO PROVIDE SERVICES TO TAX=EXEMPT
1 4 PROPERTY.
1 5 A city council or county board of supervisors may enter
1 6 into a contract with a person whose property is totally or
1 7 partially exempt from taxation under chapter 404, chapter
1 8 404B, section 427.1, or section 427B.1, for the city or county
1 9 to provide specified services to that person including but not
1 10 limited to police protection, fire protection, street
1 11 maintenance, and waste collection. The contract shall
1 12 terminate as of the date previously exempt property becomes
1 13 subject to taxation.
1 14 Sec. 2. NEW SECTION. 404B.1 DISASTER REVITALIZATION
1 15 AREA.
1 16 1. a. The governing body of a city may, by ordinance,
1 17 designate an area of the city a disaster revitalization area
1 18 if that area is within a county or portion of a county
1 19 declared a disaster area by the governor or a federal
1 20 official.
1 21 b. The governing body of a county may, by ordinance,
1 22 designate an area of the county outside the boundaries of a
1 23 city as a disaster revitalization area if that area is within
1 24 a county or portion of a county declared a disaster area by
1 25 the governor or a federal official.
1 26 2. A disaster revitalization area shall be composed of
1 27 contiguous parcels. However, the governing body of a city or
1 28 the governing body of a county may establish more than one
1 29 disaster revitalization area.
1 30 Sec. 3. NEW SECTION. 404B.2 CONDITIONS MANDATORY.
1 31 A city or county may only exercise the authority conferred
1 32 upon it in this chapter after all of the following conditions
1 33 have been met:
1 34 1. The governing body has adopted a resolution finding
1 35 that the area was affected by a natural disaster, that



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2 1 revitalization of the area is in the economic interest of the
2 2 residents of the city or county, as applicable, and the area
2 3 substantially meets the criteria of section 404B.1.
2 4 2. The city or county has prepared a proposed plan for the
2 5 designated disaster revitalization area. The proposed
2 6 disaster revitalization plan shall include all of the
2 7 following:
2 8 a. A legal description of the real property forming the
2 9 boundaries of the proposed area along with a map depicting the
2 10 existing parcels of real property.
2 11 b. The assessed valuation of the real property in the
2 12 proposed area as of January 1, 2007, listing the land and
2 13 building values separately.
2 14 c. A list of names and addresses of the owners of record
2 15 of real property within the area.
2 16 d. The existing zoning classifications and district
2 17 boundaries and the existing and proposed land uses within the
2 18 area.
2 19 e. The exemption percentage applicable in the proposed
2 20 area pursuant to section 404B.4.
2 21 f. A statement specifying whether the revitalization is
2 22 applicable to none, some, or all of the property assessed as
2 23 residential, agricultural, commercial, or industrial property
2 24 within the designated area.
2 25 g. A definition of revitalization, including whether it is
2 26 applicable to existing buildings, new construction, or
2 27 development of previously vacant land. A definition of
2 28 revitalization may also include a requirement for a minimum
2 29 increase in assessed valuation of individual parcels of
2 30 property in the area.
2 31 h. A statement specifying the duration of the designated
2 32 disaster revitalization area.
2 33 i. A description of any federal, state, or private grant
2 34 or loan program likely to be a source of funding for
2 35 improvements within the area and a description of any grant or



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3 1 loan program which the city or county has or will have as a
3 2 source of funding for improvements within the area.
3 3 3. a. The city or county has scheduled a public hearing
3 4 and published notice of the hearing in accordance with section
3 5 362.3 or 331.305, as applicable. In addition to notice by
3 6 publication, notification shall also be given by ordinary mail
3 7 to the last known address of the owners of record. The city
3 8 or county shall also send notice by ordinary mail addressed to
3 9 the "occupants" of addresses located within the proposed area,
3 10 unless the governing body of the city or county, by reason of
3 11 lack of a reasonably current and complete address list, or for
3 12 other good cause, shall have waived the notice.

3 13 b. The notices in paragraph "a" may contain a statement
3 14 requesting those in attendance at the hearing to indicate the
3 15 precise nature of desired changes in the proposed plan.

3 16 c. The notice provided by mail to owners and occupants
3 17 within the area shall be given no later than thirty days
3 18 before the date of the public hearing.

3 19 4. The public hearing has been held.

3 20 5. The city or county has adopted the proposed or amended
3 21 plan for the disaster revitalization area after the hearing.

3 22 Sec. 4. NEW SECTION. 404B.3 DISASTER REVITALIZATION PLAN
3 23 AMENDMENTS.

3 24 1. The city or county may subsequently amend a disaster
3 25 revitalization plan after a hearing. Notice of the hearing
3 26 shall be published as provided in section 362.3 or 331.305,
3 27 except that at least seven days' notice must be given, and the
3 28 public hearing shall not be held earlier than the next
3 29 regularly scheduled city council or board of supervisors
3 30 meeting following the published notice. Notice shall also be
3 31 provided by ordinary mail to owners and occupants within the
3 32 area and any proposed addition to the area.

3 33 2. A city which has adopted a plan for a disaster
3 34 revitalization area that covers all property within the city
3 35 limits may amend that plan at any time, pursuant to this



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4 1 section, to include property which has been or will be annexed
4 2 to the city. The provisions of the original disaster
4 3 revitalization plan shall be applicable to the property that
4 4 is annexed and the property shall be considered to have been
4 5 part of the disaster revitalization area as of the effective
4 6 date of its annexation to the city. The notice and hearing
4 7 provisions of subsection 1 shall apply to amendments under
4 8 this subsection.

4 9 Sec. 5. NEW SECTION. 404B.4 BASIS OF TAX EXEMPTION.

4 10 1. All real property within a disaster revitalization area
4 11 is eligible to receive a one hundred percent exemption from
4 12 taxation on the increase in assessed value of the property, as
4 13 compared to the property's assessed value on January 1, 2007,
4 14 if the increase in assessed value is attributable to
4 15 revitalization of the property occurring between June 1, 2008,
4 16 and December 31, 2014. The exemption is for a period not to
4 17 exceed five years, starting with the assessment year beginning
4 18 on January 1, 2009.

4 19 2. A city or county may adopt a different tax exemption
4 20 percentage than the exemption provided in subsection 1. The
4 21 different percentage adopted shall not allow a greater
4 22 exemption, but may allow a smaller exemption. A different
4 23 percentage adopted by a city or county shall apply to every
4 24 disaster revitalization area within the city or county. The
4 25 owners of real property eligible for the exemption provided in
4 26 this section shall elect to take the exemption or shall elect
4 27 to take an eligible exemption provided under another statute.
4 28 Once the election has been made and the exemption granted, the
4 29 owner is not permitted to change the method of exemption.

4 30 Sec. 6. NEW SECTION. 404B.5 APPLICATION FOR EXEMPTION BY
4 31 PROPERTY OWNER.

4 32 1. An application shall be filed for each revitalization
4 33 project resulting in increased assessed value for which an
4 34 exemption is claimed. The application for exemption shall be
4 35 filed by the owner of the property with the local assessor by



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5 1 February 1 of the assessment year in which the increase in
5 2 assessed value is first assessed for taxation, except for the
5 3 assessment year beginning January 1, 2009. Applications for
5 4 the assessment year beginning January 1, 2009, shall be filed
5 5 with the local assessor by May 1, 2009. Applications for
5 6 exemption shall be made on forms prescribed by the local
5 7 assessor and shall contain information pertaining to the
5 8 requirements under this section and any requirements imposed
5 9 by a city or county governing body.

5 10 2. A person may submit a proposal to the governing body of
5 11 a city or county to receive prior approval for eligibility for
5 12 a tax exemption. The governing body of a city or county, by
5 13 ordinance, may give its prior approval of a tax exemption for
5 14 a revitalization project if the project would meet the
5 15 requirements for the exemption under this chapter and as
5 16 established by the city or county. Prior approval does not
5 17 entitle the owner to exemption from taxation until the project
5 18 has been completed and found to meet the requirements for the
5 19 exemption under this chapter and as established by the city or
5 20 county. An owner may submit an application for an exemption
5 21 based on the increase in assessed value attributable to a
5 22 project that is partially completed at the time of the
5 23 assessment. If the tax exemption is not approved, the person
5 24 may submit an amended proposal to the governing body of the
5 25 city or county to approve or reject.

5 26 Sec. 7. NEW SECTION. 404B.6 PHYSICAL REVIEW OF PROPERTY
5 27 BY ASSESSOR.

5 28 The local assessor shall review each application by making
5 29 a physical review of the property to determine if the
5 30 revitalization project increased the assessed value of the
5 31 real property. If the assessor determines that the assessed
5 32 value of the real property has increased, the assessor shall
5 33 proceed to determine the assessed value of the property and
5 34 certify the valuation determined to the county auditor at the
5 35 time of transmitting the assessment rolls. The assessor shall



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6 1 notify the applicant of the determination, and the assessor's
6 2 decision may be appealed to the local board of review at the
6 3 times specified in section 441.37. After the tax exemption is
6 4 granted, the local assessor shall continue to grant the tax
6 5 exemption, with periodic physical review by the assessor, for
6 6 the time period specified by ordinance. The tax exemption for
6 7 the succeeding years shall be granted without the taxpayer
6 8 having to file an application for the succeeding years, unless
6 9 additional revitalization projects occur on the property.

6 10 Sec. 8. NEW SECTION. 404B.7 EXPIRATION OR REPEAL OF
6 11 ORDINANCE.

6 12 An ordinance enacted under this chapter shall expire or be
6 13 repealed no later than December 31, 2019.

6 14 Sec. 9. Section 437A.19, subsection 1, paragraph a, Code
6 15 2009, is amended by adding the following new subparagraph:

6 16 NEW SUBPARAGRAPH. (8) The local amount of any major
6 17 addition eligible for the disaster revitalization exemption
6 18 provided for in chapter 404B, by situs.

6 19 Sec. 10. Section 437A.19, subsection 2, Code 2009, is
6 20 amended by adding the following new paragraph:

6 21 NEW PARAGRAPH. g. In the event any taxpayer property is
6 22 eligible for the disaster revitalization tax exemption
6 23 described in chapter 404B, adjust the assessed value of
6 24 taxpayer property within each affected local taxing district
6 25 to reflect such exemption.

6 26 Sec. 11. EFFECTIVE AND RETROACTIVE APPLICABILITY DATES.
6 27 This Act, being deemed of immediate importance, takes effect
6 28 upon enactment and applies retroactively to January 1, 2009,
6 29 for assessment years beginning on or after that date.

6 30 EXPLANATION

6 31 This bill authorizes cities and counties to designate a
6 32 disaster revitalization area if the area is within a county or
6 33 portion of a county declared a disaster area by the governor
6 34 or a federal official. The bill allows the city or county to
6 35 establish more than one disaster revitalization area within



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7 1 its jurisdiction.

7 2 Under the bill, prior to establishment of a disaster
7 3 revitalization area, the city or county must adopt a
7 4 resolution finding that the area was affected by a natural
7 5 disaster and that revitalization of the area is in the city or
7 6 county's economic interest, and the city or county must
7 7 prepare a proposed plan for the designated disaster
7 8 revitalization area. The bill specifies the elements that
7 9 must be included in a plan.

7 10 The bill requires a public hearing prior to establishing a
7 11 disaster revitalization area. Notice by publication and
7 12 notice by mail must be given to all owners of record of real
7 13 property located within the proposed area and the tenants
7 14 living within the proposed area.

7 15 The bill provides that all real property within a disaster
7 16 revitalization area is eligible to receive a 100 percent
7 17 exemption from taxation on the increase in assessed value of
7 18 the property, as compared to the property's assessed value on
7 19 January 1, 2007, if the increase is attributable to
7 20 revitalization of the property occurring between June 1, 2008,
7 21 and December 31, 2014. The exemption is available for a
7 22 period not to exceed five years, starting with the assessment
7 23 year beginning on January 1, 2009. The bill allows a city or
7 24 county to adopt a different tax exemption percentage, so long
7 25 as the exemption percentage applies to every disaster
7 26 revitalization area within the city or county. The bill
7 27 prohibits property owners from utilizing multiple tax
7 28 exemptions for the same increase in assessed value.

7 29 The bill sets forth the exemption application process and
7 30 allows for prior approval of revitalization projects. Under
7 31 the bill, if a tax exemption is granted, the local assessor
7 32 shall continue to grant the tax exemption for succeeding
7 33 years, with periodic physical review by the assessor, without
7 34 the taxpayer having to file an application for the succeeding
7 35 years, unless additional revitalization projects occur on the



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8 1 property.

8 2 The bill provides that an ordinance establishing a disaster
8 3 revitalization area and tax exemption shall expire or be
8 4 repealed no later than December 31, 2019.

8 5 The bill makes conforming amendments to valuation reporting
8 6 requirements of taxpayers who are electricity and natural gas
8 7 providers who are receiving a disaster revitalization property
8 8 tax exemption under the bill.

8 9 The bill takes effect upon enactment and applies
8 10 retroactively to assessment years beginning on or after
8 11 January 1, 2009.

8 12 LSB 1063YH 83

8 13 md/sc/5



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House File 286 - Introduced

HOUSE FILE
BY WESSEL=KROESCHELL

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

A BILL FOR

- 1 An Act creating a public transit vehicle fund.
- 2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 3 TLSB 1702HH 83
- 4 dea/nh/5



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PAG LIN

1 1 Section 1. NEW SECTION. 324A.8 PUBLIC TRANSIT VEHICLE
1 2 FUND.

1 3 1. A public transit vehicle fund is created in the state
1 4 treasury under the control of the department. The fund shall
1 5 consist of any moneys appropriated by the general assembly and
1 6 any revenues credited by law to the fund.

1 7 2. The department shall award moneys from the public
1 8 transit vehicle fund to public transit systems within the
1 9 state to assist the systems in meeting match requirements for
1 10 federal grants for the purchase of transit vehicles and
1 11 equipment. The department shall adopt rules specifying
1 12 criteria to be considered in evaluating a request for
1 13 assistance under this section.

1 14 3. Moneys in the fund are not subject to section 8.33.
1 15 Notwithstanding section 12C.7, subsection 2, interest or
1 16 earnings on moneys deposited in the fund shall be credited to
1 17 the fund.

1 18 EXPLANATION

1 19 This bill creates a public transit vehicle fund to be
1 20 administered by the department of transportation. The purpose
1 21 of the fund is to assist public transit systems to leverage
1 22 federal funds for the purchase of buses, vans, and other
1 23 public transit equipment. Moneys in the fund are to be
1 24 awarded to public transit systems when matching funds are
1 25 needed to qualify for federal grant money. The department is
1 26 required to adopt rules specifying criteria for evaluating
1 27 applications for assistance from the public transit vehicle
1 28 fund.

1 29 LSB 1702HH 83

1 30 dea/nh/5



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House File 287 - Introduced

HOUSE FILE
BY PAULSEN

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

A BILL FOR

1 An Act providing a property tax exemption for certain
2 agricultural property affected by a natural disaster and
3 including effective date and retroactive applicability date
4 provisions.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
6 TL5B 1064YH 83
7 md/sc/8



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1 1 Section 1. PRODUCTIVITY LOSS EXEMPTION FOR AGRICULTURAL
1 2 PROPERTY AFFECTED BY A NATURAL DISASTER.
1 3 1. For valuations established pursuant to section 441.21,
1 4 subsection 1, paragraphs "e" and "f", for the assessment year
1 5 beginning January 1, 2009, a productivity loss exemption shall
1 6 be available for eligible agricultural property located in any
1 7 county or portion of a county declared a disaster area by the
1 8 governor or a federal official.
1 9 2. Agricultural property is eligible for a productivity
1 10 loss exemption if it was used in the previous year for row
1 11 crop production and has subsequently been rendered unsuitable
1 12 for row crop production due to conditions created by the
1 13 natural disaster. Eligible agricultural property shall be
1 14 measured in acres.
1 15 3. Agricultural property that is eligible for a
1 16 productivity loss exemption shall be included in the aggregate
1 17 actual valuation of agricultural real estate within the
1 18 assessing jurisdiction and included in the jurisdiction's
1 19 agricultural factor calculation, without regard to the
1 20 property's exempt status.
1 21 4. The owner of eligible agricultural property shall
1 22 submit to the director of revenue an application for a
1 23 productivity loss exemption on a form prescribed by the
1 24 director of revenue. The department of revenue may conduct
1 25 field investigations to verify information contained in an
1 26 application.
1 27 Sec. 2. EMERGENCY RULES. The director of revenue may
1 28 adopt emergency rules under section 17A.4, subsection 3, and
1 29 section 17A.5, subsection 2, paragraph "b", to implement the
1 30 provisions of this Act, and the rules shall be effective
1 31 immediately upon filing unless a later date is specified in
1 32 the rules. Any rules adopted in accordance with this section
1 33 shall also be published as a notice of intended action as
1 34 provided in section 17A.4.
1 35 Sec. 3. EFFECTIVE AND RETROACTIVE APPLICABILITY DATES.



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2 1 This Act, being deemed of immediate importance, takes effect
2 2 upon enactment and applies retroactively to the assessment
2 3 year beginning January 1, 2009.

2 4 EXPLANATION

2 5 This bill creates a property tax exemption for agricultural
2 6 property located in an area declared a disaster area by the
2 7 governor or by a federal official. Agricultural property
2 8 eligible for the exemption is property that was used in the
2 9 previous year for row crop production and has subsequently
2 10 been rendered unsuitable for row crop production due to
2 11 conditions created by the natural disaster.

2 12 The assessment of agricultural property, excluding
2 13 agricultural dwellings, is based exclusively on productivity,
2 14 or net earning capacity per acre, over a five-year period.
2 15 For 2009 assessments, the five-year period includes the years
2 16 2003 through 2007. Measurements of productivity are
2 17 calculated on a countywide basis. Under the bill,
2 18 agricultural property that is eligible for a productivity loss
2 19 exemption is included in those calculations, without regard to
2 20 its exempt status.

2 21 The bill requires owners of eligible agricultural property
2 22 to submit an application to the director of revenue and allows
2 23 the department of revenue to conduct field investigations to
2 24 verify information contained in an application. The bill
2 25 gives the director of revenue emergency rulemaking authority
2 26 to implement the exemption.

2 27 The bill takes effect upon enactment and applies
2 28 retroactively to the assessment year beginning January 1,
2 29 2009.

2 30 LSB 1064YH 83

2 31 md/sc/8



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House File 288 - Introduced

HOUSE FILE
BY SMITH

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

Passed Senate, Date _____
Vote: Ayes _____ Nays _____

A BILL FOR

- 1 An Act modifying provisions applicable to the regulation of
- 2 delayed deposit services businesses and providing a penalty.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4 TLSB 1931HH 83
- 5 rn/sc/5



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1 1 Section 1. Section 533D.9, subsections 1 and 2, Code 2009,
1 2 are amended to read as follows:
1 3 1. A licensee shall not charge ~~a fee in excess of fifteen~~
~~1 4 dollars on the first one hundred dollars on the face amount of~~
~~1 5 a check or more than ten dollars on subsequent one hundred~~
~~1 6 dollar increments on the face amount of the check for services~~
1 7 provided by the licensee, or pro rata for any portion of one
~~1 8 hundred dollars face value any interest, penalties, fees, or~~
1 9 other charges which when combined exceed an annual percentage
1 10 rate of thirty-six percent of the amount loaned, as computed
1 11 pursuant to the federal Truth in Lending Act.

1 12 2. A licensee shall give to the maker of the check, at the
1 13 time any delayed deposit service transaction is made, or if
1 14 there are two or more makers, to one of them, notice written
1 15 in clear, understandable language disclosing all of the
1 16 following:

1 17 a. The fee to be charged for the transaction.
1 18 b. The annual percentage rate of the sum of any interest,
1 19 penalties, fees, or other charges, as computed pursuant to the
1 20 federal Truth in Lending Act.

1 21 c. The date on which the check will be deposited or
1 22 presented for negotiation.

1 23 ~~d. Any penalty, not to exceed fifteen dollars, which the~~
~~1 24 licensee will charge if the check is not negotiable on the~~
~~1 25 date agreed upon. A penalty to be charged pursuant to this~~
~~1 26 section shall only be collected by the licensee once on a~~
~~1 27 check no matter how long the check remains unpaid. A penalty~~
~~1 28 to be charged pursuant to this section is a licensee's~~
~~1 29 exclusive remedy and if a licensee charges a penalty pursuant~~
~~1 30 to this section no other penalties under this chapter or any~~
~~1 31 other provision apply.~~

1 32 Sec. 2. Section 533D.10, subsection 1, Code 2009, is
1 33 amended to read as follows:

1 34 1. A licensee shall not do any of the following:

1 35 a. Hold from any one maker more than two checks at any one



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2 1 time.
2 2 b. Hold from any one maker a check or checks in an
2 3 aggregate face amount of more than five hundred dollars at any
2 4 one time.

~~2 5 e. Hold or agree to hold a check for more than thirty-one
2 6 days.~~

2 7 ~~d.~~ c. Require the maker to receive payment by a method
2 8 which causes the maker to pay additional or further fees and
2 9 charges to the licensee or another person.

2 10 ~~e.~~ d. Repay, refinance, or otherwise consolidate a
2 11 postdated check transaction with the proceeds of another
2 12 postdated check transaction ~~made by the same licensee.~~

2 13 ~~f.~~ e. Receive any other charges or fees in addition to
2 14 the fees listed in section 533D.9, ~~subsections 1 and 2~~
2 15 subsection 1.

2 16 Sec. 3. Section 533D.15, Code 2009, is amended to read as
2 17 follows:

~~2 18 533D.15 CRIMINAL VIOLATION == OPERATION OF BUSINESS
2 19 WITHOUT LICENSE == INJUNCTION.~~

2 20 A person required to be licensed under this chapter who
2 21 operates a delayed deposit services business in this state
2 22 without first obtaining a license under this chapter or while
2 23 such license is suspended or revoked by the superintendent, or
2 24 who otherwise violates any provision of this chapter, is
2 25 guilty of a serious misdemeanor. In addition to the criminal
2 26 penalty provided for in this section, the superintendent may
2 27 also commence an action to enjoin the operation of the
2 28 business.

EXPLANATION

2 30 This bill modifies provisions applicable to the regulation
2 31 of delayed deposit services businesses licensed pursuant to
2 32 Code chapter 533D.

2 33 The bill provides that the combined interest, penalties,
2 34 fees, or other charges imposed by a licensee upon a maker of a
2 35 check shall not exceed an annual percentage rate of 36 percent



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House File 288 - Introduced continued

3 1 as computed pursuant to the federal Truth in Lending Act. The
3 2 bill modifies a provision requiring disclosure of the annual
3 3 percentage rate to specify that it is based on the sum of
3 4 interest, penalties, fees, or other charges. The bill deletes
3 5 current restrictions on the amount of fees which may be
3 6 charged per \$100 loan increment by a licensee and deletes a
3 7 provision establishing a penalty not to exceed \$15 which may
3 8 be imposed upon the maker of a check if the check proves not
3 9 negotiable, to correspond with the inclusion of any interest,
3 10 fees, charges, and penalties within the 36 percent annual
3 11 percentage rate maximum.

3 12 The bill additionally deletes a current provision that
3 13 prohibits a licensee from holding or agreeing to hold a check
3 14 for longer than 31 days. The bill also modifies a restriction
3 15 that prohibits the repayment, refinancing, or consolidation of
3 16 a postdated check transaction with the proceeds of another
3 17 postdated check transaction made by the same licensee to
3 18 provide that repayment, refinancing, or consolidation of a
3 19 postdated check transaction with the proceeds of another
3 20 postdated check transaction made by any licensee would
3 21 constitute a prohibited act.

3 22 The bill expands the current criminal penalty of a serious
3 23 misdemeanor for operation of a delayed deposit services
3 24 business without a license to apply to any violation of Code
3 25 chapter 533D. A serious misdemeanor is punishable by
3 26 confinement for no more than one year and a fine of at least
3 27 \$315 but not more than \$1,875. The bill also expands
3 28 injunction from operation of a business to be applicable to
3 29 any violation of the Code chapter.

3 30 LSB 1931HH 83
3 31 rn/sc/5



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House File 289 - Introduced

HOUSE FILE
BY PAULSEN

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

A BILL FOR

1 An Act authorizing the use of moneys available in the Iowa power
2 fund for the provision of grants to political subdivision for
3 restoration of heating and power capability to buildings under
4 specified circumstances and providing an effective date.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
6 TL5B 1032YH 83
7 rn/rj/14



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House File 289 - Introduced continued

PAG LIN

1 1 Section 1. HEATING AND POWER GRANTS == 2008 DISASTER
1 2 RELIEF. In addition to the authorized uses of moneys
1 3 available in the Iowa power fund as specified in section
1 4 469.9, subsection 4, amounts available in the fund shall be
1 5 used for the purpose of awarding grants to governmental
1 6 subdivisions for allocation to owners of buildings which
1 7 sustained damage to heating and power systems and capabilities
1 8 due to a natural disaster occurring after May 24, 2008, and
1 9 before August 14, 2008. For the purposes of this section,
1 10 "governmental subdivision" means a city, county, township,
1 11 school corporation, merged area, area education agency,
1 12 institution governed by the state board of regents, or any
1 13 other governmental subdivision. For the purposes of this
1 14 section, "building" means a combination of any materials,
1 15 whether portable or fixed, to form a structure affording
1 16 facilities or shelter for persons, animals, or property, and
1 17 includes any part of a building. Eligibility criteria,
1 18 application procedures, and documentation requirements
1 19 relating to damages sustained shall be established by the
1 20 director of the office of energy independence by rule, in
1 21 consultation with the department of economic development and
1 22 the administrator of the homeland security and emergency
1 23 management division of the department of public defense.
1 24 Applications for grants pursuant to this section shall be
1 25 submitted by a political subdivision to the office no later
1 26 than December 31, 2009.

1 27 Sec. 2. EFFECTIVE DATE. This Act, being deemed of
1 28 immediate importance, takes effect upon enactment.

1 29 EXPLANATION

1 30 This bill authorizes moneys available in the Iowa power
1 31 fund established in Code section 469.9 to be used by a
1 32 political subdivision for the awarding of grants to restore
1 33 heating and power capability to buildings which sustained
1 34 damages impairing that capability due to a natural disaster
1 35 occurring after May 24, 2008, and before August 14, 2008. The



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2 1 bill provides definitions of "political subdivision" and
2 2 "building", and provides that eligibility criteria,
2 3 application procedures, and documentation requirements
2 4 relating to damages sustained shall be established by the
2 5 director of the office of energy independence by rule, in
2 6 consultation with the department of economic development and
2 7 the administrator of the homeland security and emergency
2 8 management division of the department of public defense. The
2 9 bill requires applications to be received by the office no
2 10 later than December 31, 2009.
2 11 The bill takes effect upon enactment.
2 12 LSB 1032YH 83
2 13 rn/rj/14



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House File 290 - Introduced

HOUSE FILE
BY PAULSEN

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

A BILL FOR

- 1 An Act relating to linked investments by providing for loans to
- 2 borrowers in disaster areas.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4 TLSB 1037YH 83
- 5 tw/rj/14



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House File 290 - Introduced continued

PAG LIN

1 1 Section 1. Section 12.32, subsection 3, Code 2009, is
1 2 amended to read as follows:
1 3 3. "Linked investment" means a certificate of deposit
1 4 issued pursuant to this section and sections 12.34 through
1 5 12.43 to the treasurer of state by an eligible lending
1 6 institution, at an interest rate not more than three percent
1 7 below current market rate on the condition that the
1 8 institution agrees to lend the value of the deposit, according
1 9 to the investment agreement provided in section 12.35, to an
1 10 eligible borrower at a rate not to exceed four percent above
1 11 the rate paid on the certificate of deposit, or, if the
1 12 borrower is located in an area declared a disaster area by the
1 13 governor pursuant to section 29C.6 or by any federal official,
1 14 at a rate not to exceed two percent above the rate paid on the
1 15 certificate of deposit. The treasurer of state shall
1 16 determine and make available the current market rate which
1 17 shall be used each month.

1 18 Sec. 2. Section 12.36, subsection 2, Code 2009, is amended
1 19 to read as follows:

1 20 2. Upon acceptance of the linked investment loan package
1 21 or any portion of the package, the treasurer of state shall
1 22 deposit funds with the eligible lending institution and the
1 23 eligible lending institution shall issue to the treasurer of
1 24 state one or more certificates of deposit with interest at a
1 25 rate determined pursuant to section 12.32, subsection 3. The
1 26 treasurer of state shall not deposit funds with an eligible
1 27 lending institution pursuant to sections 12.32, 12.34, 12.35,
1 28 this section, and sections 12.37 through 12.43, unless the
1 29 certificate of deposit earns a rate of interest of at least
1 30 one percent, except that if the borrower is located in an area
1 31 declared a disaster area by the governor pursuant to section
1 32 29C.6 or by any federal official, the certificate of deposit
1 33 may earn a rate of interest of less than one percent.
1 34 Interest earned on the certificate of deposit and principal
1 35 not renewed shall be remitted to the treasurer of state at the



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House File 290 - Introduced continued

2 1 time the certificate of deposit matures. Interest from the
2 2 linked investments for tomorrow program shall be considered
2 3 earnings of the general fund of the state. Certificates of
2 4 deposit issued pursuant to sections 12.32, 12.34, 12.35, this
2 5 section, and sections 12.37 through 12.43 are not subject to a
2 6 penalty for early withdrawal.

2 7 Sec. 3. Section 12.37, subsection 1, Code 2009, is amended
2 8 to read as follows:

2 9 1. Upon the placement of a linked investment with an
2 10 eligible lending institution, the institution is required to
2 11 lend the funds to the eligible borrower listed in the linked
2 12 investment loan package and in accordance with the investment
2 13 agreement. The loan shall be at a rate ~~not more than four~~
~~2 14 percent above the rate paid the treasurer by the financial~~
~~2 15 institution determined pursuant to section 12.32, subsection~~
2 16 3. The eligible lending institution shall be required to
2 17 submit a certification of compliance with this section in the
2 18 form and manner as prescribed by the treasurer of state.

2 19 EXPLANATION

2 20 This bill adjusts the interest rates on certificates of
2 21 deposits and the related loans issued to borrowers under the
2 22 linked investments program when those borrowers are located in
2 23 a declared disaster area.

2 24 The linked investments program allows the treasurer of
2 25 state to invest the lesser of \$108 million or 25 percent of
2 26 the balance of the state pooled money fund in certificates of
2 27 deposit in eligible lending institutions. The money deposited
2 28 by the state is then lent to eligible borrowers at an interest
2 29 rate which, under current law, can be no more than 4
2 30 percentage points above the rate paid to the treasurer of
2 31 state on the certificate of deposit. Current law also
2 32 requires the treasurer of state to receive an interest rate of
2 33 at least 1 percent on the certificate of deposit.

2 34 The bill adjusts the interest rates on the certificates of
2 35 deposit and the loans for a borrower located in a disaster



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3 1 area. The treasurer of state can receive less than 1 percent
3 2 interest on a certificate of deposit and the lending
3 3 institution cannot issue a loan at a rate more than 2
3 4 percentage points above the interest rate paid to the
3 5 treasurer of state on the certificate of deposit.
3 6 LSB 1037YH 83
3 7 tw/rj/14



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House File 291 - Introduced

HOUSE FILE
BY PAULSEN

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

A BILL FOR

1 An Act providing for an adjustment to assessments of
2 flood-damaged real property in certain assessment years,
3 providing an appropriation, and including effective date and
4 retroactive applicability date provisions.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
6 TLSB 1041YH 83
7 md/sc/14



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House File 291 - Introduced continued

PAG LIN

1 1 Section 1. ASSESSMENT ADJUSTMENT FOR FLOOD=DAMAGED REAL
1 2 PROPERTY.
1 3 1. The governing body of a city may, by ordinance,
1 4 designate an area of the city or the governing body of a
1 5 county may, by ordinance, designate an area of the county
1 6 outside the boundaries of a city, as a disaster adjustment
1 7 area, if the area is within a county or portion of a county
1 8 that was declared a disaster area by the governor or a federal
1 9 official between May 1, 2008, and September 1, 2008, and if
1 10 the real property contained within the area sustained physical
1 11 damage as a result of the natural disaster. Designation as a
1 12 disaster adjustment area shall expire on December 31, 2009.
1 13 2. Parcels of property within a disaster adjustment area
1 14 shall be eligible for an adjustment in the assessed value of
1 15 the parcel for the assessment year beginning January 1, 2007,
1 16 and for the assessment year beginning January 1, 2008.
1 17 3. Notwithstanding the provisions of sections 441.21 and
1 18 441.46, the assessed value of each parcel of property within a
1 19 disaster adjustment area shall be determined as follows:
1 20 a. For the assessment year beginning January 1, 2007, the
1 21 assessed value of a parcel of property within a disaster
1 22 adjustment area shall be the lesser of the assessed value of
1 23 the parcel of property on January 1, 2007, or the assessed
1 24 value of the parcel of property on January 1, 2009, except as
1 25 provided under subsection 4.
1 26 b. For the assessment year beginning January 1, 2008, the
1 27 assessed value of a parcel of property within a disaster
1 28 adjustment area shall be the lesser of the assessed value of
1 29 the parcel of property on January 1, 2008, or the assessed
1 30 value of the parcel of property on January 1, 2009, except as
1 31 provided under subsection 4.
1 32 4. Notwithstanding the provisions of section 441.37
1 33 relating to grounds for protesting an assessment, the assessed
1 34 value of a parcel of property determined under subsection 3
1 35 may be rebutted by the property owner upon a showing to the



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2 1 board of review that the parcel of property was less valuable
2 2 on a date between June 1, 2008, and September 1, 2008. If the
2 3 board of review determines that the parcel of property was
2 4 less valuable on a date within that time period, the board
2 5 shall adjust the assessed value of the property to reflect
2 6 that lesser value. An owner may file a protest with the board
2 7 of review on or after April 16, 2009, to and including May 5,
2 8 2009. The protest shall be in writing and signed by the one
2 9 protesting or by the protester's duly authorized agent.
2 10 Appeals may be taken from the action of the board of review to
2 11 the property assessment appeal board and to the district court
2 12 as provided in sections 441.37A and 441.38.

2 13 5. a. The assessed value as determined under subsection 3
2 14 or as the result of a successful protest filed under
2 15 subsection 4 shall be used to determine the taxes due, based
2 16 on those assessments, for each parcel of property within the
2 17 disaster adjustment area. As a result of the determination of
2 18 taxes due on such property, a taxpayer may be eligible for a
2 19 refund of taxes paid or a credit on taxes due and payable on
2 20 the property.

2 21 b. For the fiscal year beginning July 1, 2008, the amount
2 22 of the refund or credit shall be computed as follows:

2 23 (1) Subtract the assessed value as determined under
2 24 subsection 3, paragraph "a", or the adjusted assessed value if
2 25 a protest is successful under subsection 4, from the assessed
2 26 value as shown on the assessment roll as of January 1, 2007.

2 27 (2) If the difference in subparagraph (1) is greater than
2 28 zero, multiply the consolidated tax rate for the fiscal year
2 29 beginning July 1, 2008, for the taxing district where the
2 30 property is located by the difference in subparagraph (1).

2 31 (3) The amount in subparagraph (2) shall be refunded to
2 32 the taxpayer if taxes due and payable for the fiscal year
2 33 beginning July 1, 2008, have been paid by the taxpayer. If
2 34 such taxes have not been paid by the taxpayer, the amount in
2 35 subparagraph (2) shall be credited on the next-issued property



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3 1 tax statement.

3 2 c. For the fiscal year beginning July 1, 2009, the amount
3 3 of the refund or credit shall be computed as follows:

3 4 (1) Subtract the assessed value as determined under
3 5 subsection 3, paragraph "b", or the adjusted assessed value if
3 6 a protest is successful under subsection 4, from the assessed
3 7 value as shown on the assessment roll as of January 1, 2008.

3 8 (2) If the difference in subparagraph (1) is greater than
3 9 zero, multiply the consolidated tax rate for the fiscal year
3 10 beginning July 1, 2009, for the taxing district where the
3 11 property is located by the difference in subparagraph (1).

3 12 (3) The amount in subparagraph (2) shall be refunded to
3 13 the taxpayer if taxes due and payable for the fiscal year
3 14 beginning July 1, 2009, have been paid by the taxpayer. If
3 15 such taxes have not been paid by the taxpayer, the amount in
3 16 subparagraph (2) shall be credited on the next-issued property
3 17 tax statement.

3 18 6. a. A disaster adjustment area fund is created under
3 19 the control of the director of revenue to carry out the
3 20 purposes of this chapter. There is appropriated annually from
3 21 the general fund of the state to the department of revenue to
3 22 be credited to the disaster adjustment area fund, an amount
3 23 sufficient to implement this chapter.

3 24 b. Each county treasurer shall be reimbursed by the
3 25 director of revenue, from moneys in the disaster adjustment
3 26 area fund, the amount of refunds or credits provided as a
3 27 result of the assessment adjustment under this section.
3 28 Reimbursements received under this section shall be
3 29 apportioned by the county treasurer to the several taxing
3 30 districts.

3 31 c. The county assessor shall annually notify the
3 32 department of revenue by March 1 of the number of persons
3 33 receiving adjustments under this chapter and the total amount
3 34 of refunds or credits provided by the county.

3 35 d. Any balance in the disaster adjustment area fund on



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5 1 The bill takes effect upon enactment and applies
5 2 retroactively to January 1, 2009.
5 3 LSB 1041YH 83
5 4 md/sc/14



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House File 292 - Introduced

HOUSE FILE
BY LUKAN

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

A BILL FOR

1 An Act providing volunteer fire fighters and emergency medical
2 services personnel with an individual income tax credit and
3 including a retroactive applicability date provision.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 1983HH 83
6 tw/mg:sc/14



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House File 292 - Introduced continued

PAG LIN

1 1 Section 1. Section 422.12, Code 2009, is amended by adding
1 2 the following new subsection:

1 3 NEW SUBSECTION. 2A. a. A volunteer fire fighter and
1 4 volunteer emergency medical services personnel credit equal to
1 5 the amount specified in paragraph "b" to compensate the
1 6 taxpayer for the voluntary services.

1 7 b. The amount of the credit is equal to two hundred fifty
1 8 dollars. However, if the taxpayer is not a volunteer fire
1 9 fighter or volunteer emergency medical services personnel for
1 10 the entire tax year, the amount of the dollar credit shall be
1 11 prorated and the amount of credit shall equal the maximum
1 12 amount of credit for the tax year, divided by twelve,
1 13 multiplied by the number of months in the tax year the
1 14 taxpayer was a volunteer. The credit shall be rounded to the
1 15 nearest five dollars. If the taxpayer is a volunteer during
1 16 any part of a month, the taxpayer shall be considered a
1 17 volunteer for the entire month. If the taxpayer is a
1 18 volunteer fire fighter and a volunteer emergency medical
1 19 services personnel during the same month, a credit may be
1 20 claimed for only one volunteer position for that month.

1 21 c. The taxpayer is required to have a written statement
1 22 from the fire chief or other appropriate supervisor verifying
1 23 that the taxpayer was a volunteer fire fighter or volunteer
1 24 emergency medical services personnel for the months for which
1 25 the credit under this subsection is claimed.

1 26 d. For purposes of this subsection:

1 27 (1) "Emergency medical services personnel" means an
1 28 emergency medical care provider who is certified as a first
1 29 responder pursuant to chapter 147A.

1 30 (2) "Volunteer fire fighter" means a volunteer fire
1 31 fighter as defined in section 85.61 who has met the minimum
1 32 training standards established by the fire service training
1 33 bureau pursuant to chapter 100B.

1 34 Sec. 2. RETROACTIVE APPLICABILITY DATE. This Act applies
1 35 retroactively to January 1, 2009, for tax years beginning on



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2 1 or after that date.

2 2 EXPLANATION

2 3 This bill provides an individual income tax credit for an
2 4 individual who is a volunteer fire fighter who has met the
2 5 minimum training standards or a volunteer emergency medical
2 6 services personnel who is certified as a first responder for
2 7 volunteer services provided during the tax year. The credit
2 8 is to compensate the individual for the volunteer services.
2 9 The amount of the credit is \$250. If the individual was not a
2 10 volunteer for the entire tax year, the amount of credit is
2 11 prorated based upon the months of volunteer service. A credit
2 12 may be claimed for only one volunteer position per month.

2 13 The bill applies retroactively to January 1, 2009, for tax
2 14 years beginning on or after that date.

2 15 LSB 1983HH 83

2 16 tw/mg:sc/14



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House File 293 - Introduced

HOUSE FILE
BY KRESSIG

(COMPANION TO LSB 2134SS
BY KREIMAN)

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

A BILL FOR

- 1 An Act relating to reporting requirements for traffic accidents
- 2 involving the operation of motor vehicles by reserve peace
- 3 officers.
- 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 5 TLSB 2134HH 83
- 6 rh/nh/8



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House File 293 - Introduced continued

PAG LIN

1 1 Section 1. Section 321.267A, subsection 4, Code 2009, is
1 2 amended to read as follows:
1 3 4. For the purposes of this section, "certified law
1 4 enforcement officer" ~~means~~ includes a law enforcement officer
1 5 who is certified through the Iowa law enforcement academy as
1 6 provided in section 80B.13, subsection 3, or ~~section 80B.17 a~~
1 7 reserve peace officer certified through the Iowa law
1 8 enforcement academy as provided in section 80D.4A.

1 9 EXPLANATION
1 10 This bill provides that a traffic accident involving the
1 11 operation of a motor vehicle by a law enforcement officer or a
1 12 reserve peace officer shall be reported to the state
1 13 department of transportation by the law enforcement officer's
1 14 employer or the reserve peace officer's employer. The
1 15 employer shall certify to the department whether or not the
1 16 accident occurred in the line of duty while operating an
1 17 official government vehicle.
1 18 LSB 2134HH 83
1 19 rh/nh/8



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House File 294 - Introduced

HOUSE FILE
BY WINDSCHITL

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

Passed Senate, Date _____
Vote: Ayes _____ Nays _____

A BILL FOR

- 1 An Act relating to water use permit fees and the water use permit
- 2 fund.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4 TLSB 2035YH 83
- 5 tm/nh/8



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House File 294 - Introduced continued

PAG LIN

1 1 Section 1. Section 423.3, subsection 94, Code 2009, is
1 2 amended by striking the subsection.
1 3 Sec. 2. Section 455B.265, subsection 6, Code 2009, is
1 4 amended by striking the subsection.
1 5 Sec. 3. Section 455B.265A, Code 2009, is repealed.
1 6 Sec. 4. EMERGENCY RULES. The department of natural
1 7 resources may adopt emergency rules under section 17A.4,
1 8 subsection 3, and section 17A.5, subsection 2, paragraph "b",
1 9 to adopt water use permit fees that were in effect prior to
1 10 the enactment of 2008 Iowa Acts, chapter 1163, and the rules
1 11 shall be effective immediately upon filing unless a later date
1 12 is specified in the rules. Any rules adopted in accordance
1 13 with this section shall also be published as a notice of
1 14 intended action as provided in section 17A.4.

1 15 EXPLANATION

1 16 This bill repeals water use permit fees and the water use
1 17 permit fund that were enacted pursuant to 2008 Iowa Acts,
1 18 chapter 1163.
1 19 The bill eliminates a sales tax exemption for water use
1 20 permit fees paid.
1 21 The bill eliminates fee provisions relating to fees charged
1 22 for certain water use permits.
1 23 The bill repeals Code section 455B.265A, relating to the
1 24 establishment of the water use permit fund and the associated
1 25 standing appropriation.
1 26 The bill allows the department to adopt water use permit
1 27 fees that were in effect prior to the enactment of 2008 Iowa
1 28 Acts, chapter 1163, through the use of emergency rules.
1 29 LSB 2035YH 83
1 30 tm/nh/8



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House File 295 - Introduced

HOUSE FILE
BY MASCHER

(COMPANION TO 2097SS BY
APPEL)

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

A BILL FOR

1 An Act modifying the time period after which certain school
2 district proposals defeated at election may be resubmitted to
3 the voters and providing an effective date.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 2097HH 83
6 sc/nh/14



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House File 295 - Introduced continued

PAG LIN

1 1 Section 1. Section 75.1, subsection 2, Code 2009, is
1 2 amended to read as follows:

1 3 2. a. When a proposition to authorize an issuance of
1 4 bonds has been submitted to the electors under this section
1 5 and the proposal fails to gain approval by the required
1 6 percentage of votes, such proposal, or any proposal which
1 7 incorporates any portion of the defeated proposal, shall not
1 8 be submitted to the electors for a period of six months from
1 9 the date of such regular or special election and may only be
1 10 submitted on a date specified in section 39.2, subsection 4,
1 11 paragraph "a", "b", or "c", as applicable.

1 12 b. Notwithstanding the six-month time period in paragraph
1 13 "a", if a proposition is submitted on behalf of a school
1 14 district and the proposal fails to gain approval by the
1 15 required percentage of votes, such proposal, or any proposal
1 16 which incorporates any portion of the defeated proposal, shall
1 17 not be submitted to the electors until the date of the second
1 18 special election, as specified in section 39.2, subsection 4,
1 19 paragraph "c", following the election at which the proposal
1 20 was defeated or the date of the regular school election,
1 21 whichever is the earlier.

1 22 Sec. 2. Section 257.27, Code 2009, is amended to read as
1 23 follows:

1 24 257.27 CONTINUATION OF INSTRUCTIONAL SUPPORT PROGRAM.

1 25 1. At the expiration of the period for which the
1 26 instructional support program was adopted, the program may be
1 27 extended for a period of not exceeding five or ten years in
1 28 the manner provided in section 257.18.

1 29 2. If the voters do not approve adoption of the
1 30 instructional support program, ~~the board shall wait at least~~
1 31 ~~one hundred twenty days following the election before taking~~
1 32 ~~action to adopt the program or resubmit the a proposition to~~
1 33 approve the program shall not be submitted anew to the
1 34 registered voters of the school district, either by resolution
1 35 or petition, until the date of the second special election, as



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2 1 specified in section 39.2, subsection 4, paragraph "c",
2 2 following the election at which the proposal was defeated or
2 3 the date of the regular school election, whichever is the
2 4 earlier.

2 5 Sec. 3. EFFECTIVE DATE. This Act, being deemed of
2 6 immediate importance, takes effect upon enactment.

2 7 EXPLANATION

2 8 This bill makes changes relating to the time period after
2 9 which certain school district proposals defeated at election
2 10 may be resubmitted to the voters.

2 11 Under current law, if a proposal to issue bonded
2 12 indebtedness is defeated by the electorate, the proposition,
2 13 or any portion of the proposition, shall not be submitted to
2 14 the voters for six months following the date of the election
2 15 at which it was defeated. The bill provides that following
2 16 defeat at an election of a school district bond issuance, the
2 17 same or similar proposition shall not be submitted to the
2 18 electorate until the date of the second special election, as
2 19 set by statute, following the election at which it was
2 20 defeated or the date of the regular school election, whichever
2 21 is the earlier.

2 22 Also, under current law, if a proposition to adopt an
2 23 instructional support program is defeated by the voters, the
2 24 school district board of directors may not take action to
2 25 adopt, by election or otherwise, an instructional support
2 26 program until 120 days have passed following the election at
2 27 which the proposition was defeated. The bill provides that
2 28 following defeat at an election of a proposition to adopt an
2 29 instructional support program, another proposition to adopt
2 30 such a program shall not be submitted to the electorate until
2 31 the date of the second special election, as set by statute,
2 32 following the election at which it was defeated or the date of
2 33 the regular school election, whichever is the earlier.

2 34 The bill takes effect upon enactment.

2 35 LSB 2097HH 83



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House File 295 - Introduced continued

3 1 sc/nh/14



Iowa General Assembly
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House File 296 - Introduced

HOUSE FILE
 BY REICHERT

(COMPANION TO LSB 2089SS
 BY BOLKCOM)

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

Passed Senate, Date _____
 Vote: Ayes _____ Nays _____

A BILL FOR

- 1 An Act relating to the membership and administration of the Iowa
- 2 propane education and research council, increasing an
- 3 assessment, and providing an effective date.
- 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 5 TLSB 2089HH 83
- 6 rn/nh/5



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1 1 Section 1. Section 101C.2, subsection 8, Code 2009, is
1 2 amended by striking the subsection.
1 3 Sec. 2. Section 101C.3, subsections 1 and 4, Code 2009,
1 4 are amended to read as follows:
1 5 1. The Iowa propane education and research council is
1 6 established. ~~Members of the council shall be appointed by the~~
~~1 7 governor from a list of nominees submitted by qualified~~
~~1 8 propane industry organizations within thirty days after May~~
~~1 9 24, 2007, and by December 15 of each year thereafter. The~~
1 10 council shall consist of ten voting members, nine of whom
1 11 represent retail propane marketers and one of whom shall be a
~~1 12 public member the administrator of the division of community~~
1 13 action agencies of the department of human rights. Members of
1 14 the council other than the administrator shall be appointed by
1 15 the fire marshal from a list of nominees submitted by
1 16 qualified propane industry organizations by December 15 of
1 17 each year. Qualified propane industry organizations shall
~~1 18 together nominate all members of the council. A vacancy in~~
1 19 the unfinished term of a council member shall be filled for
1 20 the remainder of the term in the same manner as the original
1 21 appointment was made. Other than the ~~public member~~
1 22 administrator, council members shall be full-time employees or
1 23 owners of a propane industry business or representatives of an
1 24 agricultural cooperative actively engaged in the propane
1 25 industry. An employee of a qualified propane industry
1 26 organization shall not serve as a member of the council. An
1 27 officer of the board of directors of a qualified propane
1 28 industry organization or propane industry trade association
1 29 shall not serve concurrently as a member of the council. The
1 30 fire marshal or a designee may serve as an ex officio,
1 31 nonvoting member of the council.
1 32 4. A council member, ~~other than the public member~~, shall
1 33 not receive compensation for the council member's service and
1 34 shall not be reimbursed for expenses relating to the council
1 35 member's service. ~~The public member shall receive a per diem~~



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~~House File 296 — Introduced continued~~

~~2 1 as specified in section 7E.6 and shall be reimbursed for~~
~~2 2 actual expenses incurred in performing official duties of the~~
~~2 3 council not to exceed forty days per year. A member of the~~
2 4 council shall not be a salaried employee of the council or of
2 5 any organization or agency which receives funds from the
2 6 council.

2 7 Sec. 3. Section 101C.4, subsection 1, Code 2009, is
2 8 amended to read as follows:

2 9 1. The council and its activities shall be funded by an
2 10 annual assessment. Upon establishment of the council and each
2 11 year thereafter the annual assessment shall be made at a rate
2 12 of ~~one-tenth~~ two-tenths of one cent on each gallon of odorized
2 13 propane sold. One-half of the assessment shall be used for
2 14 energy efficiency programs dedicated to weatherization,
2 15 acquisition and installation of energy-efficient customer
2 16 appliances, and energy efficiency education.

2 17 Sec. 4. Section 101C.14, Code 2009, is repealed.

2 18 Sec. 5. EFFECTIVE DATE. The section of this Act amending
2 19 section 101C.4, subsection 1, takes effect January 1, 2010.

2 20 EXPLANATION

2 21 This bill modifies the membership of the Iowa propane
2 22 education and research council. Current law provides for nine
2 23 members of the council representing retail propane marketers,
2 24 and one "public member" of the council who represents a
2 25 significant user of propane, a public safety official, a state
2 26 regulatory official, or another group knowledgeable about
2 27 propane. The bill deletes references to a public member,
2 28 instead providing that the tenth member shall be the
2 29 administrator of the division of community action agencies of
2 30 the department of human rights. The bill makes conforming
2 31 changes elsewhere in Code chapter 101C.

2 32 The bill also provides for an increase in the annual
2 33 assessment imposed pursuant to Code section 101C.4 to fund the
2 34 expenses and activities of the council from the current rate
2 35 of one-tenth of 1 cent to two-tenths of 1 cent on each gallon



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3 1 of odorized propane sold. The bill directs that one-half of
3 2 the assessment shall be used for energy efficiency programs
3 3 dedicated to weatherization, acquisition and installation of
3 4 energy-efficient customer appliances, and energy efficiency
3 5 education. The bill provides that the assessment increases
3 6 and the dedication of a portion of the assessments
3 7 specifically to energy efficiency programs take effect January
3 8 1, 2010.
3 9 The bill additionally repeals a future repeal date for the
3 10 Code chapter of December 31, 2014.
3 11 LSB 2089HH 83
3 12 rn/nh/5



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House File 297 - Introduced

HOUSE FILE
BY WENDT and WHITEAD

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

A BILL FOR

- 1 An Act relating to the ballots used for voting at the
- 2 commissioner's office or at a satellite absentee voting
- 3 station.
- 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 5 TLSB 1453YH 83
- 6 sc/nh/8



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1 1 Section 1. Section 49.63, Code 2009, is amended to read as
1 2 follows:

1 3 49.63 TIME OF PRINTING == INSPECTION AND CORRECTION.

1 4 Ballots shall be printed and in the possession of the
1 5 commissioner in time to enable the commissioner to furnish
1 6 ballots to absent or early voters as provided by sections
1 7 53.8, 53.10, and 53.11. The printed ballots shall be subject
1 8 to the inspection of candidates and their agents. If mistakes
1 9 are discovered, they shall be corrected without delay, in the
1 10 manner provided in this chapter.

1 11 Sec. 2. Section 49.72, Code 2009, is amended to read as
1 12 follows:

1 13 49.72 ABSENTEE AND EARLY VOTERS DESIGNATED BEFORE POLLING
1 14 PLACE OPENED.

1 15 The commissioner shall deliver to each precinct election
1 16 board not less than one hour before the time at which the
1 17 polls are to open for any election the list of all registered
1 18 voters of that precinct who have been given or sent an
1 19 absentee ballot for that election, or who were given a ballot
1 20 under section 53.10, subsection 1A, and the election board
1 21 shall immediately designate those registered voters who are so
1 22 listed and therefore not entitled to vote in person at the
1 23 polls, as required by section 53.19.

1 24 Sec. 3. Section 53.8, subsection 3, paragraph b, Code
1 25 2009, is amended to read as follows:

1 26 b. Nothing in this subsection nor in section 53.22 shall
1 27 be construed to prohibit a registered voter who is a hospital
1 28 patient or resident of a health care facility, or who
1 29 anticipates entering a hospital or health care facility before
1 30 the date of a forthcoming election, from casting ~~an absentee a~~
1 31 ballot in the manner prescribed by section 53.10 or 53.11.

1 32 Sec. 4. Section 53.10, Code 2009, is amended to read as
1 33 follows:

1 34 53.10 ~~ABSENTEE~~ EARLY VOTING AT THE COMMISSIONER'S OFFICE.

1 35 1. Not more than forty days before the date of the primary



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2 1 election or the general election, the commissioner shall
2 2 provide facilities for ~~absentee~~ early voting in person at the
2 3 commissioner's office. This service shall also be provided
2 4 for other elections as soon as the ballots are ready, but in
2 5 no case shall ~~absentee~~ ballots be available more than forty
2 6 days before an election. The commissioner shall determine
2 7 whether persons voting early at the commissioner's office or
2 8 at a satellite absentee voting station pursuant to section
2 9 53.11 shall vote absentee ballots or shall vote the optical
2 10 scan ballots that will be used at the polls on election day
2 11 and tabulated immediately after they are marked by the early
2 12 voter.
2 13 1A. If the commissioner has made a determination to
2 14 distribute to early voters the optical scan ballots that will
2 15 be used at the polls on election day, the county chairperson
2 16 of each political party shall be notified of the dates, times,
2 17 and places that early voting shall be conducted pursuant to
2 18 this section and section 53.11, so that they may appoint
2 19 observers to be present. The automatic tabulating equipment
2 20 to be used for early voting under this subsection shall be
2 21 tested pursuant to section 52.35. Votes cast on ballots under
2 22 this subsection shall be considered votes cast in the absentee
2 23 ballot and special voters precinct and shall be included in
2 24 the tabulation record prepared pursuant to section 52.37.
2 25 2. a. Each person who wishes to vote ~~by absentee ballot~~
2 26 early at the commissioner's office shall first sign an
2 27 application for a ballot including the following information:
2 28 name, current address, and the election for which the ballot
2 29 is requested. The person may report a change of address or
2 30 other information on the person's voter registration record at
2 31 that time. ~~The~~ If the commissioner has determined to
2 32 distribute to early voters the optical scan ballots that will
2 33 be used at the polls on election day, the registered voter
2 34 shall subscribe to an affidavit in a form prescribed by the
2 35 state commissioner of elections before receiving the ballot.



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3 1 b. If the registered voter is voting an absentee ballot,
3 2 the voter shall immediately mark the ballot; enclose the
3 3 ballot in a secrecy envelope, if necessary, and seal it in an
3 4 affidavit envelope; subscribe to the affidavit on the reverse
3 5 side of the envelope; and return the absentee ballot to the
3 6 commissioner. The commissioner shall record the numbers
3 7 appearing on the application and affidavit envelope along with
3 8 the name of the registered voter.

3 9 c. If the registered voter is voting the optical scan
3 10 ballot that will be used at the polls on election day, the
3 11 voter shall immediately mark the ballot and enclose it in a
3 12 secrecy folder. If votes are being tabulated with automatic
3 13 tabulating equipment that will not permit more than one ballot
3 14 to be inserted at a time, the voter may insert the ballot into
3 15 the tabulating device; otherwise, the election official shall
3 16 place the ballot in the ballot box.

3 17 3. During the hours when ~~absentee ballots are~~ early voting
3 18 is available in the office of the commissioner, electioneering
3 19 shall not be allowed within the sight or hearing of voters at
3 20 the ~~absentee~~ early voting site.

3 21 Sec. 5. Section 53.11, subsections 3 and 4, Code 2009, are
3 22 amended to read as follows:

3 23 3. Procedures for ~~absentee~~ early voting at satellite
3 24 absentee voting stations shall be the same as specified in
3 25 section 53.10 for voting at the commissioner's office.
3 26 Additional procedures shall be prescribed by rule by the state
3 27 commissioner.

3 28 4. During the hours when ~~absentee ballots are~~ early voting
3 29 is available at a satellite absentee voting station,
3 30 electioneering shall not be allowed within the sight or
3 31 hearing of voters at the satellite absentee voting station.

3 32 Sec. 6. Section 68A.406, subsection 2, paragraph a,
3 33 subparagraphs (5) and (6), Code 2009, are amended to read as
3 34 follows:

3 35 (5) On the premises of or within three hundred feet of any



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4 1 outside door of any building affording access to an ~~absentee~~
4 2 early voting site during the hours when ~~absentee~~ ballots are
4 3 available in the office of the county commissioner of
4 4 elections as provided in section 53.10.
4 5 (6) On the premises of or within three hundred feet of any
4 6 outside door of any building affording access to a satellite
4 7 absentee voting station during the hours when ~~absentee~~ ballots
4 8 are available at the satellite absentee voting station as
4 9 provided in section 53.11.

4 10 EXPLANATION

4 11 This bill allows the county commissioner of elections to
4 12 determine whether absentee ballots or the optical scan ballots
4 13 used on election day shall be distributed to registered voters
4 14 who are voting at the commissioner's office or at a satellite
4 15 absentee voting station. If the optical scan ballots used on
4 16 election day are to be distributed to early voters, the
4 17 commissioner is required to notify the political parties so
4 18 that they may provide observers for early voting, to test the
4 19 tabulating equipment that is to be used for early voting, and
4 20 to record tabulation of the votes as votes cast in the
4 21 absentee ballot and special voters precinct.

4 22 LSB 1453YH 83

4 23 sc/nh/8



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HOUSE FILE
BY WENDT

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

A BILL FOR

1 An Act providing for the establishment of election district
2 boundaries for schools, counties, and cities and including an
3 applicability provision.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 1567HH 83
6 ec/sc/5



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1 1 Section 1. Section 49.3, unnumbered paragraph 1, Code
1 2 2009, is amended to read as follows:
1 3 Election precincts shall be drawn and identified by name or
1 4 number by the county board of supervisors or the temporary
1 5 county redistricting commission in all unincorporated portions
1 6 of each county, and by the city council of each city in which
1 7 it is necessary or deemed advisable to establish more than one
1 8 precinct. Precincts established as provided by this chapter
1 9 shall be used for all elections, except where temporary merger
1 10 of established precincts is specifically permitted by law for
1 11 certain elections, and ~~no~~ a political subdivision shall not
1 12 concurrently maintain different sets of precincts for use in
1 13 different types of elections. Election precincts shall be
1 14 drawn so that:

1 15 Sec. 2. Section 49.4, subsection 1, Code 2009, is amended
1 16 to read as follows:

1 17 1. Where a civil township, or the portion of a civil
1 18 township outside the corporate limits of any city of over two
1 19 thousand population contained therein, is divided into two or
1 20 more election precincts, the precincts shall be so drawn that
1 21 their total populations shall be reasonably equal on the basis
1 22 of data available from the most recent federal decennial
1 23 census, except where the division is necessary to comply with
1 24 the provisions of section 49.3, subsection 3.

1 25 Sec. 3. Section 49.7, Code 2009, is amended to read as
1 26 follows:

1 27 49.7 REPRECINCTING SCHEDULE AND FILING REQUIREMENTS.

1 28 1. Where reprecincting is necessary, city councils and
1 29 county boards of supervisors or the temporary county
1 30 redistricting commission shall make any necessary changes in
1 31 precincts as soon as possible after the redistricting of
1 32 congressional and legislative districts becomes law.

1 33 2. City councils shall complete any changes in precinct
1 34 and ward boundaries necessary to comply with sections 49.3 and
1 35 49.5 not later than ~~sixty days~~ the date set by the state



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2 1 commissioner of elections which date shall be after the
2 2 redistricting of congressional and legislative districts
2 3 becomes law, ~~or September 1~~ of the year immediately following
2 4 each year in which the federal decennial census is taken,
~~2 5 whichever is later. Different~~ A different compliance ~~dates~~
2 6 date may be set by the general assembly by joint resolution.
2 7 3. County boards of supervisors or the temporary county
2 8 redistricting commission shall complete any changes in
2 9 precinct and supervisor district boundaries necessary to
2 10 comply with sections 49.3, 49.4, and 331.209 not later than
2 11 ~~ninety days~~ the date set by the state commissioner of
2 12 elections which date shall be after the redistricting of
2 13 congressional and legislative districts becomes law, ~~or~~
~~2 14 October 15~~ of the year immediately following each year in
2 15 which the federal decennial census is taken, ~~whichever is~~
~~2 16 later. Different~~ A different compliance ~~dates~~ date may be set
2 17 by the general assembly by joint resolution.
2 18 4. Each county board of supervisors or the temporary
2 19 county redistricting commission and city council shall
2 20 immediately notify the state commissioner and the commissioner
2 21 when the boundaries of election precincts, supervisor
2 22 districts, or city wards are changed, and shall provide a map
2 23 showing the new boundary lines and a written description of
2 24 the boundaries. Each county board or the temporary county
2 25 redistricting commission and city council shall certify to the
2 26 state commissioner the populations of the new election
2 27 precincts or retained election precincts, supervisor
2 28 districts, or city wards, as determined by the latest federal
2 29 decennial census. Materials filed with the state commissioner
2 30 shall be postmarked no later than the deadline specified in
2 31 this section.
2 32 5. If the state commissioner determines that a county
2 33 board or the temporary county redistricting commission or city
2 34 council has failed to make the required changes by the dates
2 35 specified by this section, the state commissioner shall make



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3 1 or cause to be made the necessary changes as soon as possible.
3 2 The state commissioner shall assess to the county or city, as
3 3 the case may be, the expenses incurred in making the necessary
3 4 changes. The state commissioner may request the services of
3 5 personnel and materials available to the legislative services
3 6 agency to assist the state commissioner in making required
3 7 changes in election precincts, supervisor districts, and city
3 8 wards which become the state commissioner's responsibility.

3 9 6. Precinct boundaries shall become effective on January
3 10 15 of the second year following the year in which the census
3 11 was taken and shall be used for all subsequent elections.
3 12 Precinct boundaries drawn by the state commissioner shall be
3 13 incorporated into the ordinances of the city or county.

3 14 7. Changes made to precincts, supervisor districts, or
3 15 city wards, in years other than the year following the year in
3 16 which the federal decennial census is taken shall be filed
3 17 with the state commissioner for review and approval as soon as
3 18 possible.

3 19 Sec. 4. Section 49.8, Code 2009, is amended by adding the
3 20 following new subsection:

3 21 NEW SUBSECTION. 3A. When the official population figures
3 22 of an area within a city or county are changed or corrected by
3 23 the United States census bureau following the most recent
3 24 federal decennial census and that city or county determines
3 25 that the change or correction affects the population equality
3 26 of the applicable precincts and wards or supervisor districts
3 27 of the city or county and a revision of the precincts, wards,
3 28 or supervisor districts consistent with the change or
3 29 correction is possible, the city or county may revise the
3 30 applicable precincts, wards, or supervisor districts pursuant
3 31 to the requirements otherwise applicable to such precincts,
3 32 wards, or districts and this subsection. The state
3 33 commissioner of elections shall be notified of the decision to
3 34 revise the applicable precincts, wards, or supervisor
3 35 districts and shall establish a schedule for completion of the



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4 1 revision pursuant to this subsection.

4 2 Sec. 5. Section 260C.13, subsection 2, Code 2009, is
4 3 amended to read as follows:

4 4 2. The board of the merged area shall redraw boundary
4 5 lines of director districts in the merged area after each
4 6 federal decennial census to compensate for changes in
~~4 7 population if changes in population have taken place.~~

4 8 Sec. 6. Section 260C.13, subsection 3, paragraph e, Code
4 9 2009, is amended to read as follows:

4 10 e. Cities The portion of a city which lies within the
4 11 boundary of a school district shall not be divided into two or
4 12 more director districts unless the its population of the city
4 13 is greater than the ideal size of a director district. Cities
4 14 shall be divided into the smallest number of director
4 15 districts possible.

4 16 Sec. 7. Section 275.12, subsection 2, Code 2009, is
4 17 amended to read as follows:

4 18 2. a. The petition filed under subsection 1 shall also
4 19 state the name of the proposed school district, ~~and~~ the number
4 20 of directors, ~~which may be either five or seven~~ and the method
4 21 of election of the school directors of the proposed district.

4 22 b. The number of directors in the proposed school district
4 23 shall be determined as follows:

4 24 (1) If the proposed school district has a population of
4 25 twenty-five thousand persons or less and does not include a
4 26 city of fifteen thousand or more population, the number of
4 27 directors shall be five.

4 28 (2) If the population of the proposed school district is
4 29 greater than twenty-five thousand persons, the number of
4 30 directors may be either five or seven.

4 31 (3) If the proposed school district includes a city of
4 32 fifteen thousand or more population, the number of directors
4 33 shall be seven.

4 34 c. The method of election of the directors in the proposed
4 35 school district shall be one of the following optional plans



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5 1 determined as follows:

5 2 (1) If the population of the proposed school district is
5 3 seven thousand persons or less, the method of election of the
5 4 directors shall be by election at large from the entire
5 5 district by the electors of the entire district.

5 6 (2) If the population of the proposed school district is
5 7 greater than seven thousand persons, the method of election of
5 8 the directors shall be one of the following plans:

5 9 a. (a) Election at large from the entire district by the
5 10 electors of the entire district.

5 11 b. (b) Division of the entire school district into
5 12 designated geographical single director or multi=director
5 13 subdistricts on the basis of population for each director, to
5 14 be known as director districts, each of which shall be
5 15 represented on the school board by one or more directors who
5 16 shall be residents of the director district but who shall be
5 17 elected by the vote of the electors of the entire school
5 18 district. The boundaries of the director districts and the
5 19 area and population included within each district shall be
5 20 such as justice, equity, and the interests of the people may
5 21 require. Changes in the boundaries of director districts
5 22 shall not be made during a period commencing sixty days prior
5 23 to the date of the regular school election. As far as
5 24 practicable, the boundaries of the districts shall follow
5 25 established political or natural geographical divisions.

5 26 c. (c) Election of not more than one=half of the total
5 27 number of school directors at large from the entire district
5 28 and the remaining directors from and as residents of
5 29 designated single=member or multimember director districts
5 30 into which the entire school district shall be divided on the
5 31 basis of population for each director. In such case, all
5 32 directors shall be elected by the electors of the entire
5 33 school district. Changes in the boundaries of director
5 34 districts shall not be made during a period commencing sixty
5 35 days prior to the date of the regular school election.



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6 1 ~~d-~~ (d) Division of the entire school district into
6 2 designated geographical single director or multi-director
6 3 subdistricts on the basis of population for each director, to
6 4 be known as director districts, each of which shall be
6 5 represented on the school board by one or more directors who
6 6 shall be residents of the director district and who shall be
6 7 elected by the voters of the director district. Place of
6 8 voting in the director districts shall be designated by the
6 9 commissioner of elections. Changes in the boundaries of
6 10 director districts shall not be made during a period
6 11 commencing sixty days prior to the date of the regular school
6 12 election.

6 13 ~~e-~~ (e) In districts having seven directors, election of
6 14 three directors at large by the electors of the entire
6 15 district, no more than two at each regular school election,
6 16 and election of the remaining directors as residents of and by
6 17 the electors of individual geographic subdistricts established
6 18 on the basis of population and identified as director
6 19 districts, no more than two at each regular school election.
6 20 Boundaries of the subdistricts shall follow precinct
6 21 boundaries, as far as practicable, and shall not be changed
6 22 less than sixty days prior to the regular school election.

6 23 Sec. 8. Section 275.12, subsection 3, Code 2009, is
6 24 amended to read as follows:

6 25 3. If the petition proposes the division of the school
6 26 district into director districts, the boundaries of the
6 27 proposed director districts shall not be drawn until the
6 28 question is approved by the voters. If the question is
6 29 approved by the voters, the directors of the ~~new~~ reorganizing
6 30 school ~~district~~ districts shall draw the boundaries of the
6 31 director districts according to the standards described in
6 32 section 275.23A, subsection 1. Following adoption by the
6 33 school board, the plan shall be submitted to the state
6 34 commissioner of elections for approval.

6 35 Sec. 9. Section 275.23A, subsection 1, unnumbered



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7 1 paragraph 1, Code 2009, is amended to read as follows:

7 2 School districts which have directors who represent
7 3 director districts as provided in section 275.12, subsection
7 4 2, ~~paragraphs "b", "c", "d", and "e"~~ paragraph "c",
7 5 subparagraph (2), subparagraph divisions (b), (c), (d), and
7 6 (e), shall be divided into director districts according to the

7 7 following standards:

7 8 Sec. 10. Section 275.23A, subsection 1, paragraphs a and
7 9 b, Code 2009, are amended by striking the paragraphs and
7 10 inserting in lieu thereof the following:

7 11 a. All director districts shall be as nearly equal as
7 12 practicable to the ideal population for the districts as
7 13 determined by dividing the number of districts to be
7 14 established into the population of the school district. All
7 15 director district boundaries shall follow the boundaries of
7 16 areas for which official population figures are available from
7 17 the most recent federal decennial census except where a
7 18 director district boundary follows the boundary of the school
7 19 district.

7 20 b. To the extent consistent with paragraph "a", director
7 21 district boundaries for school districts which have directors
7 22 who represent director districts as provided in section
7 23 275.12, subsection 2, paragraph "c", subparagraph (2),
7 24 subparagraph divisions (d) and (e), shall follow precinct
7 25 boundaries except where the director district boundary follows
7 26 the boundary of the school district.

7 27 Sec. 11. Section 275.23A, subsection 1, paragraph e, Code
7 28 2009, is amended to read as follows:

7 29 e. ~~Cities~~ The portion of a city which lies within the
7 30 boundary of a school district shall not be divided into two or
7 31 more director districts unless the its population of the city
7 32 is greater than the ideal size of a director district. Cities
7 33 shall be divided into the smallest number of director
7 34 districts possible.

7 35 Sec. 12. Section 275.23A, subsection 2, Code 2009, is



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8 1 amended by striking the subsection and inserting in lieu
8 2 thereof the following:
8 3 2. a. The board of directors of a school district that
8 4 has director districts required to meet the standards in
8 5 subsection 1 shall redraw the director district boundaries
8 6 after each federal decennial census. The director district
8 7 boundaries shall be named or numbered and described in the
8 8 resolution adopted by the board of directors of the school
8 9 district. The resolution shall be adopted no earlier than
8 10 November 15 of the year immediately following the year in
8 11 which the federal decennial census is taken nor later than
8 12 March 1 of the second year immediately following the year in
8 13 which the federal decennial census is taken. A copy of the
8 14 plan shall be filed with the area education agency
8 15 administrator of the area education agency in which the
8 16 school's electors reside.
8 17 b. In addition to the authority granted to voters to
8 18 change the number of directors or method of election as
8 19 provided in sections 275.35, 275.36, and 278.1, the board of
8 20 directors of a school district may, not later than March 1 of
8 21 the second year following a federal decennial census, by
8 22 resolution and in accordance with this section and subject to
8 23 the population requirements of section 275.12, subsection 2,
8 24 authorize a change in the method of election as set forth in
8 25 section 275.12, subsection 2, or, if authorized, a change to
8 26 either five or seven directors after the board conducts a
8 27 hearing on the resolution. If the board proposes to change
8 28 the number of directors from seven to five directors, the
8 29 resolution shall include a plan for reducing the number of
8 30 directors. If the board proposes to increase the number of
8 31 directors to seven directors, two directors shall be added
8 32 according to the procedure described in section 277.23,
8 33 subsection 2. If the board does not provide for an election
8 34 as provided in sections 275.35, 275.36, and 278.1, and adopts
8 35 a resolution to change the number of directors or method of



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9 1 election in accordance with this subsection, the district
9 2 shall change the number of directors or method of election as
9 3 provided unless, within twenty-eight days following the action
9 4 of the board, the secretary of the board receives a petition
9 5 containing the required number of signatures, asking that an
9 6 election be called to approve or disapprove the action of the
9 7 board in adopting the resolution. The petition must be signed
9 8 by eligible electors equal in number to not less than one
9 9 hundred or thirty percent of the number of voters at the last
9 10 preceding regular school election, whichever is greater. The
9 11 board shall either rescind its action or direct the county
9 12 commissioner of elections to submit the question to the
9 13 registered voters of the school district at an election held
9 14 on a date specified in section 39.2, subsection 4, paragraph
9 15 "c". If a majority of those voting on the question at the
9 16 election favors disapproval of the action of the board, the
9 17 district shall not change the number of directors or method of
9 18 election. If a majority of those voting on the question does
9 19 not favor disapproval of the action, the board shall certify
9 20 the results of the election to the department of management
9 21 and the district shall change the number of directors or
9 22 method of election as provided in this subsection. At the
9 23 expiration of the twenty-eight-day period, if no petition is
9 24 filed, the board shall certify its action to the state
9 25 commissioner of elections and the district shall change the
9 26 number of directors or method of election as provided in this
9 27 subsection.

9 28 Sec. 13. Section 275.23A, subsection 3, Code 2009, is
9 29 amended to read as follows:

9 30 3. The school board shall notify the state commissioner of
9 31 elections and the county commissioner of elections of each
9 32 county in which a portion of the school district is located
9 33 when the boundaries of director districts are ~~changed~~ adopted
9 34 pursuant to subsection 2. The notices of ~~changes~~ the adopted
9 35 plans submitted to the state commissioner shall be postmarked



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10 1 no later than the deadline for adoption of the resolution
10 2 under subsection 2. The board shall provide the commissioners
10 3 with maps showing the ~~new~~ adopted boundaries and shall also
10 4 certify to the state commissioner the populations of the ~~new~~
10 5 adopted director districts as determined under the latest
10 6 federal decennial census. ~~If, following a federal decennial~~
~~10 7 census a school district elects not to redraw director~~
~~10 8 districts under this section, the school board shall so~~
~~10 9 certify to the state commissioner of elections, and the school~~
~~10 10 board shall also certify to the state commissioner the~~
~~10 11 populations of the retained director districts as determined~~
~~10 12 under the latest federal decennial census.~~ If the state
10 13 commissioner determines that a district board has failed to
10 14 make the required changes by the dates specified by this
10 15 section, the state commissioner of elections shall make or
10 16 cause to be made the necessary changes as soon as possible.
10 17 ~~The state commissioner shall assess any expenses incurred to~~
~~10 18 the school district.~~ The state commissioner of elections may
10 19 request the services of personnel of and materials available
10 20 to the legislative services agency to assist the state
10 21 commissioner in making any required boundary changes.
10 22 Sec. 14. Section 275.35, subsection 1, Code 2009, is
10 23 amended to read as follows:
10 24 1. A Subject to the population requirements of section
10 25 275.12, subsection 2, a school district may change the number
10 26 of directors to either five or seven and may also change its
10 27 method of election of school directors to ~~any~~ a method
10 28 authorized by section 275.12 by submission of a proposal,
10 29 stating the proposed new method of election, by the school
10 30 board of such district to the electors at an election held on
10 31 a date specified in section 39.2, subsection 4, paragraph "c".
10 32 The school board shall notify the county commissioner of
10 33 elections who shall publish notice of the election in the
10 34 manner provided in section 49.53. The election shall be
10 35 conducted pursuant to chapters 39 through 53 by the county



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11 1 commissioner of elections. Such proposal shall be adopted if
11 2 it is approved by a majority of the votes cast on the
11 3 proposition.

11 4 Sec. 15. Section 275.36, Code 2009, is amended to read as
11 5 follows:

11 6 275.36 SUBMISSION OF CHANGE TO ELECTORS.

11 7 1. If a petition for a change in the number of directors
11 8 or in the method of election of school directors is filed with
11 9 the school board of a school district subject to the
11 10 population requirements of section 275.12, subsection 2, and

11 11 pursuant to the requirements of section 278.2, the school
11 12 board shall submit such proposition to the voters at an
11 13 election held on a date specified in section 39.2, subsection
11 14 4, paragraph "c". The petition shall be accompanied by an
11 15 affidavit as required by section 275.13. If a proposition for
11 16 a change in the number of directors or in the method of
11 17 election of school directors submitted to the voters under
11 18 this section is rejected, it shall not be resubmitted to the
11 19 voters of the district in substantially the same form within
11 20 the next three years; if it is approved, no other proposal may
11 21 be submitted to the voters of the district under this section
11 22 within the next six years.

11 23 2. If the proposal adopted by the voters requires the
11 24 establishment of or a change in director district boundaries
11 25 pursuant to section 275.12, subsection 2, paragraph ~~"b"~~, "c",
11 26 ~~"d", or "e"~~ subparagraph (2), subparagraph division (b), (c),
11 27 (d), or (e), the school board shall draw the necessary
11 28 boundaries within forty days after the date of the election.
11 29 The boundaries shall be drawn according to the requirements of
11 30 section 275.23A. Following adoption by the school board, the
11 31 plan shall be submitted to the state commissioner of elections
11 32 for approval. The new boundaries shall become effective on
11 33 July 1 following approval.

11 34 Sec. 16. Section 275.38, Code 2009, is amended to read as
11 35 follows:



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12 1 275.38 IMPLEMENTING CHANGED METHOD OF ELECTION.
12 2 If change in the method of election of school directors is
12 3 approved at an election, the directors who were serving
12 4 unexpired terms or were elected concurrently with approval of
12 5 the change of method shall serve out the terms for which they
12 6 were elected. If the plan adopted is that described in
12 7 section 275.12, subsection 2, paragraph ~~"b", "c", "d", or "e"~~
12 8 subparagraph (2), subparagraph division (b), (c), (d), or (e),
12 9 the board shall at the earliest practicable time designate the
12 10 districts from which residents are to be elected as school
12 11 directors at each of the next two succeeding regular school
12 12 elections, arranging so far as possible for elections of
12 13 directors as residents of the respective districts to coincide
12 14 with the expiration of terms of incumbent members residing in
12 15 those districts. If an increase in the size of the board from
12 16 five to seven members is approved concurrently with the change
12 17 in method of election of directors, the board shall make the
12 18 necessary adjustment in the manner prescribed in section
12 19 275.37, as well as providing for implementation of the
12 20 districting plan under this section.
12 21 Sec. 17. Section 275.57, subsection 1, Code 2009, is
12 22 amended to read as follows:
12 23 1. If a school district accepting attachments of a
12 24 dissolved district is currently divided into director
12 25 districts as provided in section 275.12, subsection 2,
12 26 paragraph ~~"b", "c", "d", or "e"~~ subparagraph (2), subparagraph
12 27 division (b), (c), (d), or (e), the board of directors of the
12 28 district shall draft a proposal to incorporate the newly
12 29 received territory into existing contiguous director
12 30 districts. If the attached territory is contiguous to more
12 31 than one director district, the board may divide the territory
12 32 and attach it to more than one director district. If
12 33 necessary to comply with the population equality standards
12 34 prescribed in section 275.23A, the board shall redraw the
12 35 boundaries of all director districts according to the



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13 1 standards provided in section 275.23A, subsection 1,
13 2 paragraphs "a", "c", and "d".
13 3 Sec. 18. Section 278.1, subsection 1, paragraph g, Code
13 4 2009, is amended to read as follows:
13 5 g. Authorize a change to either five or seven directors,
13 6 subject to the population requirements of section 275.12,
13 7 subsection 2. The proposition for the change shall specify
13 8 the number of directors to be elected, and which of the
13 9 methods of election authorized by section 275.12, subsection
13 10 2, is to be used if the change is approved by the voters.
13 11 Sec. 19. Section 331.209, subsection 1, Code 2009, is
13 12 amended to read as follows:
13 13 1. ~~Not later than ninety days after~~ After the
13 14 redistricting of congressional and legislative districts
13 15 becomes law, ~~or October 15 of~~ and no later than the date set
13 16 by the state commissioner of elections in the year immediately
13 17 following each year in which the federal decennial census is
13 18 taken, ~~whichever is later,~~ the temporary county redistricting
13 19 commission shall divide the county into a number of supervisor
13 20 districts corresponding to the number of supervisors in the
13 21 county. However, if the plan is selected pursuant to section
13 22 331.207, the temporary county redistricting commission shall
13 23 divide the county before February 15 of the election year.
13 24 The supervisor districts shall be drawn, to the extent
13 25 applicable, in compliance with the redistricting standards
13 26 provided for senatorial and representative districts in
13 27 section 42.4, and if a supervisor redistricting plan is
13 28 challenged in court, the requirement of justifying any
13 29 variance in excess of one percent contained in section 42.4,
13 30 subsection 1, paragraph "c" applies to the board. If the
13 31 temporary county redistricting commission adopts a supervisor
13 32 redistricting plan with a variance in excess of one percent,
13 33 the board shall publish the justification for the variance in
13 34 one or more official newspapers as provided in chapter 349
13 35 within ten days after the action is taken. If more than one



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14 1 incumbent supervisor resides in the same supervisor district
14 2 after the districts have been redrawn following the federal
14 3 decennial census, the terms of office of those supervisors
14 4 shall expire on the first day of January that is not a Sunday
14 5 or a holiday following the next general election.
14 6 Sec. 20. APPLICABILITY DATE. The section of this Act
14 7 amending section 275.12, subsection 2, applies to petitions
14 8 filed on or after July 1, 2009.

14 9 EXPLANATION

14 10 This bill makes changes to requirements governing the
14 11 drawing of election precinct and district boundaries for
14 12 schools, counties, and cities.

14 13 Code section 49.3 is amended to require that the
14 14 governmental entity responsible for drawing precinct
14 15 boundaries assign a name or number to each precinct drawn.

14 16 Code section 49.4 is amended to permit an exception to the
14 17 general requirement that townships divided into more than one
14 18 precinct be divided equally by population if the division is
14 19 necessary to meet the requirement that an election precinct be
14 20 composed of contiguous territory.

14 21 Code sections 49.7 and 331.209 are amended to provide that
14 22 the state commissioner of elections (the secretary of state)
14 23 shall set the deadlines for filing city and county
14 24 reprecincting and redistricting plans. Currently, cities are
14 25 required to complete changes no later than 60 days after
14 26 congressional and legislative redistricting becomes law or
14 27 September 1 of the year after the federal census is taken,
14 28 while counties have the later of 90 days after redistricting
14 29 becomes law or October 15 of the same year. In addition, Code
14 30 section 49.7 is amended to provide that the governmental
14 31 entity submitting plans to the state commissioner of elections
14 32 for review include a written description of the boundaries in
14 33 the plan.

14 34 Code section 49.8 is amended to provide that a city or
14 35 county may revise their precincts, wards, or supervisor



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15 1 districts if the United States census bureau makes a change or
15 2 correction in the official population of an area within the
15 3 city or county that affects population equality and the change
15 4 or correction is such that permits such a revision. The state
15 5 commissioner of elections is required to be notified of a
15 6 decision to revise boundaries and shall establish a schedule
15 7 for the revision.

15 8 Code section 260C.13, governing community colleges
15 9 redistricting, and Code section 275.23A, subsection 1,
15 10 governing school district redistricting, are amended to
15 11 provide that a portion of a city which lies within the
15 12 boundary of a school district is not to be divided into more
15 13 than one district unless the population of that portion is
15 14 greater than the ideal population of a district. Currently,
15 15 the requirement is made applicable to cities as a whole and
15 16 makes no reference to the situation where only a portion of a
15 17 city may be within the school district being divided.

15 18 Code section 275.12, subsection 2, is amended to provide
15 19 that proposed new school districts with a population greater
15 20 than 25,000 people or which include a city with a population
15 21 of 15,000 people may have seven directors. However, the bill
15 22 provides that all other proposed new school districts that do
15 23 not meet these population requirements shall have five
15 24 members. In addition, the bill provides that new school
15 25 districts which have a population of 7,000 people or less in
15 26 that new district, are required to elect their directors
15 27 at-large and not by districts. This change applies to new
15 28 school districts proposed on or after July 1, 2009.

15 29 Code section 275.12, subsection 3, is amended to provide
15 30 that it is the directors of the reorganizing school districts
15 31 that shall draw the boundaries of the director districts for
15 32 the newly reorganized district.

15 33 Code section 275.23A, subsection 1, governing standards
15 34 applicable to school district redistricting, is amended to
15 35 provide that director districts shall be drawn as nearly equal



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16 1 as practicable to the ideal population for that district and
16 2 shall, to the extent consistent with the population
16 3 requirement, follow precinct boundaries. Under current law,
16 4 the equal population requirement is subject to the requirement
16 5 that the boundaries follow census boundaries and, wherever
16 6 possible, precinct boundaries.

16 7 Code section 275.23A, subsection 2, is amended to require
16 8 school district redistricting following each decennial census
16 9 and to provide that directors of a school district have until
16 10 March 1, instead of May 15, of the second year following the
16 11 decennial census to propose, by resolution, a change in the
16 12 manner of elections of school directors. In addition, the
16 13 subsection is changed to provide that the board shall certify
16 14 its action relative to a change in the method of electing
16 15 directors to the state commissioner of elections instead of
16 16 the department of management.

16 17 Code section 275.23A, subsection 3, is amended to eliminate
16 18 the authority of the state commissioner of elections to assess
16 19 expenses incurred by the commissioner in making required
16 20 changes in school district boundaries.

16 21 Code sections 275.35, 275.36, and 278.1 are amended to
16 22 provide that proposed changes in the number of director
16 23 districts and method of election of a school district shall
16 24 comply with the population requirements established by the
16 25 bill in section 275.12.

16 26 LSB 1567HH 83

16 27 ec/sc/5



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HOUSE FILE
BY ANDERSON

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

A BILL FOR

- 1 An Act to require proof of financial liability coverage upon
- 2 registration of a motor vehicle.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4 TLSB 1838HH 83
- 5 dea/nh/14



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House File 299 - Introduced continued

PAG LIN

1 1 Section 1. Section 321.20, subsection 1, Code 2009, is
1 2 amended by adding the following new paragraph:
1 3 NEW PARAGRAPH. g. If the vehicle is a motor vehicle, the
1 4 owner shall certify on the application that financial
1 5 liability coverage is in effect for the motor vehicle and
1 6 provide a copy of the proof of financial liability coverage
1 7 card issued for the motor vehicle, a description of the
1 8 financial liability coverage as noted on the proof of
1 9 financial liability coverage card, or other documentation
1 10 acceptable to the department. This paragraph does not apply
1 11 to a motor vehicle registered as a "limited use" vehicle
1 12 pursuant to sections 321.58 through 321.62 or section 321.115.

1 13 Sec. 2. Section 321.30, Code 2009, is amended by adding
1 14 the following new subsection:

1 15 NEW SUBSECTION. 4. The department or the county treasurer
1 16 shall refuse registration of a motor vehicle if the owner does
1 17 not provide satisfactory certification that financial
1 18 liability coverage is in effect for the motor vehicle. This
1 19 subsection does not apply to a motor vehicle registered as a
1 20 "limited use" vehicle pursuant to sections 321.58 through
1 21 321.62 or section 321.115.

1 22 Sec. 3. Section 321.40, Code 2009, is amended by adding
1 23 the following new subsection:

1 24 NEW SUBSECTION. 10. A form for certification of financial
1 25 liability coverage shall accompany each renewal statement sent
1 26 to the owner of a motor vehicle under this section. The
1 27 county treasurer shall refuse to renew the registration of a
1 28 motor vehicle if the applicant does not submit certification
1 29 of financial liability coverage in effect for the motor
1 30 vehicle. This subsection does not apply to a motor vehicle
1 31 registered as a "limited use" vehicle pursuant to sections
1 32 321.58 through 321.62 or section 321.115.

1 33 EXPLANATION

1 34 This bill requires the owner of a motor vehicle to certify
1 35 that financial liability coverage is in effect for the vehicle



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2 1 at the time the vehicle is registered and each time the
2 2 registration is renewed. At the time of application for
2 3 registration of a motor vehicle, the owner is required to
2 4 provide a copy of the proof of financial liability coverage
2 5 card issued for the motor vehicle, a description of the
2 6 coverage as noted on the card, or other documentation
2 7 acceptable to the department of transportation. The
2 8 department or the county treasurer shall not register a motor
2 9 vehicle or renew a registration in the absence of satisfactory
2 10 proof that financial liability coverage is in effect for the
2 11 vehicle.
2 12 Motor vehicles that are registered as "limited use"
2 13 vehicles, such as certain antique vehicles and vehicles in a
2 14 dealer's inventory, are exempt from the requirements under the
2 15 bill.
2 16 LSB 1838HH 83
2 17 dea/nh/14



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HOUSE FILE
BY MERTZ

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

Passed Senate, Date _____
Vote: Ayes _____ Nays _____

A BILL FOR

- 1 An Act relating to certain watercraft dealership agreements.
- 2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 3 TLSB 1189HH 83
- 4 av/nh/8



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PAG LIN

1 1 Section 1. Section 462A.2, Code 2009, is amended by adding
1 2 the following new subsection:

1 3 NEW SUBSECTION. 11A. "Dealership agreement" means a
1 4 contract or agreement, either express or implied, oral or
1 5 written, between a manufacturer and a dealer, by which the
1 6 dealer is granted the right to sell or distribute goods or
1 7 services or use a trade name, trademark, service mark,
1 8 logotype, advertising, or other commercial symbol in which
1 9 there is a community of interest in the business of buying,
1 10 selling, or exchanging vessels either outright or on
1 11 conditional sale, bailment, lease, security, interest, or
1 12 otherwise. For the purposes of this subsection, "vessel"
1 13 means a motorboat or other motorized watercraft, a personal
1 14 watercraft, or a sailboat of more than twelve feet, but does
1 15 not include a watercraft having as the only means of
1 16 propulsion a paddle or oars.

1 17 Sec. 2. NEW SECTION. 462A.56 DEALERSHIP AGREEMENTS ==
1 18 TERMINATION == NOTICE == REPURCHASE OF INVENTORY.

1 19 1. A manufacturer shall not, directly or indirectly,
1 20 terminate, cancel, fail to renew, or substantially change the
1 21 competitive circumstances of a dealership agreement without
1 22 good cause.

1 23 2. Any of the following reasons may constitute good cause
1 24 for the purposes of this section:

1 25 a. The dealer has transferred an interest in the
1 26 dealership without the manufacturer's written consent.

1 27 b. The dealer is insolvent, there has been an assignment
1 28 of dealership assets for the benefit of creditors, or the
1 29 dealer has filed a voluntary petition in bankruptcy or has had
1 30 an involuntary petition in bankruptcy filed against the dealer
1 31 which has not been discharged within thirty days after the
1 32 filing.

1 33 c. There has been a closeout or sale of a substantial part
1 34 of the dealer's assets related to the dealership or there has
1 35 been a commencement of or dissolution or liquidation of the



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- 2 1 dealership.
- 2 2 d. There has been a change in the location of the dealer's
- 2 3 established place of business under the dealership agreement
- 2 4 without the prior written approval of the manufacturer.
- 2 5 e. The dealer has defaulted under any chattel mortgage or
- 2 6 other security agreement between the dealer and the
- 2 7 manufacturer or there has been a revocation or discontinuance
- 2 8 of any guarantee of the dealer's present or future obligations
- 2 9 to the manufacturer.
- 2 10 f. The dealer has failed to operate in the normal course
- 2 11 of business for fifteen consecutive days or has otherwise
- 2 12 abandoned the business which is the subject of the dealership
- 2 13 agreement, unless the closing is due to an act of God, strike
- 2 14 or labor difficulty, or other cause over which the dealer has
- 2 15 no control.
- 2 16 g. The dealer or an owner of the dealer has pleaded guilty
- 2 17 to or has been convicted of a felony affecting the
- 2 18 relationship between the dealer and the manufacturer.
- 2 19 h. The dealer has engaged in conduct which is injurious or
- 2 20 detrimental to the dealer's customers or to the public
- 2 21 welfare.
- 2 22 i. The dealer has made a material misrepresentation to the
- 2 23 manufacturer.
- 2 24 j. The dealer's license to do business has been suspended,
- 2 25 revoked, or nonrenewed.
- 2 26 k. The extent of the affected dealer's penetration in the
- 2 27 relevant market area is inadequate under the terms of the
- 2 28 dealership agreement.
- 2 29 l. The nature and extent of the dealer's investment in the
- 2 30 business is inadequate under the terms of the dealership
- 2 31 agreement.
- 2 32 m. The dealer's service facilities, equipment, parts,
- 2 33 supplies, and personnel are inadequate under the terms of the
- 2 34 dealership agreement.
- 2 35 n. The extent and quality of the dealer's service under



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3 1 warranties is inadequate under the terms of the dealership
3 2 agreement.
3 3 o. The dealer's performance is inadequate under the terms
3 4 of the dealership agreement.
3 5 p. The dealer is carrying out the terms of the dealership
3 6 agreement in bad faith.
3 7 3. Except as otherwise provided in this section, a
3 8 manufacturer shall provide a dealer with at least one hundred
3 9 twenty days' prior written notice of termination,
3 10 cancellation, nonrenewal, or substantial change in the
3 11 competitive circumstances of a dealership agreement.
3 12 a. The notice shall state all of the reasons constituting
3 13 good cause for termination, cancellation, nonrenewal, or
3 14 substantial change in the competitive circumstances of the
3 15 dealership agreement and shall provide the dealer with one
3 16 hundred twenty days from receipt of the notice in which to
3 17 cure any claimed deficiencies.
3 18 b. The termination, cancellation, nonrenewal, or
3 19 substantial change in the competitive circumstances of the
3 20 dealership agreement shall take effect thirty days after the
3 21 dealer's receipt of the manufacturer's notice unless the
3 22 dealer notifies the manufacturer within that time of the
3 23 dealer's intent to cure the deficiencies. However, if the
3 24 dealer has new and untitled inventory on hand, at the dealer's
3 25 request, such termination, cancellation, nonrenewal, or
3 26 substantial change in the competitive circumstances shall take
3 27 effect upon the sale of the remaining new and untitled
3 28 inventory but in no event later than one hundred twenty days
3 29 from receipt of the manufacturer's notice.
3 30 4. Notwithstanding subsection 3, the termination,
3 31 cancellation, failure to renew, or substantial change in the
3 32 competitive circumstances of the dealership agreement shall
3 33 take effect thirty days after the dealer's receipt of the
3 34 manufacturer's notice and the dealer shall not have the right
3 35 to cure the deficiencies if the termination, cancellation,



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4 1 nonrenewal, or substantial change in the competitive
4 2 circumstances of the dealership agreement is for any of the
4 3 following reasons:
4 4 a. The dealer has made a material misrepresentation to the
4 5 manufacturer.
4 6 b. The dealer's license to do business has been suspended,
4 7 revoked, or nonrenewed.
4 8 c. The dealer is insolvent, there has been an assignment
4 9 of dealership assets for the benefit of creditors, or the
4 10 dealer has filed a voluntary petition in bankruptcy or has had
4 11 an involuntary petition in bankruptcy filed against the dealer
4 12 which has not been discharged within thirty days after the
4 13 filing.
4 14 d. The dealer has failed to operate in the normal course
4 15 of business for fifteen consecutive days or has otherwise
4 16 abandoned the business which is the subject of the dealership
4 17 agreement, unless the closing is due to an act of God, strike
4 18 or labor difficulty, or other cause over which the dealer has
4 19 no control.
4 20 e. The dealer or an owner of the dealer has pleaded guilty
4 21 to or has been convicted of a felony affecting the
4 22 relationship between the dealer and the manufacturer.
4 23 5. A manufacturer has the burden of proof to show good
4 24 cause to support the termination, cancellation, failure to
4 25 renew, or substantial change in competitive circumstances of a
4 26 dealership agreement.
4 27 6. A dealer may terminate, cancel, or fail to renew a
4 28 dealership agreement at any time by giving written notice to
4 29 the manufacturer at least ninety days prior to the effective
4 30 date of such termination, cancellation, or nonrenewal of the
4 31 agreement.
4 32 7. In the event of lawful termination, cancellation,
4 33 failure to renew, or substantial change in competitive
4 34 circumstances of a dealership agreement, the manufacturer, at
4 35 the dealer's request, shall repurchase any new, unused



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5 1 inventory purchased by the dealer from the manufacturer at the
5 2 current dealer invoice price, plus freight expenses.

5 3 Sec. 3. NEW SECTION. 462A.57 SALE OR TRANSFER OF
5 4 DEALERSHIP.

5 5 1. A dealer who is a party to a dealership agreement shall
5 6 give a manufacturer thirty days' written notice, prior to
5 7 closing, of any proposed change in ownership of the dealership
5 8 by the sale of business assets, stock transfer, or otherwise,
5 9 including all supporting documentation as required by the
5 10 manufacturer.

5 11 2. The manufacturer shall not refuse to agree, disapprove,
5 12 or withhold approval of the proposed change in ownership
5 13 except upon a showing that such refusal is reasonable, based
5 14 on the manufacturer's reasonable criteria, including but not
5 15 limited to the prospective transferee's business experience,
5 16 moral character, financial qualifications, or criminal record.

5 17 3. The manufacturer shall give written notice to the
5 18 dealer of its approval or disapproval, including reasons for
5 19 disapproval, within thirty days after receipt of notification
5 20 of the proposed change in ownership and complete supporting
5 21 documentation. If such notice is not received by the dealer
5 22 within thirty days, the change in ownership shall be deemed
5 23 approved.

5 24 4. A manufacturer has the burden of proof to show that its
5 25 disapproval of a change in ownership is reasonable.

5 26 Sec. 4. NEW SECTION. 462A.58 CAUSE OF ACTION == DAMAGES
5 27 == REMEDIES.

5 28 If a manufacturer wrongfully terminates, cancels, fails to
5 29 renew, or substantially changes the competitive circumstances
5 30 of a dealership agreement, the dealer may bring an action
5 31 against such manufacturer in any court of competent
5 32 jurisdiction for damages sustained by the dealer as a result
5 33 of the wrongful conduct, together with actual costs of the
5 34 action, including reasonable attorney fees. The dealer may
5 35 also be granted injunctive relief against such wrongful



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6 1 termination, cancellation, failure to renew, or substantial
6 2 change in competitive circumstances of a dealership agreement.
6 3 The remedies set forth in this subsection shall not be deemed
6 4 exclusive and shall be in addition to any other remedies
6 5 permitted by law.

6 6 EXPLANATION

6 7 This bill relates to changes in certain watercraft
6 8 dealership agreements, sale or transfer of such dealerships,
6 9 and causes of action, damages, and other remedies.

6 10 New Code section 462A.56 provides that a manufacturer of
6 11 certain watercraft shall not terminate, cancel, fail to renew,
6 12 or substantially change the competitive circumstances of an
6 13 agreement with one of its dealers without good cause. Reasons
6 14 that may constitute good cause for such changes to a
6 15 dealership agreement are enumerated in the bill.

6 16 Generally, a manufacturer is required to provide a dealer
6 17 with at least 120 days' prior written notice of such proposed
6 18 changes in a dealership agreement along with the reasons for
6 19 the changes and an opportunity to cure the claimed
6 20 deficiencies before the changes take effect. If the dealer
6 21 does not notify the manufacturer of its intent to attempt to
6 22 cure the deficiencies within 30 days after receiving such
6 23 notice, the changes instead take effect at the end of 30 days,
6 24 unless the dealer requests up to 120 days to sell remaining
6 25 new and untitled inventory in the dealer's possession.

6 26 However, such termination, cancellation, failure to renew,
6 27 or substantial change in the competitive circumstances of a
6 28 dealership agreement shall take effect within 30 days of
6 29 notice and without allowing the dealer to attempt to cure any
6 30 deficiencies if the dealer has made a material
6 31 misrepresentation to the manufacturer; lost its license to do
6 32 business; is insolvent, has assigned assets to creditors, or
6 33 is bankrupt; has failed to operate or abandoned its business;
6 34 or has pleaded guilty to or been convicted of a felony.

6 35 The manufacturer has the burden of proof to show good cause



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7 1 to support a change to the dealership agreement. A dealer may
7 2 terminate, cancel, or fail to renew such an agreement upon 90
7 3 days' prior written notice. Also, if such change to a
7 4 dealership agreement is lawfully made, the manufacturer is
7 5 required, at the dealer's request, to repurchase any new,
7 6 unused inventory purchased by the dealer from the manufacturer
7 7 at the current dealer invoice price, plus freight expenses.
7 8 New Code section 462A.57 requires a dealer to give a
7 9 manufacturer 30 days' prior written notice before any proposed
7 10 change in ownership of the dealership by the sale of business
7 11 assets, stock transfer, or otherwise, with supporting
7 12 documentation as required by the manufacturer. The
7 13 manufacturer shall not refuse to agree, disapprove, or
7 14 withhold approval to the proposed ownership change except upon
7 15 a showing that such refusal is reasonable. If the
7 16 manufacturer does not give written notice to the dealer of its
7 17 approval or disapproval within 30 days of receipt of the
7 18 notice and supporting documentation regarding the proposed
7 19 ownership change, the change is deemed approved.
7 20 New Code section 462A.58 allows a dealer to bring an action
7 21 in court against a manufacturer for damages, including actual
7 22 costs and attorney fees, and for injunctive relief, sustained
7 23 as a result of wrongful termination, cancellation, failure to
7 24 renew, or substantial change in the competitive circumstances
7 25 of a dealership agreement.
7 26 LSB 1189HH 83
7 27 av/nh/8



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House File 301 - Introduced

HOUSE FILE
BY PAULSEN

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

A BILL FOR

1 An Act relating to possession or consumption of an alcoholic
2 beverage by an under legal age person, and providing a
3 penalty.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 1500YH 83
6 jm/nh/24



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PAG LIN

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

1 3 NEW SUBSECTION. 1A. Except for the purposes described in
1 4 subsection 2, a person who is the owner or lessee of, or who
1 5 otherwise has control over, property that is not a licensed
1 6 premises, shall not permit any person, knowing or having
1 7 reasonable cause to believe the person to be under legal age,
1 8 to consume or possess on such property any alcoholic liquor,
1 9 wine, or beer.

1 10 Sec. 2. Section 123.47, subsection 3, paragraph a,
1 11 unnumbered paragraph 1, Code 2009, is amended to read as
1 12 follows:

1 13 A person who is under legal age, other than a licensee or
1 14 permittee, who violates this section regarding the purchase of
1 15 or attempt to purchase alcoholic liquor, wine, or beer, or
1 16 possessing or having control of alcoholic liquor, wine, or
1 17 beer, or permitting under legal age consumption or possession
1 18 on certain property, commits the following:

1 19 Sec. 3. Section 123.47, subsection 3, paragraph a,
1 20 subparagraph (1), Code 2009, is amended to read as follows:

1 21 (1) A simple misdemeanor punishable as a scheduled
1 22 violation under section 805.8C, subsection 7. Notwithstanding
1 23 section 903.1, the court, in lieu of ordering payment of a
1 24 scheduled fine, may suspend the fine and order the person
1 25 under legal age to receive a substance abuse evaluation by a
1 26 program licensed to provide services pursuant to section
1 27 125.13.

1 28 Sec. 4. Section 123.47, subsection 4, Code 2009, is
1 29 amended to read as follows:

1 30 4. Except as otherwise provided in subsections 5 and 6, a
1 31 person who is of legal age, other than a licensee or
1 32 permittee, who sells, gives, or otherwise supplies alcoholic
1 33 liquor, wine, or beer to a person who is under legal age in
1 34 violation of this section, or permits under legal age
1 35 consumption or possession on certain property, commits a



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2 1 serious misdemeanor punishable by a minimum fine of five
2 2 hundred dollars.

2 3 EXPLANATION

2 4 This bill relates to possession or consumption of an
2 5 alcoholic beverage by an under legal age person on certain
2 6 property.

2 7 Under the bill, a person who is the owner or lessee of, or
2 8 who otherwise has control over, property that is not a
2 9 licensed premises, shall not permit an under legal age person
2 10 to consume or possess an alcoholic beverage on such property.

2 11 The bill does not affect situations involving a person
2 12 under legal age consuming or possessing an alcoholic beverage
2 13 for a permitted purpose under Code section 123.47, subsection
2 14 2.

2 15 For a first offense, a person under legal age who permits
2 16 under legal age consumption or possession in violation of the
2 17 bill commits a simple misdemeanor punishable as a scheduled
2 18 violation under Code section 805.8C, subsection 7; for a
2 19 second offense a person commits a simple misdemeanor
2 20 punishable by a fine of \$500; and for a third or subsequent
2 21 offense the person commits a simple misdemeanor punishable by
2 22 a fine of \$500 and suspension of the person's motor vehicle
2 23 operating privileges for up to one year.

2 24 The court, for a first offense by a person under legal age,
2 25 may suspend the payment of a scheduled fine and order the
2 26 person under legal age to receive a substance abuse evaluation
2 27 by a program licensed to provide services pursuant to Code
2 28 section 125.13.

2 29 A person of legal age who permits under legal age
2 30 consumption or possession in violation of the bill commits a
2 31 serious misdemeanor punishable by a minimum fine of \$500.

2 32 LSB 1500YH 83

2 33 jm/nh/24



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House File 302 - Introduced

HOUSE FILE
BY HELLAND

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

Passed Senate, Date _____
Vote: Ayes _____ Nays _____

A BILL FOR

- 1 An Act permitting the payment of wages by a stored-value card.
- 2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 3 TLSB 1872YH 83
- 4 ec/nh/8



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House File 302 - Introduced continued

PAG LIN

1 1 Section 1. Section 91A.3, subsection 2, Code 2009, is
1 2 amended to read as follows:
1 3 2. The wages paid under subsection 1 shall be paid in
1 4 United States currency or by written instrument issued by the
1 5 employer and negotiable on demand at full face value for such
1 6 currency, unless the employee has agreed in writing to receive
1 7 a part of or all wages in kind or in other form, such as a
1 8 stored=value card.

1 9 EXPLANATION
1 10 This bill provides that an employer may pay wages to an
1 11 employee by use of a stored=value card if the employee agrees
1 12 in writing.
1 13 LSB 1872YH 83
1 14 ec/nh/8



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House File 303 - Introduced

HOUSE FILE
BY WHITAKER

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

A BILL FOR

- 1 An Act providing for the establishment of an energy affordability
- 2 program for the benefit of residential consumers of propane.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4 TLSB 1096HH 83
- 5 rn/nh/14



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House File 303 - Introduced continued

PAG LIN

1 1 Section 1. Section 101C.3, subsection 8, Code 2009, is
1 2 amended to read as follows:
1 3 8. The council shall develop programs and projects and
1 4 enter into agreements for administering such programs and
1 5 projects as provided in this chapter, ~~including programs to~~
~~1 6 enhance consumer and employee safety and training, provide for~~
~~1 7 research and development of clean and efficient propane~~
~~1 8 utilization equipment, inform and educate the public about~~
~~1 9 safety and other issues associated with the use of propane,~~
~~1 10 and develop programs and projects that provide assistance to~~
~~1 11 persons who are eligible for the low-income home energy~~
~~1 12 assistance program. The programs and projects developed shall~~
1 13 include programs to enhance consumer and employee safety and
1 14 training; provide for research and development of clean and
1 15 efficient propane utilization equipment; inform and educate
1 16 the public about safety and other issues associated with the
1 17 use of propane; and provide assistance to persons who are
1 18 eligible for the low-income home energy assistance program,
1 19 including the establishment of a propane energy affordability
1 20 program as provided in section 216A.105. The programs and
1 21 projects shall be developed to attain equitable geographic
1 22 distribution of their benefits to the fullest extent
1 23 practicable. The costs of the programs and projects shall be
1 24 paid with funds collected pursuant to section 101C.4. The
1 25 council shall coordinate its programs and projects with
1 26 propane industry trade associations and others as the council
1 27 deems appropriate to provide efficient delivery of services
1 28 and to avoid unnecessary duplication of activities. Issues
1 29 concerning propane that are related to research and
1 30 development, safety, education, and training shall be given
1 31 priority by the council in the development of programs and
1 32 projects.
1 33 Sec. 2. NEW SECTION. 216A.105 PROPANE ENERGY
1 34 AFFORDABILITY PROGRAM.
1 35 The division shall develop an energy affordability program,



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2 1 in coordination with the Iowa propane education and research
2 2 council, to be administered by the division. The objective of
2 3 the program shall be to enhance the ability of low-income
2 4 individuals who qualify for assistance pursuant to the federal
2 5 low-income home energy assistance program and who purchase and
2 6 utilize propane as their primary residential heat source to
2 7 avoid the loss of essential heat. The program shall establish
2 8 fill requirement limitations applicable to retail propane
2 9 dispensers and retail propane marketers in this state, in
2 10 relation to both the minimum amount of propane an individual
2 11 may be required to purchase and the amount by which that
2 12 minimum may be increased by a retail propane dispenser or
2 13 retail propane marketer within a specified timeframe. The
2 14 program shall also establish mechanisms to enhance propane
2 15 consumer education regarding the availability of financial
2 16 assistance through the low-income home energy assistance
2 17 program and the weatherization assistance program. The
2 18 program shall develop notification procedures and response
2 19 protocols applicable to individuals who are unable to purchase
2 20 propane under the minimum fill dollar value limitations
2 21 established under the program and who face the loss of
2 22 essential heat between November 1 and April 1.

2 23 EXPLANATION

2 24 This bill directs the division of community action agencies
2 25 of the department of human rights to develop and administer an
2 26 energy affordability program, in coordination with the Iowa
2 27 propane education and research council. The bill states that
2 28 the purpose of the program is to enhance the ability of
2 29 low-income individuals who qualify for assistance pursuant to
2 30 the federal low-income home energy assistance program (LIHEAP)
2 31 and who purchase propane as their primary residential heat
2 32 source to avoid the loss of essential heat. The bill requires
2 33 the program to specify fill requirement limitations applicable
2 34 to retail propane dispensers and retail propane marketers in
2 35 this state, concerning both the minimum amount of propane an



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3 1 individual may be required to purchase and the amount by which
3 2 that minimum may be increased by a retail propane dispenser or
3 3 retail propane marketer within a specified timeframe. The
3 4 bill provides that the program shall also establish mechanisms
3 5 to enhance propane consumer education regarding the
3 6 availability of financial assistance through LIHEAP and the
3 7 weatherization assistance program, and develop procedures and
3 8 protocols applicable to individuals who are unable to purchase
3 9 propane under the minimum fill dollar value limitations and
3 10 who face the loss of essential heat between November 1 and
3 11 April 1.
3 12 LSB 1096HH 83
3 13 rn/nh/14



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House Study Bill 169

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

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

Passed Senate, Date _____
Vote: Ayes _____ Nays _____

A BILL FOR

- 1 An Act relating to the uniform athlete agents Act and providing
- 2 remedies and penalties.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4 TLSB 1925HC 83
- 5 av/nh/8



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1 1 Section 1. NEW SECTION. 9A.101 TITLE.
1 2 This chapter shall be known as the "Uniform Athlete Agents
1 3 Act".
1 4 Sec. 2. NEW SECTION. 9A.102 DEFINITIONS.
1 5 As used in this chapter, unless the context otherwise
1 6 requires:
1 7 1. "Agency contract" means an agreement pursuant to which
1 8 a student athlete authorizes a person to negotiate or solicit
1 9 on behalf of the student athlete a professional sports
1 10 services contract or an endorsement contract.
1 11 2. "Athlete agent" means an individual who enters into an
1 12 agency contract with a student athlete or, directly or
1 13 indirectly, recruits or solicits a student athlete to enter
1 14 into an agency contract. "Athlete agent" includes an
1 15 individual who represents to the public that the individual is
1 16 an athlete agent. "Athlete agent" does not include a spouse,
1 17 parent, sibling, grandparent, or guardian of the student
1 18 athlete or an individual acting solely on behalf of a
1 19 professional sports team or professional sports organization.
1 20 3. "Athletic director" means an individual responsible for
1 21 administering the overall athletic program of an educational
1 22 institution or, if an educational institution has separately
1 23 administered athletic programs for male students and female
1 24 students, the athletic program for males or the athletic
1 25 program for females, as appropriate.
1 26 4. "Contact" means a direct or indirect communication
1 27 between an athlete agent and a student athlete, to recruit or
1 28 solicit the student athlete to enter into an agency contract.
1 29 5. "Endorsement contract" means an agreement under which a
1 30 student athlete is employed or receives consideration to use
1 31 on behalf of the other party any value that the student
1 32 athlete may have because of publicity, reputation, following,
1 33 or fame obtained because of athletic ability or performance.
1 34 6. "Intercollegiate sport" means a sport played at the
1 35 collegiate level for which eligibility requirements for



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2 1 participation by a student athlete are established by a
2 2 national association for the promotion or regulation of
2 3 collegiate athletics.

2 4 7. "Person" means an individual, corporation, business
2 5 trust, estate, trust, partnership, limited liability company,
2 6 association, joint venture, government, governmental
2 7 subdivision, agency, or instrumentality, public corporation,
2 8 or any other legal or commercial entity.

2 9 8. "Professional sports services contract" means an
2 10 agreement under which an individual is employed, or agrees to
2 11 render services, as a player on a professional sports team,
2 12 with a professional sports organization, or as a professional
2 13 athlete.

2 14 9. "Record" means information that is inscribed on a
2 15 tangible medium or that is stored in an electronic or other
2 16 medium and is retrievable in perceivable form.

2 17 10. "Registration" means registration as an athlete agent
2 18 pursuant to this chapter.

2 19 11. "State" means a state of the United States, the
2 20 District of Columbia, Puerto Rico, the United States Virgin
2 21 Islands, or any territory or insular possession subject to the
2 22 jurisdiction of the United States.

2 23 12. "Student athlete" means an individual who engages in,
2 24 is eligible to engage in, or may be eligible in the future to
2 25 engage in, any intercollegiate sport. If an individual is
2 26 permanently ineligible to participate in a particular
2 27 intercollegiate sport, the individual is not a student athlete
2 28 for purposes of that sport.

2 29 Sec. 3. NEW SECTION. 9A.103 SERVICE OF PROCESS ==
2 30 SUBPOENAS.

2 31 1. By acting as an athlete agent in this state, a
2 32 nonresident individual appoints the secretary of state as the
2 33 individual's agent for service of process in any civil action
2 34 in this state related to the individual's acting as an athlete
2 35 agent in this state.



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3 1 2. The secretary of state may issue subpoenas for any
3 2 material that is relevant to the administration of this
3 3 chapter.
3 4 Sec. 4. NEW SECTION. 9A.104 ATHLETE AGENTS ==
3 5 REGISTRATION REQUIRED == VOID CONTRACTS.
3 6 1. Except as otherwise provided in subsection 2, an
3 7 individual shall not act as an athlete agent in this state
3 8 without holding a certificate of registration under section
3 9 9A.106 or 9A.108.
3 10 2. Before being issued a certificate of registration, an
3 11 individual may act as an athlete agent in this state for all
3 12 purposes except signing an agency contract, if all of the
3 13 following occur:
3 14 a. A student athlete or another person acting on behalf of
3 15 the student athlete initiates communication with the
3 16 individual.
3 17 b. Within seven days after an initial act as an athlete
3 18 agent, the individual submits an application for registration
3 19 as an athlete agent in this state.
3 20 3. An agency contract resulting from conduct in violation
3 21 of this section is void and the athlete agent shall return any
3 22 consideration received under the contract.
3 23 Sec. 5. NEW SECTION. 9A.105 REGISTRATION AS ATHLETE
3 24 AGENT == FORM == REQUIREMENTS.
3 25 1. An applicant for registration shall submit an
3 26 application for registration to the secretary of state in a
3 27 form prescribed by the secretary of state. An application
3 28 filed under this section is a public record. The application
3 29 shall be in the name of an individual and, except as otherwise
3 30 provided in subsection 2, signed or otherwise authenticated by
3 31 the applicant under penalty of perjury, and contain the
3 32 following information:
3 33 a. The name of the applicant and the address of the
3 34 applicant's principal place of business.
3 35 b. The name of the applicant's business or employer, if



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- 4 1 applicable.
- 4 2 c. Any business or occupation engaged in by the applicant
- 4 3 for the five years immediately preceding the date of
- 4 4 submission of the application.
- 4 5 d. A description of the applicant's qualifications,
- 4 6 including:
- 4 7 (1) Formal training as an athlete agent.
- 4 8 (2) Practical experience as an athlete agent.
- 4 9 (3) Educational background relating to the applicant's
- 4 10 activities as an athlete agent.
- 4 11 e. The names and addresses of three individuals not
- 4 12 related to the applicant who are willing to serve as
- 4 13 references.
- 4 14 f. The name, sport, and last known team of each individual
- 4 15 for whom the applicant acted as an athlete agent during the
- 4 16 five years immediately preceding the date of submission of the
- 4 17 application.
- 4 18 g. The names and addresses of all persons who have or
- 4 19 claim an ownership interest in the applicant's business,
- 4 20 including:
- 4 21 (1) The partners, members, officers, managers, associates,
- 4 22 or profit=sharers of the business if it is not a corporation.
- 4 23 (2) The officers, directors, and any shareholder of the
- 4 24 corporation having an interest of five percent or greater in a
- 4 25 corporation employing the athlete agent.
- 4 26 h. Whether the applicant or any person named pursuant to
- 4 27 paragraph "g" has been convicted of a crime that, if committed
- 4 28 in this state, would be a crime involving moral turpitude or
- 4 29 which is a felony, and identify the crime.
- 4 30 i. Whether there has been any administrative or judicial
- 4 31 determination that the applicant or any person named pursuant
- 4 32 to paragraph "g" has made a materially false, misleading,
- 4 33 deceptive, or fraudulent representation.
- 4 34 j. Any instance in which the conduct of the applicant or
- 4 35 any person named pursuant to paragraph "g" resulted in the



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5 1 imposition of a sanction, suspension, or declaration of
5 2 ineligibility to participate in an interscholastic or
5 3 intercollegiate athletic event on, of, or by a student athlete
5 4 or educational institution.

5 5 k. Any sanction, suspension, or disciplinary action taken
5 6 against the applicant or any person named pursuant to
5 7 paragraph "g" arising out of occupational or professional
5 8 conduct.

5 9 l. Whether there has been any denial of an application
5 10 for, suspension or revocation of, or refusal to renew, the
5 11 registration or licensure of the applicant or of any person
5 12 named pursuant to paragraph "g" as an athlete agent in any
5 13 state.

5 14 2. An individual who has submitted an application for, and
5 15 holds a certificate of, registration or licensure as an
5 16 athlete agent in another state may submit a copy of the
5 17 application and certificate in lieu of submitting an
5 18 application in the form prescribed pursuant to subsection 1.
5 19 The secretary of state shall accept the application and the
5 20 certificate from the other state as an application for
5 21 registration in this state if the application to the other
5 22 state complies with all of the following:

5 23 a. Was submitted in the other state within the six-month
5 24 period immediately preceding the submission of the application
5 25 in this state and the applicant certifies that the information
5 26 contained in the application in the other state is current.

5 27 b. Contains information substantially similar to or more
5 28 comprehensive than that required in an application submitted
5 29 in this state.

5 30 c. Was signed by the applicant under penalty of perjury.

5 31 Sec. 6. NEW SECTION. 9A.106 CERTIFICATE OF REGISTRATION
5 32 == ISSUANCE OR DENIAL == RENEWAL.

5 33 1. Except as otherwise provided in subsection 2, the
5 34 secretary of state shall issue a certificate of registration
5 35 to an individual who complies with section 9A.105, subsection



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- 6 1 1, or whose application has been accepted under section
6 2 9A.105, subsection 2.
- 6 3 2. The secretary of state may refuse to issue a
6 4 certificate of registration if the secretary of state
6 5 determines that the applicant has engaged in conduct that has
6 6 a significant adverse effect on the applicant's fitness to act
6 7 as an athlete agent. In making the determination, the
6 8 secretary of state may consider whether the applicant has done
6 9 the following:
- 6 10 a. Been convicted of a crime that, if committed in this
6 11 state, would be a crime involving moral turpitude or a felony.
- 6 12 b. Made a materially false, misleading, deceptive, or
6 13 fraudulent representation in the application or as an athlete
6 14 agent.
- 6 15 c. Engaged in conduct that would disqualify the applicant
6 16 from serving in a fiduciary capacity.
- 6 17 d. Engaged in conduct prohibited by section 9A.114.
- 6 18 e. Had a certificate of registration or licensure as an
6 19 athlete agent suspended, revoked, or denied or been refused
6 20 renewal of a certificate of registration or licensure as an
6 21 athlete agent in any state.
- 6 22 f. Engaged in conduct which resulted in the imposition of
6 23 a sanction, suspension, or declaration of ineligibility to
6 24 participate in an interscholastic or intercollegiate athletic
6 25 event on, of, or by a student athlete or educational
6 26 institution.
- 6 27 g. Engaged in conduct that significantly adversely
6 28 reflects on the applicant's credibility, honesty, or
6 29 integrity.
- 6 30 3. In making a determination under subsection 2, the
6 31 secretary of state shall consider the following:
- 6 32 a. How recently the conduct occurred.
- 6 33 b. The nature of the conduct and the context in which it
6 34 occurred.
- 6 35 c. Any other relevant conduct of the applicant.



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7 1 4. An athlete agent may apply to renew a certificate of
7 2 registration by submitting an application for renewal in a
7 3 form prescribed by the secretary of state. An application
7 4 filed under this section is a public record. The application
7 5 for renewal must be signed by the applicant under penalty of
7 6 perjury and must contain current information on all matters
7 7 required in an original application for registration.
7 8 5. An individual who has submitted an application for
7 9 renewal of a certificate of registration or licensure in
7 10 another state, in lieu of submitting an application for
7 11 renewal in the form prescribed pursuant to subsection 4, may
7 12 file a copy of the application for renewal and a valid
7 13 certificate of registration or licensure from the other state.
7 14 The secretary of state shall accept the application for
7 15 renewal from the other state as an application for renewal in
7 16 this state if the application to the other state complies with
7 17 all of the following:
7 18 a. Was submitted in the other state within the six-month
7 19 period immediately preceding the filing in this state and the
7 20 applicant certifies the information contained in the
7 21 application for renewal in the other state is current.
7 22 b. Contains information substantially similar to or more
7 23 comprehensive than that required in an application for renewal
7 24 submitted in this state.
7 25 c. Was signed by the applicant under penalty of perjury.
7 26 6. An original certificate of registration or a renewal of
7 27 a certificate of registration is valid for two years.
7 28 Sec. 7. NEW SECTION. 9A.107 SUSPENSION, REVOCATION, OR
7 29 REFUSAL TO RENEW REGISTRATION.
7 30 1. The secretary of state may suspend, revoke, or refuse
7 31 to renew a certificate of registration for conduct that would
7 32 have justified denial of a certificate of registration under
7 33 section 9A.106, subsection 2.
7 34 2. The secretary of state may deny, suspend, revoke, or
7 35 refuse to renew a certificate of registration or licensure



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8 1 only after proper notice and an opportunity for a hearing held
8 2 in accordance with chapter 17A.

8 3 Sec. 8. NEW SECTION. 9A.108 TEMPORARY REGISTRATION.

8 4 The secretary of state may issue a temporary certificate of
8 5 registration while an application for registration or renewal
8 6 of registration is pending.

8 7 Sec. 9. NEW SECTION. 9A.109 REGISTRATION AND RENEWAL
8 8 FEES.

8 9 An application for registration or renewal of registration
8 10 shall be accompanied by a reasonable registration or renewal
8 11 of registration fee sufficient to offset expenses incurred in
8 12 the administration of this chapter as established by the
8 13 secretary of state.

8 14 Sec. 10. NEW SECTION. 9A.110 REQUIRED FORM OF CONTRACT.

8 15 1. An agency contract shall be in a record, signed, or
8 16 otherwise authenticated by the parties.

8 17 2. An agency contract shall contain the following
8 18 information:

8 19 a. The amount and method of calculating the consideration
8 20 to be paid by the student athlete for services to be provided
8 21 by the athlete agent under the contract and any other
8 22 consideration the athlete agent has received or will receive
8 23 from any other source for entering into the contract or for
8 24 providing the services.

8 25 b. The name of any person not listed in the application
8 26 for registration or renewal of registration who will be
8 27 compensated because the student athlete signed the agency
8 28 contract.

8 29 c. The description of any expenses that the student
8 30 athlete agrees to reimburse.

8 31 d. The description of the services to be provided to the
8 32 student athlete.

8 33 e. The duration of the contract.

8 34 f. The date of execution of the contract.

8 35 3. An agency contract must contain, in close proximity to



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9 1 the signature of the student athlete, a conspicuous notice in
9 2 boldface type in capital letters stating:

9 3 WARNING TO STUDENT ATHLETE

9 4 IF YOU SIGN THIS CONTRACT:

9 5 (1) YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS A STUDENT
9 6 ATHLETE IN YOUR SPORT;

9 7 (2) IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN 72 HOURS
9 8 AFTER ENTERING INTO THIS CONTRACT, BOTH YOU AND YOUR ATHLETE
9 9 AGENT MUST NOTIFY YOUR ATHLETIC DIRECTOR; AND

9 10 (3) YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER
9 11 SIGNING IT. CANCELLATION OF THIS CONTRACT MAY NOT REINSTATE
9 12 YOUR ELIGIBILITY.

9 13 4. An agency contract that does not conform to this
9 14 section is voidable by the student athlete. If a student
9 15 athlete voids an agency contract, the student athlete is not
9 16 required to pay any consideration under the contract or to
9 17 return any consideration received from the athlete agent to
9 18 induce the student athlete to enter into the contract.

9 19 5. The athlete agent shall give a record of the signed or
9 20 otherwise authenticated agency contract to the student athlete
9 21 at the time of execution of the contract.

9 22 Sec. 11. NEW SECTION. 9A.111 NOTICE TO EDUCATIONAL
9 23 INSTITUTION.

9 24 1. Within seventy-two hours after entering into an agency
9 25 contract or before the next scheduled athletic event in which
9 26 the student athlete may participate, whichever occurs first,
9 27 the athlete agent shall give notice in a record of the
9 28 existence of the contract to the athletic director of the
9 29 educational institution at which the student athlete is
9 30 enrolled or at which the athlete agent has reasonable grounds
9 31 to believe the student athlete intends to enroll.

9 32 2. Within seventy-two hours after entering into an agency
9 33 contract or before the next athletic event in which the
9 34 student athlete may participate, whichever occurs first, the
9 35 student athlete shall inform the athletic director of the



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10 1 educational institution at which the student athlete is
10 2 enrolled or intends to enroll that the student athlete has
10 3 entered into an agency contract.
10 4 Sec. 12. NEW SECTION. 9A.112 STUDENT ATHLETE'S RIGHT TO
10 5 CANCEL.
10 6 1. A student athlete may cancel an agency contract by
10 7 giving notice of the cancellation to the athlete agent in a
10 8 record within fourteen days after the contract is signed.
10 9 2. A student athlete shall not waive the right to cancel
10 10 an agency contract.
10 11 3. If a student athlete cancels an agency contract, the
10 12 student athlete is not required to pay any consideration under
10 13 the contract or to return any consideration received from the
10 14 athlete agent to induce the student athlete to enter into the
10 15 contract.
10 16 Sec. 13. NEW SECTION. 9A.113 REQUIRED RECORDS.
10 17 1. An athlete agent shall retain the following records for
10 18 a period of five years:
10 19 a. The name and address of each individual represented by
10 20 the athlete agent.
10 21 b. Any agency contract entered into by the athlete agent.
10 22 c. Any direct costs incurred by the athlete agent in the
10 23 recruitment or solicitation of a student athlete to enter into
10 24 an agency contract.
10 25 2. Records required to be retained pursuant to subsection
10 26 1 are open to inspection by the secretary of state during
10 27 normal business hours.
10 28 Sec. 14. NEW SECTION. 9A.114 PROHIBITED CONDUCT.
10 29 1. An athlete agent, with the intent to induce a student
10 30 athlete to enter into an agency contract, shall not do any of
10 31 the following:
10 32 a. Give any materially false, misleading, deceptive, or
10 33 fraudulent information or make a materially false promise or a
10 34 materially false, misleading, deceptive, or fraudulent
10 35 representation.



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11 1 b. Furnish anything of value to a student athlete before
11 2 the student athlete enters into the agency contract.
11 3 c. Furnish anything of value to any individual other than
11 4 the student athlete or another registered athlete agent.
11 5 2. An athlete agent shall not intentionally:
11 6 a. Initiate contact with a student athlete unless
11 7 registered under this chapter.
11 8 b. Refuse or fail to retain or permit inspection of the
11 9 records required to be retained by section 9A.113.
11 10 c. Fail to register when required by section 9A.104.
11 11 d. Provide materially false or misleading information in
11 12 an application for registration or renewal of registration.
11 13 e. Predate or postdate an agency contract.
11 14 f. Fail to notify a student athlete before the student
11 15 athlete signs or otherwise authenticates an agency contract
11 16 for a particular sport that the signing or authentication may
11 17 make the student athlete ineligible to participate as a
11 18 student athlete in that sport.
11 19 Sec. 15. NEW SECTION. 9A.115 CRIMINAL PENALTIES.
11 20 An athlete agent who violates section 9A.114 is guilty of a
11 21 serious misdemeanor.
11 22 Sec. 16. NEW SECTION. 9A.116 CIVIL REMEDIES.
11 23 1. An educational institution has a right of action
11 24 against an athlete agent or a former student athlete for
11 25 damages caused by a violation of this chapter. In an action
11 26 under this section, the court may award costs and reasonable
11 27 attorney fees to the prevailing party.
11 28 2. Damages to an educational institution under subsection
11 29 1 include losses and expenses incurred because, as a result of
11 30 the conduct of an athlete agent or former student athlete, the
11 31 educational institution was injured by a violation of this
11 32 chapter or was sanctioned, declared ineligible, or suspended
11 33 from participation in athletics by a national association for
11 34 the promotion and regulation of athletics, by an athletic
11 35 conference, or by reasonable self-imposed disciplinary action



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12 1 taken to mitigate sanctions likely to be imposed by such an
12 2 association.
12 3 3. A right of action under this section does not accrue
12 4 until the educational institution discovers or by the exercise
12 5 of reasonable diligence should have discovered the violation
12 6 by the athlete agent or former student athlete.
12 7 4. Any liability of the athlete agent or the former
12 8 student athlete under this section is several and not joint.
12 9 5. This chapter does not restrict rights, remedies, or
12 10 defenses of any person under law or equity.
12 11 Sec. 17. NEW SECTION. 9A.117 ADMINISTRATIVE PENALTY.
12 12 The secretary of state may assess a civil penalty against
12 13 an athlete agent not to exceed twenty-five thousand dollars
12 14 for a violation of this chapter.
12 15 Sec. 18. NEW SECTION. 9A.118 UNIFORMITY OF APPLICATION
12 16 AND CONSTRUCTION.
12 17 In applying and construing this chapter, consideration must
12 18 be given to the need to promote uniformity of the law with
12 19 respect to the subject matter of this chapter among states
12 20 that enact the uniform athlete agents Act.
12 21 Sec. 19. NEW SECTION. 9A.119 ELECTRONIC SIGNATURES IN
12 22 GLOBAL AND NATIONAL COMMERCE ACT.
12 23 The provisions of this chapter governing the legal effect,
12 24 validity, or enforceability of electronic records or
12 25 signatures, and of contracts formed or performed with the use
12 26 of such records or signatures, shall be construed as
12 27 conforming to the requirements of section 102 of the federal
12 28 Electronic Signatures in Global and National Commerce Act,
12 29 Pub. L. No. 106=229, 114 Stat. 464 (2000), codified at 15
12 30 U.S.C. } 7001 et seq., as amended.
12 31 Sec. 20. Code sections 9A.1 through 9A.12, Code 2009, are
12 32 repealed.
12 33 EXPLANATION
12 34 This bill repeals the existing provisions of Code chapter
12 35 9A, which relate to the registration of athlete agents and



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13 1 replaces them with the uniform athlete agents Act. The
13 2 uniform athlete agents Act provides for uniform registration,
13 3 certification, and background checks of sports agents seeking
13 4 to represent student athletes who are or may be eligible to
13 5 participate in intercollegiate sports, imposes specified
13 6 contract terms on agreements between student athletes and
13 7 athlete agents, and provides educational institutions with a
13 8 right to notice of the existence of a contract between an
13 9 athlete agent and a student athlete.

13 10 The bill also provides an educational institution with
13 11 civil remedies against an athlete agent or a student athlete
13 12 who violates the provisions of the chapter.

13 13 The bill also provides that an athlete agent that violates
13 14 the prohibited activities section of the Code chapter is
13 15 guilty of a serious misdemeanor. Prohibited activities
13 16 include providing materially false, misleading, deceptive, or
13 17 fraudulent information, making a materially false or
13 18 misleading promise or a materially false, misleading,
13 19 deceptive, or fraudulent representation, furnishing things of
13 20 value before a contract is made with an athlete, violating the
13 21 Code chapter's registration requirements, predating or
13 22 postdating an agency contract, or failing to notify a student
13 23 athlete prior to signing that signing an agency contract may
13 24 make the student athlete ineligible to participate as a
13 25 student athlete in that sport.

13 26 A serious misdemeanor is punishable by confinement for no
13 27 more than one year and a fine of at least \$315 but not more
13 28 than \$1,875.

13 29 LSB 1925HC 83

13 30 av/nh/8



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House Study Bill 170

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

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

Passed Senate, Date _____
Vote: Ayes _____ Nays _____

A BILL FOR

1 An Act relating to civil actions including certain limitations on
2 actions, judgments, and executions and including actions
3 relating to the foreclosure of real estate mortgages, and
4 providing applicability provisions.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
6 TLSB 1471HC 83
7 rh/rj/5



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PAG LIN

1 1 Section 1. NEW SECTION. 614.18A JUDGMENT AND DECREE
1 2 AFFECTING REAL PROPERTY.

1 3 In an action in which the court had jurisdiction of the
1 4 aggrieved party, a motion or other legal proceeding attacking
1 5 the validity of the judgment or decree based on noncompliance
1 6 with the requirements of rule of civil procedure 1.972 shall
1 7 not affect the interests of any purchaser or mortgagee for
1 8 value of the real property involved unless the motion or
1 9 proceeding is initiated within thirty days after the recording
1 10 of the sheriff's deed or within ninety days after the filing
1 11 of a judgment or decree not providing for the issuance of a
1 12 sheriff's deed.

1 13 Sec. 2. Section 615.1, subsection 1, Code 2009, is amended
1 14 to read as follows:

1 15 1. After the expiration of a period of two years from the
1 16 date of entry of judgment, exclusive of any time during which
1 17 execution on the judgment was stayed pending a bankruptcy
1 18 action or order of court, a judgment entered in ~~either~~ any of
1 19 the following actions shall be null and void, all liens shall
1 20 be extinguished, and no execution shall be issued ~~for any~~
1 21 ~~purpose other than~~ except as a setoff or counterclaim:

1 22 a. (1) ~~An~~ For a real estate mortgage, deed of trust, or
1 23 real estate contract executed prior to July 1, 2009, an action
1 24 for the foreclosure of a the real estate mortgage, deed of
1 25 trust, or real estate contract upon property which at the time
1 26 of judgment the foreclosure is commenced is either used for an
1 27 agricultural purpose as defined in section 535.13 or as a
1 28 one-family or two-family dwelling which is the residence of
1 29 the mortgagor.

1 30 (2) For a real estate mortgage, deed of trust, or real
1 31 estate contract executed on or after July 1, 2009, an action
1 32 for the foreclosure of the real estate mortgage, deed of
1 33 trust, or real estate contract upon property which at the time
1 34 of the execution of the mortgage, deed, or contract is either
1 35 used for, or is being acquired for, an agricultural purpose as



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2 1 defined in section 535.13 or as a one-family or two-family
2 2 dwelling which is the residence of the mortgagor.
2 3 b. An action on a claim for rent.
2 4 Sec. 3. Section 615.3, Code 2009, is amended to read as
2 5 follows:
2 6 615.3 FUTURE JUDGMENTS WITHOUT FORECLOSURE.
2 7 1. a. A judgment ~~hereafter~~ rendered on a promissory
2 8 obligation secured by a mortgage, deed of trust, or real
2 9 estate contract ~~upon property which at the time of the~~
~~2 10 judgment is either used for an agricultural purpose as defined~~
~~2 11 in section 535.13 or a one-family or two-family dwelling which~~
~~2 12 is the residence of the mortgagor executed prior to July 1,~~
2 13 2009, but without foreclosure against the security, shall not
2 14 be subject to renewal by action thereon, and, after the lapse
2 15 of two years from the date of ~~rendition~~ judgment, shall be
2 16 without force and effect for any purpose whatsoever except as
2 17 a setoff or counterclaim, if the mortgage, deed, or contract
2 18 was upon property which at the time of either the execution of
2 19 the judgment or the commencement of a proceeding foreclosing a
2 20 prior mortgage or a disposition in lieu of a prior mortgage,
2 21 was either used for an agricultural purpose as defined in
2 22 section 535.13 or as a one-family or two-family dwelling which
2 23 was the residence of the mortgagor. As used in this section,
~~2 24 "mortgagor" means a mortgagor of a mortgage or a borrower~~
~~2 25 executing a deed of trust as provided in chapter 654 or the~~
~~2 26 vendee of a real estate contract.~~
2 27 b. A judgment rendered on a promissory obligation secured
2 28 by a real estate mortgage, deed of trust, or real estate
2 29 contract executed on or after July 1, 2009, but without
2 30 foreclosure against the security, shall not be subject to
2 31 renewal by action thereon, and, after the lapse of two years
2 32 from the date of judgment, shall be without force and effect
2 33 except as a setoff or counterclaim, if at the time of the
2 34 execution of the mortgage, deed, or contract the property
2 35 encompassed by the mortgage, deed, or contract is either used



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3 1 for, or is being acquired for, an agricultural purpose as
3 2 defined in section 535.13 or as a one-family or two-family
3 3 dwelling which is the residence of the mortgagor.
3 4 2. As used in this section, "mortgagor" means a mortgagor
3 5 of a mortgage or a borrower executing a deed of trust as
3 6 provided in chapter 654 or the vendee of a real estate
3 7 contract.

3 8 Sec. 4. Section 626.81, Code 2009, is amended to read as
3 9 follows:

3 10 626.81 SALE POSTPONED.

3 11 When there are no bidders, or when the amount offered is
3 12 grossly inadequate, ~~or~~ when from any cause the sale is
3 13 prevented from taking place on the day fixed, when requested
3 14 by the judgment creditor, or when the parties so agree, the
3 15 officer may postpone the sale ~~for not more than three days~~
3 16 without being required to give any further notice thereof,
3 17 which postponement shall be publicly announced at the time the
3 18 sale was to have been made, but not more than two such
3 19 adjournments of not more than sixty days in the aggregate
3 20 shall be made, except by agreement of the parties in writing
3 21 and made a part of the return upon the execution.

3 22 Sec. 5. NEW SECTION. 654.1A MAINTENANCE OF MORTGAGOR
3 23 PROTECTIONS == DISCONTINUATION OF OCCUPATION.

3 24 For purposes of sections 615.1, 615.3, 628.28, 654.2D,
3 25 654.20, 654.21, and 654.26, property shall be deemed the
3 26 residence of and occupied by the mortgagor where occupation
3 27 has ceased because of the effects of natural disaster, injury
3 28 to the property not willfully caused by the mortgagor, or the
3 29 mortgagor's state military service or federal military service
3 30 as those terms are defined in section 29A.1.

3 31 Sec. 6. NEW SECTION. 654.4A SERVICE OF PROCESS == IN REM
3 32 RELIEF.

3 33 In addition to any other form of service authorized by law,
3 34 where in rem relief is the only relief requested in a
3 35 foreclosure action against either a party or a person to be



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4 1 served with a notice pursuant to section 614.15B, all of the
4 2 following shall apply:
4 3 1. If the person to be served is a judgment creditor,
4 4 service may be made by certified mail, with proof of delivery,
4 5 to the judgment creditor's registered agent or to the judgment
4 6 creditor at the judgment creditor's principal place of
4 7 business in the state where the business is organized, as
4 8 indicated by the records in the office of the secretary of
4 9 state, or to the judgment creditor at the last address
4 10 indicated in the case in which the judgment was entered.
4 11 2. Upon affidavit that service cannot be made on a
4 12 judgment creditor either pursuant to subsection 1 or by
4 13 personal service in this state, service may be made by
4 14 certified mail, with proof of delivery, on the judgment
4 15 creditor's attorney of record if that attorney is a practicing
4 16 attorney in this state, along with a copy of this section, and
4 17 a payment of ten dollars. The attorney shall forward the
4 18 notice by ordinary mail to the judgment creditor's last known
4 19 address but the attorney shall have no further duties under
4 20 this section with respect to the notice.
4 21 3. An attorney who agrees to accept service on behalf of a
4 22 judgment creditor may charge a reasonable fee, not to exceed
4 23 ten dollars, for accepting service.
4 24 4. If a person, other than a governmental taxing unit, is
4 25 an interested person with respect to a decedent's estate in
4 26 probate, the person may be named generally as a person
4 27 interested in the decedent's estate and service of process
4 28 shall be made by personal service or certified mail, along
4 29 with proof of delivery, on the attorney for the personal
4 30 representative. If the estate is probated in this state and a
4 31 person has requested notice pursuant to section 633.42, the
4 32 mortgagee shall also serve that person by ordinary mail at the
4 33 address specified in the request for notice. A person so
4 34 served may intervene as a named defendant as a matter of
4 35 right.



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5 1 5. If a defendant, other than a governmental taxing unit,
5 2 is a person whose identity is not reasonably ascertainable,
5 3 and the person has an interest in a decedent's estate not
5 4 probated in this state, such person may be named generally as
5 5 a person with an interest in the decedent's estate and service
5 6 of process shall be made by publication unless the mortgagee
5 7 has actual notice that the decedent's estate is probated in
5 8 another state. A person so served may intervene as a named
5 9 defendant as a matter of right.

5 10 Sec. 7. Section 654.5, Code 2009, is amended to read as
5 11 follows:

5 12 654.5 JUDGMENT == SALE AND REDEMPTION.

5 13 1. When a mortgage or deed of trust is foreclosed, the
5 14 court shall do all of the following:

5 15 a. ~~render~~ Render judgment for the entire amount found to
5 16 be due, and ~~must direct~~.

5 17 b. Direct the mortgaged property, or so much thereof as is
5 18 necessary, to be sold to satisfy the judgment, with interest
5 19 and costs.

5 20 c. Determine issues of title raised in the pleadings to
5 21 establish the rights and priorities of the parties and persons
5 22 served with notice pursuant to section 654.15B in the property
5 23 subject to foreclosure as may be reasonably necessary to allow
5 24 a purchaser at a sheriff's sale to obtain clear title.

5 25 2. A special execution shall issue ~~accordingly~~ under such
5 26 conditions as the decree may prescribe, and the sale under the
5 27 special execution is subject to redemption as in cases of sale
5 28 under general execution unless the plaintiff has elected
5 29 foreclosure without redemption under section 654.20.

5 30 3. The clerk shall provide a copy of the decree by
5 31 ordinary or electronic mail to all parties in the foreclosure
5 32 proceeding and all persons served with notices under section
5 33 654.15B.

5 34 Sec. 8. Section 654.15B, Code 2009, is amended to read as
5 35 follows:



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6 1 654.15B RIGHT TO INTERVENE == NOTICE.
6 2 A lender may serve a judgment creditor in a foreclosure
6 3 action with notice in substantially the following form
6 4 advising the creditor that the property that is the subject of
6 5 the foreclosure action shall be foreclosed and describing the
6 6 creditor's interest in the action and that unless such
6 7 creditor intervenes in the foreclosure action such creditor
6 8 shall lose the creditor's interest in the mortgaged property.
6 9 Unless the creditor intervenes within thirty days of the
6 10 service of notice, the court may adjudicate the creditor's
6 11 rights against the property as if the creditor had been added
6 12 as a defendant and default had been entered against the
6 13 defendant. If a creditor cannot be located for personal
6 14 service, the plaintiff may, at any time prior to sixty days
6 15 before the date of trial, amend the petition as a matter of
6 16 right to add the creditor as a defendant for service by
6 17 publication as provided by rule. The notice prescribed by
6 18 this section is as follows:

6 19 NOTICE OF PENDING FORECLOSURE

6 20 To: (Name and address of creditor)

6 21 Date: (Enter date)

6 22 Plaintiff (Name of foreclosing party) has filed a
6 23 foreclosure of mortgage against the property of (titleholder)
6 24 located at (street address of property) which is legally
6 25 described as (legal description). This foreclosure was filed
6 26 as (Plaintiff v. Defendant), Case # (..), in the Iowa District
6 27 Court for (.....) County and is intended to foreclose a
6 28 mortgage dated (date of mortgage) and recorded on (date of
6 29 recording) in the (county recorder's office). You have an
6 30 apparent interest in the property because ~~(description of~~
~~6 31 creditor's interest)~~ of an apparent judgment lien in (short
6 32 caption of case, case number, court where judgment entered,
6 33 and judgment date). If you desire to protect this interest,
6 34 you have the right to intervene in the foreclosure action
6 35 within thirty days of the service of notice by filing an



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7 1 intervention with the clerk of court in (.....) County.
7 2 Unless you intervene in the foreclosure, the foreclosure may
7 3 eliminate any interest you have in the property but will not
7 4 otherwise affect your rights. If you have any questions about
7 5 this notice, contact your attorney. Whether or not you
7 6 intervene, the foreclosure may have certain tax consequences
7 7 to you about which you should consult your tax advisor.
7 8

7 9 Name, address, and telephone number of attorney representing
7 10 ~~plaintiff~~ (name of foreclosing party).

7 11 Sec. 9. Section 654.17, Code 2009, is amended to read as
7 12 follows:

7 13 654.17 RECISION OF FORECLOSURE.

7 14 1. At any time prior to the recording of the sheriff's
7 15 deed, and before the mortgagee's rights become unenforceable
7 16 by operation of the statute of limitations, the judgment
7 17 creditor, or the judgment creditor who is the successful
7 18 bidder at the sheriff's sale, ~~with the written consent of the~~
~~7 19 mortgagor~~ may rescind the foreclosure action by filing a
7 20 notice of recision with the clerk of court in the county in
7 21 which the property is located along with a filing fee of fifty
7 22 dollars. In addition, if the original loan documents are
7 23 contained in the court file, the mortgagee shall pay a fee of
7 24 twenty-five dollars to the clerk of the district court. Upon
7 25 the payment of the fee, the clerk shall make copies of the
7 26 original loan documents for the court file, and return the
7 27 original loan documents to the mortgagee.

7 28 2. Upon the filing of the notice of recision, the mortgage
7 29 loan shall be enforceable according to the original terms of
7 30 the mortgage loan and the rights of all persons with an
7 31 interest in the property may be enforced as if the foreclosure
7 32 had not been filed. However, any findings of fact or law
7 33 shall be preclusive for purposes of any future action unless
7 34 the court, upon hearing, rules otherwise and the mortgagee
7 35 shall be permanently barred from a deficiency judgment if the



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8 1 judgment rescinded was subject to the provisions of section
8 2 615.1. The mortgagee may charge the mortgagor shall be
~~8 3 assessed for the costs, including reasonable attorney fees, of~~
8 4 foreclosure and rescision if ~~provided by the mortgage agreement~~
8 5 agreed to in writing by the mortgagor.

8 6 Sec. 10. Section 655A.9, Code 2009, is amended to read as
8 7 follows:

8 8 655A.9 APPLICATION OF CHAPTER.

8 9 This chapter does not apply to real estate used for an
8 10 agricultural purpose as defined in section 535.13, or to a one
8 11 or two family dwelling which is, at the time of the initiation
8 12 of the foreclosure, occupied by ~~an~~ a legal or equitable
8 13 titleholder.

8 14 Sec. 11. APPLICABILITY DATES.

8 15 1. The section of this Act enacting section 654.1A applies
8 16 to all actions commenced on or after the effective date of
8 17 this Act.

8 18 2. The section of this Act amending section 655A.9 applies
8 19 to all nonjudicial foreclosures of nonagricultural mortgages
8 20 commenced on or after the effective date of this Act.

8 21 EXPLANATION

8 22 This bill relates to civil actions including certain
8 23 limitations on actions, judgments, and executions, and
8 24 including actions relating to the foreclosure of real estate
8 25 mortgages, and provides applicability provisions.

8 26 The bill provides that in an action in which the court had
8 27 jurisdiction of the aggrieved party, a motion or other legal
8 28 proceeding attacking the validity of the judgment or decree
8 29 based on failure to comply with the rules of civil procedure
8 30 relating to the entry of default judgments shall not affect
8 31 the interests of any purchaser or mortgagee for value of the
8 32 real property involved unless the motion or proceeding is
8 33 initiated within 30 days after the recording of the sheriff's
8 34 deed or within 90 days after the filing of a judgment or
8 35 decree not providing for the issuance of a sheriff's deed.



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9 1 The bill provides that, in regard to an execution on a
9 2 judgment in a foreclosure action, a judgment entered in either
9 3 of the following situations shall be null and void, all liens
9 4 shall be extinguished, and no execution shall be issued for
9 5 any purpose except as a setoff or counterclaim:

9 6 1. For a real estate mortgage, deed of trust, or real
9 7 estate contract executed prior to July 1, 2009, an action for
9 8 the foreclosure of a real estate mortgage, deed of trust, or
9 9 real estate contract upon property which at the time the
9 10 foreclosure is commenced is either used for an agricultural
9 11 purpose or as a one=family or two=family dwelling which is the
9 12 residence of the mortgagor, borrower, or vendee.

9 13 2. For a real estate mortgage, deed of trust, or real
9 14 estate contract executed on or after July 1, 2009, an action
9 15 for the foreclosure of a real estate mortgage, deed of trust,
9 16 or real estate contract upon property which at the time of the
9 17 execution of the mortgage, deed of trust, or real estate
9 18 contract is either used for, or is being acquired for, an
9 19 agricultural purpose as defined in Code section 535.13 or as a
9 20 one=family or two=family dwelling which is the residence of
9 21 the mortgagor, borrower, or vendee.

9 22 The bill provides that a judgment rendered on a promissory
9 23 obligation secured by a mortgage, deed of trust, or real
9 24 estate contract executed prior to July 1, 2009, but without
9 25 foreclosure against the security, shall not be subject to
9 26 renewal by action thereon, and, after the lapse of two years
9 27 from the date of judgment, shall be without force and effect
9 28 except as a setoff or counterclaim, if the mortgage, deed, or
9 29 contract was upon property which at the time of either the
9 30 judgment or the commencement of a proceeding foreclosing a
9 31 prior mortgage or a disposition in lieu of a prior mortgage,
9 32 was either used for an agricultural purpose or as a one=family
9 33 or two=family dwelling which was the residence of the
9 34 mortgagor. A judgment rendered on a promissory obligation
9 35 secured by a real estate mortgage, deed of trust, or real



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10 1 estate contract executed on or after July 1, 2009, but without
10 2 foreclosure against the security, shall not be subject to
10 3 renewal by action thereon, and, after the lapse of two years
10 4 from the date of judgment, shall be without force and effect
10 5 except as a setoff or counterclaim, if at the time of the
10 6 execution of the mortgage, deed, or contract the property
10 7 encompassed by the mortgage, deed, or contract is either used
10 8 for, or is being acquired for, an agricultural purpose or as a
10 9 one-family or two-family dwelling which is the residence of
10 10 the mortgagor.

10 11 The bill expands the options for allowing postponements of
10 12 a sheriff's sale to include allowing a postponement upon a
10 13 request by a judgment creditor and also extends the number of
10 14 allowable postponements from two postponements of not more
10 15 than three days each to two postponements not to exceed a
10 16 total of 60 days in the aggregate.

10 17 The bill establishes a provision preserving mortgage
10 18 protections for a mortgagor in situations where the mortgagor
10 19 ceases to occupy the mortgagor's residence because of the
10 20 effects of natural disasters, injuries to the property, and
10 21 relocations due to military service. This provision applies
10 22 to all actions commenced on or after the effective date of the
10 23 bill.

10 24 The bill provides specific service of process provisions
10 25 for judgment creditors and their attorneys as well as
10 26 executors and administrators of a decedent's estate where in
10 27 rem relief is the only relief requested in a foreclosure
10 28 action.

10 29 The bill requires courts to determine the rights of all
10 30 persons joined as parties or receiving notices of their right
10 31 to intervene in a foreclosure action where title issues have
10 32 been raised by the pleadings and resolution of such issues is
10 33 necessary to provide clear title to persons purchasing the
10 34 land at a sheriff's sale.

10 35 The bill amends notice provisions relating to pending



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11 1 foreclosures to require a mortgagee to provide additional
11 2 information relevant to a judgment creditor's decision to
11 3 intervene in a foreclosure action.

11 4 The bill eliminates the requirement that the mortgagor
11 5 consent to a rescission of a foreclosure action.

11 6 The bill eliminates deficiency judgments against the
11 7 mortgagee if such judgments would otherwise be restricted and
11 8 limits the assessment of costs, including reasonable attorney
11 9 fees, of foreclosure and rescission actions to those agreed to
11 10 in writing by the mortgagor.

11 11 The bill prohibits the use of a nonjudicial foreclosure in
11 12 circumstances where the real estate that is the subject of the
11 13 foreclosure is a one-family or two-family home occupied by a
11 14 legal titleholder. This provision applies to all nonjudicial
11 15 foreclosures of nonagricultural mortgages commenced on or
11 16 after the effective date of the bill.

11 17 Unless otherwise provided, the bill takes effect July 1,
11 18 2009.

11 19 LSB 1471HC 83

11 20 rh/rj/5.1



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

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

Passed Senate, Date _____
Vote: Ayes _____ Nays _____

A BILL FOR

- 1 An Act relating to criminal law by making changes to existing
- 2 criminal offenses, adding new criminal offenses, relating to
- 3 deferred judgments and expunged records, and making penalties
- 4 applicable.
- 5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 6 TLSB 1462HC 83
- 7 jm/nh/5



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PAG LIN

1 1 Section 1. Section 123.46, Code 2009, is amended to read
 1 2 as follows:
 1 3 123.46 CONSUMPTION OR INTOXICATION IN PUBLIC PLACES ==
 1 4 NOTIFICATIONS == CHEMICAL TESTS == ~~EXONERATION~~ EXPUNGED
 1 5 RECORD.

1 6 1. As used in this section, unless the context otherwise
 1 7 requires:

1 8 a. "Arrest" means the same as defined in section 804.5 and
 1 9 includes taking into custody pursuant to section 232.19.

1 10 b. "Chemical test" means a test of a person's blood,
 1 11 breath, or urine to determine the percentage of alcohol
 1 12 present by a qualified person using devices and methods
 1 13 approved by the commissioner of public safety.

1 14 c. "Controlled substance" means a substance or compound
 1 15 listed in section 124.204 or 124.206.

1 16 d. "Expunged" means the segregation of a court's criminal
 1 17 record with reference to a violation of this section in an
 1 18 area or database which is secured from public access.

1 19 e. "Inhalant" means any substance which, if inhaled,
 1 20 causes intoxication.

1 21 ~~e.~~ f. "Peace officer" means the same as defined in
 1 22 section 801.4.

1 23 ~~d.~~ g. "School" means a public or private school or that
 1 24 portion of a public or private school which provides teaching
 1 25 for any grade from kindergarten through grade twelve.

1 26 2. a. A person shall not use or consume alcoholic liquor,
 1 27 wine, or beer upon the public streets or highways. A person
 1 28 shall not use or consume alcoholic liquor in any public place
 1 29 except premises covered by a liquor control license. A person
 1 30 shall not possess or consume alcoholic liquors, wine, or beer
 1 31 on public school property or while attending a public or
 1 32 private school-related function. A person shall not be
 1 33 intoxicated ~~or simulate intoxication~~ in a public place. A
 1 34 person violating this subsection is guilty of a simple
 1 35 misdemeanor.



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2 1 ~~3. b. when~~ If a peace officer arrests a person on a
2 2 charge of public intoxication under this section when
2 3 intoxication by alcohol is alleged, the peace officer shall
2 4 inform the person that the person may have a chemical test
2 5 administered at the person's own expense. If a device
2 6 approved by the commissioner of public safety for testing a
2 7 sample of a person's breath to determine the person's blood
2 8 alcohol concentration is available, that is the only test that
2 9 need be offered the person arrested. In a prosecution for
2 10 public intoxication pursuant to this subsection, evidence of
2 11 the results of a chemical test performed under this subsection
2 12 is admissible upon proof of a proper foundation. The
2 13 percentage of alcohol present in a person's blood, breath, or
2 14 urine established by the results of a chemical test performed
2 15 within two hours after the person's arrest on a charge of
2 16 public intoxication is presumed to be the percentage of
2 17 alcohol present at the time of arrest.
2 18 3. a. A person shall not use or consume a controlled
2 19 substance or intentionally inhale or consume an inhalant upon
2 20 the public streets or highways. A person shall not use or
2 21 consume a controlled substance or intentionally inhale or
2 22 consume an inhalant in a public place. A person shall not be
2 23 intoxicated by a controlled substance or by intentional
2 24 inhalation or consumption of an inhalant in a public place. A
2 25 person violating this subsection is guilty of a simple
2 26 misdemeanor.
2 27 b. If a peace officer arrests a person on a charge of
2 28 public intoxication under this section when intoxication by a
2 29 controlled substance or inhalant is alleged, the peace officer
2 30 shall inform the person that the person may have a chemical
2 31 test of the person's blood or urine administered at the
2 32 person's own expense. In a prosecution for public
2 33 intoxication pursuant to this subsection, evidence of the
2 34 results of a chemical test performed under this subsection is
2 35 admissible upon proof of a proper foundation. The percentage



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3 1 of a controlled substance or inhalant present in a person's
3 2 blood or urine established by the results of a chemical test
3 3 performed within two hours after the person's arrest on a
3 4 charge of public intoxication is presumed to be the percentage
3 5 of a controlled substance or inhalant present at the time of
3 6 arrest.

3 7 4. a. A peace officer shall make a reasonable effort to
3 8 identify a person under the age of eighteen who violates this
3 9 section and, if the person is not referred to juvenile court,
3 10 the law enforcement agency of which the peace officer is an
3 11 employee shall make a reasonable attempt to notify the
3 12 person's custodial parent or legal guardian of the violation,
3 13 whether or not the person is taken into custody, unless the
3 14 officer has reasonable grounds to believe that notification is
3 15 not in the best interests of the person or will endanger that
3 16 person.

3 17 b. The peace officer shall also make a reasonable effort
3 18 to identify the elementary or secondary school which the
3 19 person attends if the person is enrolled in elementary or
3 20 secondary school and to notify the superintendent or the
3 21 superintendent's designee of the school which the person
3 22 attends, or the authorities in charge of the nonpublic school
3 23 which the person attends, of the violation. If the person is
3 24 taken into custody, the peace officer shall notify a juvenile
3 25 court officer who shall make a reasonable effort to identify
3 26 the elementary or secondary school the person attends, if any,
3 27 and to notify the superintendent of the school district or the
3 28 superintendent's designee, or the authorities in charge of the
3 29 nonpublic school, of the violation. A reasonable attempt to
3 30 notify the person includes, but is not limited to, a telephone
3 31 call or notice by first-class mail.

3 32 5. a. Upon the expiration of two years following
3 33 conviction for a violation of this section, a person may
3 34 petition the court to ~~exonerate the person~~ expunge the record
3 35 of the conviction, and if the person has had no other criminal



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4 1 convictions, other than simple misdemeanor violations of
4 2 chapter 321 during the two-year period, ~~the person shall be~~
~~4 3 deemed exonerated of the offense as a matter of law the record~~
4 4 of conviction shall be expunged. The court shall ~~enter an~~
4 5 order ~~exonerating the person of the conviction, and ordering~~
4 6 that the record of the conviction be expunged by the clerk of
4 7 the district court.

4 8 b. An expunged record is a confidential record unavailable
4 9 for examination and copying by members of the public. The
4 10 expunged record shall be made available to persons as provided
4 11 in section 907.4.

4 12 6. A person does not commit a violation of subsection 4 if
4 13 the controlled substance, inhalant, or other substance used,
4 14 inhaled, or consumed, was prescribed for the person and was
4 15 used, inhaled, or consumed in accordance with the directions
4 16 of a practitioner as defined in section 155A.3 or if such
4 17 substance was dispensed by a pharmacist without a prescription
4 18 pursuant to the rules of the board of pharmacy.

4 19 Sec. 2. Section 147.111, Code 2009, is amended to read as
4 20 follows:

4 21 147.111 REPORT OF TREATMENT OF WOUNDS AND OTHER INJURIES.
4 22 ~~Any~~ A person licensed under the provisions of this subtitle
4 23 or certified under the provisions of chapter 147A who ~~shall~~
~~4 24 administer~~ administers any treatment to any person suffering a
4 25 gunshot or stab wound or other serious injury, as defined in
4 26 section 702.18, which appears to have been received in
4 27 connection with the commission of a criminal offense including
4 28 the criminal offense of homicide or serious injury by vehicle
4 29 as provided in section 707.6A, or to whom an application is
4 30 made for treatment of any nature because of any such gunshot
4 31 or stab wound or other serious injury, as defined in section
4 32 702.18, shall at once but not later than twelve hours
4 33 thereafter, report that fact to the law enforcement agency
4 34 within whose jurisdiction the treatment was administered or an
4 35 application ~~therefor~~ for treatment was made, or if



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5 1 ascertainable, to the law enforcement agency in whose
5 2 jurisdiction the gunshot or stab wound or other serious injury
5 3 occurred, stating the name of such person, the person's
5 4 residence if ascertainable, and giving a brief description of
5 5 the gunshot or stab wound or other serious injury. Any
5 6 provision of law or rule of evidence relative to confidential
5 7 communications is suspended insofar as the provisions of this
5 8 section are concerned.

5 9 Sec. 3. Section 232.51, Code 2009, is amended to read as
5 10 follows:

5 11 232.51 DISPOSITION OF CHILD WITH MENTAL ILLNESS OR MENTAL
5 12 RETARDATION.

5 13 If the evidence received at an adjudicatory or a
5 14 dispositional hearing indicates that the child is mentally
5 15 ill, the court may direct the juvenile court officer or the
5 16 department to initiate proceedings or to assist the child's
5 17 parent or guardian to initiate civil commitment proceedings in
5 18 the juvenile court. These proceedings in the juvenile court
5 19 shall adhere to the requirements of chapter 229. If the
5 20 evidence received at an adjudicatory or a dispositional
5 21 hearing indicates that the child is mentally retarded, the
5 22 court may direct the juvenile court officer or the department
5 23 to initiate proceedings or to assist the child's parent or
5 24 guardian to initiate civil commitment proceedings in the
5 25 juvenile court. These proceedings shall adhere to the
5 26 requirements of chapter 222. ~~If the child is committed as a~~
~~5 27 child with mental illness or mental retardation, any order~~
~~5 28 adjudicating the child to have committed a delinquent act~~
~~5 29 shall be set aside and the petition shall be dismissed.~~

5 30 Sec. 4. Section 236.2, subsection 2, paragraph c, Code
5 31 2009, is amended to read as follows:

5 32 c. The assault is between persons who are parents of the
5 33 same ~~minor~~ child, regardless of whether they have been married
5 34 or have lived together at any time.

5 35 Sec. 5. Section 701.11, Code 2009, is amended to read as



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6 1 follows:

6 2 701.11 EVIDENCE OF SIMILAR OFFENSES == SEXUAL ABUSE.

6 3 1. In a criminal prosecution in which a defendant has been
6 4 charged with sexual abuse, evidence of the defendant's
6 5 commission of another sexual abuse is admissible and may be
6 6 considered for its bearing on any matter for which the
6 7 evidence is relevant. ~~This evidence, though relevant, may be~~
~~6 8 excluded if the probative value of the evidence is~~
~~6 9 substantially outweighed by the danger of unfair prejudice,~~
~~6 10 confusion of the issues, or misleading the jury, or by~~
~~6 11 considerations of undue delay, waste of time, or needless~~
~~6 12 presentation of cumulative evidence.~~ This evidence is not
6 13 admissible unless the state presents clear proof of the
6 14 commission of the prior act of sexual abuse.

6 15 2. If the prosecution intends to offer evidence pursuant
6 16 to this section, the prosecution shall disclose such evidence
6 17 to the defendant, including statements of witnesses or a
6 18 summary of the substance of any testimony that is expected to
6 19 be offered, ten days prior to the scheduled date of trial.
6 20 The court may for good cause shown permit disclosure less than
6 21 ten days prior to the scheduled date of trial.

6 22 3. For purposes of this section, "sexual abuse" means any
6 23 ~~commission of or conviction for a crime defined in chapter 709~~
6 24 aggravated offense, criminal offense against a minor, sexual
6 25 exploitation, or other relevant offense as those terms are
6 26 defined in section 692A.1. "Sexual abuse" also means any
6 27 commission of or conviction for a crime in another
6 28 jurisdiction under a statute that is substantially similar to
6 29 ~~any crime defined in chapter 709~~ aggravated offense, criminal
6 30 offense against a minor, sexual exploitation, or other
6 31 relevant offense as those terms are defined in section 692A.1.

6 32 Sec. 6. Section 709.21, subsection 3, Code 2009, is
6 33 amended to read as follows:

6 34 3. A person who violates or attempts to violate this
6 35 section commits a serious misdemeanor.



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7 1 Sec. 7. NEW SECTION. 709.23 FORCED SEX ACT == CHILD OR
7 2 MINOR.
7 3 1. A person eighteen years of age or older who, for the
7 4 purpose of arousing or satisfying the sexual desires of any
7 5 person, forces, coerces, solicits, or uses a position of
7 6 authority to persuade two or more minors to engage in a sex
7 7 act, where at least one of the participants is a child under
7 8 the age of twelve, is guilty of a class "C" felony.
7 9 2. A person eighteen years of age or older who, for the
7 10 purpose of arousing or satisfying the sexual desires of any
7 11 person, forces, coerces, solicits, or uses a position of
7 12 authority to persuade two or more minors to engage in a sex
7 13 act, where at least one of the participants is a child twelve
7 14 or thirteen years of age, is guilty of a class "D" felony.
7 15 3. A person eighteen years of age or older who, for the
7 16 purpose of arousing or satisfying the sexual desires of any
7 17 person, forces, coerces, solicits, or uses a position of
7 18 authority to persuade a child to use an artificial or
7 19 substitute sexual organ to contact the child's genitalia or
7 20 anus, is guilty of a class "D" felony.
7 21 4. The act of forcing, coercing, soliciting, or persuading
7 22 minors or children to engage in a sex act constitutes a
7 23 separate offense for each minor or child forced, coerced,
7 24 solicited, or persuaded.
7 25 Sec. 8. Section 719.1, subsections 1 and 2, Code 2009, are
7 26 amended to read as follows:
7 27 1. A person who knowingly resists or obstructs anyone
7 28 known by the person to be a peace officer, emergency medical
7 29 care provider under chapter 147A, or fire fighter, whether
7 30 paid or volunteer, in the performance of any act which is
7 31 within the scope of the lawful duty or authority of that
7 32 officer, emergency medical care provider under chapter 147A,
7 33 or fire fighter, whether paid or volunteer, or who knowingly
7 34 resists or obstructs the service or execution by any
7 35 authorized person of any civil or criminal process or order of



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8 1 any court, commits a simple misdemeanor. In addition to any
8 2 other penalties, the punishment imposed for a violation of
8 3 this subsection shall include assessment of a fine of not less
8 4 than two hundred fifty dollars. However, if a person commits
8 5 an interference with official acts, as defined in this
8 6 subsection, ~~and in so doing inflicts~~ which results in bodily
8 7 injury ~~other than serious injury~~, that person commits an
8 8 aggravated misdemeanor. If a person commits an interference
8 9 with official acts, as defined in this subsection, ~~and in so~~
~~8 10 doing inflicts or attempts to inflict~~ which results in serious
8 11 injury, or displays a dangerous weapon, as defined in section
8 12 702.7, or is armed with a firearm, that person commits a class
8 13 "D" felony.

8 14 2. A person under the custody, control, or supervision of
8 15 the department of corrections who knowingly resists,
8 16 obstructs, or interferes with a correctional officer, agent,
8 17 employee, or contractor, whether paid or volunteer, in the
8 18 performance of the person's official duties, commits a serious
8 19 misdemeanor. If a person violates this subsection and in so
8 20 doing commits an assault, as defined in section 708.1, the
8 21 person commits an aggravated misdemeanor. If a person
8 22 violates this subsection and ~~in so doing inflicts or attempts~~
~~8 23 to inflict~~ the violation results in bodily injury ~~other than~~
~~8 24 serious injury~~ to another, displays a dangerous weapon, as
8 25 defined in section 702.7, or is armed with a firearm, the
8 26 person commits a class "D" felony. If a person violates this
8 27 subsection and uses or attempts to use a dangerous weapon, as
8 28 defined in section 702.7, or ~~inflicts~~ the violation results in
8 29 serious injury to another, the person commits a class "C"
8 30 felony.

8 31 Sec. 9. Section 728.5, Code 2009, is amended to read as
8 32 follows:

8 33 728.5 PUBLIC INDECENT EXPOSURE IN CERTAIN ESTABLISHMENTS.

8 34 1. An owner, manager, or person who exercises direct
8 35 control over a place of business required to obtain a sales



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9 1 tax permit shall be guilty of a serious misdemeanor under any
9 2 of the following circumstances:

9 3 ~~1.~~ a. If such person allows or permits the actual or
9 4 simulated public performance of any sex act upon or in such
9 5 place of business.

9 6 ~~2.~~ b. If such person allows or permits the exposure of
9 7 the genitals or buttocks or female breast of any person who
9 8 acts as a waiter or waitress.

9 9 ~~3.~~ c. If such person allows or permits the exposure of
9 10 the genitals or female breast nipple of any person who acts as
9 11 an entertainer, whether or not the owner of the place of
9 12 business in which the activity is performed employs or pays
9 13 any compensation to such person to perform such activity.

9 14 ~~4.~~ d. If such person allows or permits any person to
9 15 remain in or upon the place of business who exposes to public
9 16 view the person's genitals, pubic hair, or anus.

9 17 ~~5.~~ e. If such person advertises that any activity
9 18 prohibited by this section is allowed or permitted in such
9 19 place of business.

9 20 ~~6.~~ f. If such person allows or permits a minor to engage
9 21 in or otherwise perform in a live act intended to arouse or
9 22 satisfy the sexual desires or appeal to the prurient interests
9 23 of patrons.

9 24 2. However, if such person allows or permits a minor to
9 25 participate in any act included in ~~subsections 1 through 4~~
9 26 subsection 1, paragraphs "a" through "d", the person shall be
9 27 guilty of an aggravated misdemeanor.

9 28 3. ~~The~~ Except for subsection 1, paragraph "f", the
9 29 provisions of this section shall not apply to a theater,
9 30 concert hall, art center, museum, or similar establishment
9 31 which is primarily devoted to the arts or theatrical
9 32 performances and in which any of the circumstances contained
9 33 in this section were permitted or allowed as part of such art
9 34 exhibits or performances.

9 35 Sec. 10. Section 728.8, Code 2009, is amended to read as



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10 1 follows:

10 2 728.8 SUSPENSION OF LICENSES OR PERMITS.

10 3 Any person who knowingly permits a violation of section
10 4 728.2, 728.3, or 728.5, subsection ¶ 1, paragraph "f", to
10 5 occur on premises under the person's control shall have all
10 6 permits and licenses issued to the person under state or local
10 7 law as a prerequisite for doing business on such premises
10 8 revoked for a period of six months. The county attorney shall
10 9 notify all agencies responsible for issuing licenses and
10 10 permits of any conviction under section 728.2, 728.3, or
10 11 728.5, subsection ¶ 1, paragraph "f".

10 12 Sec. 11. Section 728.12, subsection 1, Code 2009, is
10 13 amended to read as follows:

10 14 1. It shall be unlawful to employ, use, persuade, induce,
10 15 entice, coerce, solicit, knowingly permit, or otherwise cause
10 16 or attempt to cause a minor, or a person reasonably believed
10 17 to be a minor, to engage in a prohibited sexual act or in the
10 18 simulation of a prohibited sexual act. A person must know, or
10 19 have reason to know, or intend that the act or simulated act
10 20 may be photographed, filmed, or otherwise preserved in a
10 21 negative, slide, book, magazine, computer, computer disk, or
10 22 other print or visual medium, or be preserved in an
10 23 electronic, magnetic, or optical storage system, or in any
10 24 other type of storage system. A person who commits a
10 25 violation of this subsection commits a class "C" felony.
10 26 Notwithstanding section 902.9, the court may assess a fine of
10 27 not more than fifty thousand dollars for each offense under
10 28 this subsection in addition to imposing any other authorized
10 29 sentence.

10 30 Sec. 12. Section 907.1, Code 2009, is amended by adding
10 31 the following new subsection:

10 32 NEW SUBSECTION. 2A. "Expunged" means the court's criminal
10 33 record with reference to a deferred judgment has been
10 34 segregated in an area or database which is secured from public
10 35 access.



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11 1 Sec. 13. Section 907.4, Code 2009, is amended to read as
11 2 follows:

11 3 907.4 DEFERRED JUDGMENT DOCKET.

11 4 1. A deferment of judgment under section 907.3 shall be
11 5 entered promptly by the clerk of the district court, or the
11 6 clerk's designee, into the deferred judgment database of the
11 7 state, which shall serve as the deferred judgment docket. The
11 8 deferred judgment docket shall be maintained by the state
11 9 court administrator and shall not be destroyed. The docket

11 10 shall contain a permanent record of the deferred judgment
11 11 including the name and date of birth of the defendant, the
11 12 district court docket number, the nature of the offense, and
11 13 the date of the deferred judgment. Before granting deferred
11 14 judgment in any case, the court shall search the deferred
11 15 judgment docket and shall consider any prior record of a
11 16 deferred judgment against the defendant.

11 17 2. The permanent record provided for in ~~this section~~
11 18 subsection 1 is a confidential record exempted from public
11 19 access under section 22.7 and shall be available only to
11 20 justices of the supreme court, judges of the court of appeals,
11 21 district judges, district associate judges, judicial
11 22 magistrates, clerks of the district court, judicial district
11 23 departments of correctional services, county attorneys, and
11 24 the department of corrections requesting information pursuant
11 25 to this section, or the designee of a justice, judge,
11 26 magistrate, clerk, judicial district department of
11 27 correctional services, or county attorney, or department.

11 28 Sec. 14. Section 907.9, subsection 4, Code 2009, is
11 29 amended to read as follows:

11 30 4. At the expiration of the period of probation if the
11 31 fees imposed under section 905.14 and court debt collected
11 32 pursuant to section 602.8107 have been paid, the court shall
11 33 order the discharge of the person from probation. If portions
11 34 of the court debt remain unpaid, the person shall establish a
11 35 payment plan with the clerk of the district court or the



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12 1 county attorney prior to the discharge. The court shall
12 2 forward to the governor a recommendation for or against
12 3 restoration of citizenship rights to that person upon
12 4 discharge. A person who has been discharged from probation
12 5 shall no longer be held to answer for the person's offense.
12 6 4A. Upon discharge from probation, if judgment has been
12 7 deferred under section 907.3, the court's criminal record with
12 8 reference to the deferred judgment shall be expunged. ~~The~~
~~12 9 record maintained by the state court administrator as required~~
~~12 10 by section 907.4 shall not be expunged.~~ The expunged record
12 11 is a confidential record exempt from public access under
12 12 section 22.7 but shall be made available by the clerk of the
12 13 district court, upon request and without court order, to an
12 14 agency or person granted access to the deferred docket under
12 15 section 907.4. The court's record shall not be expunged in
12 16 any other circumstances unless otherwise authorized by law.

12 17 Sec. 15. IMPLEMENTATION OF ACT. Section 25B.2, subsection
12 18 3, shall not apply to this Act.

12 19 EXPLANATION

12 20 This bill makes changes to criminal offenses, adds new
12 21 criminal offenses, relates to deferred judgments and expunged
12 22 records, and makes penalties applicable.

12 23 The amendment to Code section 123.46 provides that a person
12 24 shall not use or consume a controlled substance or
12 25 intentionally inhale or consume an inhalant upon the public
12 26 streets or highways. The bill also prohibits a person from
12 27 using or consuming a controlled substance or intentionally
12 28 inhaling or consuming an inhalant in a public place or being
12 29 intoxicated by such a controlled substance or inhalant in a
12 30 public place. The bill requires a peace officer to inform the
12 31 person that the person may have a chemical test of the
12 32 person's blood or urine administered at the person's own
12 33 expense to determine the percentage of a controlled substance
12 34 or inhalant present in a person's blood or urine.

12 35 The bill defines "controlled substance" to mean a schedule



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13 1 I or II substance or compound listed in Code section 124.204
13 2 or 124.206. The bill also defines "inhalant" to mean any
13 3 substance which, if inhaled, causes intoxication.
13 4 The bill strikes a provision making it unlawful to simulate
13 5 intoxication in a public place.
13 6 The bill also provides that a person does not violate Code
13 7 section 123.46 if the controlled substance, inhalant, or other
13 8 substance used, consumed, or inhaled, was prescribed for the
13 9 person and was used, consumed, or inhaled in accordance with
13 10 the directions of a medical practitioner as defined in Code
13 11 chapter 155A or if the substance was dispensed by a pharmacist
13 12 without a prescription pursuant to the rules of the board of
13 13 pharmacy.
13 14 The amendment to Code section 123.46 also changes
13 15 provisions relating to expunging the record of conviction for
13 16 public intoxication after two years. The bill defines
13 17 "expunged" to mean the segregation of a court's criminal
13 18 record with reference to a public intoxication violation in an
13 19 area or database which is secured from public access. Under
13 20 the bill, two years after a conviction for public intoxication
13 21 a person may petition the court to expunge the record of the
13 22 conviction, and under some circumstances the record or
13 23 conviction may be expunged. Currently, a person may petition
13 24 the court to exonerate the person and have the court enter an
13 25 order exonerating the person as a matter of law.
13 26 A person who violates Code section 123.46 commits a simple
13 27 misdemeanor.
13 28 The bill amends Code section 147.111 relating to reporting
13 29 the treatment of serious wounds to a law enforcement agency.
13 30 The bill specifies that a first responder, an emergency
13 31 medical care provider, or any other person certified under
13 32 Code chapter 147A is required to report the treatment of any
13 33 gunshot or stab wound, or any other serious injury, to the
13 34 local law enforcement agency, if such an injury is received in
13 35 connection with the commission of a criminal offense. Current



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14 1 law specifies that a person licensed under Code chapters 147
14 2 through 158 is required to report such serious injuries
14 3 received in connection with a criminal offense to a local law
14 4 enforcement agency if treatment is administered.

14 5 The amendment to Code section 147.111 also specifies that
14 6 serious injuries received in connection with the criminal
14 7 offense of homicide or serious injury by vehicle are to be
14 8 reported to the local law enforcement agency.

14 9 Under the bill and in current law, Code section 147.111
14 10 suspends any law or rule relating to confidential information
14 11 in order to effectuate the reporting of a serious wound
14 12 received from the commission of a criminal offense.

14 13 A person who violates Code section 147.111 commits a simple
14 14 misdemeanor as provided in Code section 147.113.

14 15 The amendment to Code section 232.51 strikes a provision
14 16 permitting an order adjudicating a child to have committed a
14 17 delinquent act to be set aside if the child is committed as a
14 18 child with mental illness or mental retardation.

14 19 The amendment to Code section 236.2 specifies that a person
14 20 commits domestic abuse if the assault is between persons who
14 21 are parents of the same child. Currently, the law specifies
14 22 that the parents be the parents of the same minor child.

14 23 The amendment to Code section 701.11 strikes a provision
14 24 relating to the admissibility of evidence in a criminal
14 25 prosecution involving sexual abuse. The bill also defines
14 26 "sexual abuse" to mean an aggravated offense, criminal offense
14 27 against a minor, sexual exploitation, or other relevant
14 28 offense as defined in Code section 692A.1. Current law
14 29 defines "sexual abuse" to mean a violation of Code chapter 709
14 30 (sexual abuse).

14 31 The amendment to Code section 709.21 provides that any
14 32 person who attempts to commit invasion of privacy also commits
14 33 a serious misdemeanor.

14 34 New Code section 709.23 creates a criminal offense
14 35 involving a forced sex act.



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15 1 Code section 709.23 prohibits a person 18 years of age or
15 2 older, for the purpose of arousing or satisfying the sexual
15 3 desires of any person, forces, coerces, solicits, or uses a
15 4 position of authority to persuade two or more minors to engage
15 5 in a sex act, where at least one of the participants is a
15 6 child under the age of 12. A person who violates the
15 7 provision commits a class "C" felony.

15 8 Code section 709.23 also prohibits a person 18 years of age
15 9 or older who, for the purpose of arousing or satisfying the
15 10 sexual desires of any person, forces, coerces, solicits, or
15 11 uses a position of authority to persuade two or more minors to
15 12 engage in a sex act, where at least one of the participants is
15 13 a child 12 or 13 years of age. A person who violates the
15 14 provision commits a class "D" felony.

15 15 The new Code section also prohibits a person 18 years of
15 16 age or older who, for the purpose of arousing or satisfying
15 17 the sexual desires of any person, forces, coerces, solicits,
15 18 or uses a position of authority to persuade a child to use an
15 19 artificial or substitute sexual organ to contact the child's
15 20 genitalia or anus. A person who violates the provision
15 21 commits a class "D" felony.

15 22 The amendment to Code section 719.1 provides that a person
15 23 commits the offense of interference with official acts if the
15 24 violation results in bodily or serious injury to a peace
15 25 officer, emergency medical care provider, correctional
15 26 officer, or other member of a protected class under Code
15 27 section 719.1.

15 28 Current law provides that a person commits the offense of
15 29 interference with official acts if the person inflicts or
15 30 attempts to inflict bodily or serious injury.

15 31 The amendment to Code section 719.1 also provides that if a
15 32 person commits interference with official acts that results in
15 33 bodily injury to a member of a protected class, the person
15 34 commits an aggravated misdemeanor if the injury is to a peace
15 35 officer or emergency medical officer, or a class "D" felony if



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16 1 the injury is to a correctional officer.

16 2 If a person commits interference with official acts that

16 3 results in serious injury, the person commits a class "D"

16 4 felony if the injury is to a peace officer or emergency

16 5 medical officer, or a class "C" felony if the injury is to a

16 6 correctional officer.

16 7 The amendment to Code section 728.5 provides that a person

16 8 commits an aggravated misdemeanor for permitting public

16 9 indecent exposure in a theater, concert hall, art center,

16 10 museum, or similar establishment which is primarily devoted to

16 11 the arts if such person allows or permits a minor to engage in

16 12 a live act intended to arouse or satisfy the sexual desires or

16 13 appeal to the prurient interests of patrons.

16 14 The amendment to Code section 728.12(1) provides that a

16 15 person commits sexual exploitation of a minor if the victim is

16 16 reasonably believed to be a minor by the perpetrator.

16 17 The amendments to Code sections 907.1, 907.4, and 907.9

16 18 relate to deferred judgment criminal records.

16 19 The bill defines "expunged" to mean the court's criminal

16 20 record with reference to a deferred judgment has been

16 21 segregated into a separate area or database which is secured

16 22 from public access. The expunged record is a confidential

16 23 record exempt from public access, but shall be made available

16 24 by the clerk of the district court, upon request and without

16 25 court order, to the agencies or persons granted access to the

16 26 deferred judgment docket under Code section 907.4.

16 27 Currently, the court's criminal record relating to a

16 28 deferred judgment is expunged, but a record of the deferred

16 29 judgment is made permanent in the deferred judgment docket.

16 30 The permanent record in the deferred judgment docket under

16 31 current law includes the name and date of birth of the

16 32 defendant, the district court docket number, the nature of the

16 33 offense, and the date of the deferred judgment.

16 34 The bill also strikes a provision in Code section 907.9

16 35 requiring the state court administrator to maintain deferred



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17 1 judgment records and moves the provision to Code section
17 2 907.4.
17 3 The bill also provides that the court's record shall not be
17 4 expunged unless otherwise authorized by law. Current law
17 5 authorizes criminal records to be expunged under Code sections
17 6 123.46, 321.211A, and 321.385A.
17 7 The bill may include a state mandate as defined in Code
17 8 section 25B.3. The bill makes inapplicable Code section
17 9 25B.2, subsection 3, which would relieve a political
17 10 subdivision from complying with a state mandate if funding for
17 11 the cost of the state mandate is not provided or specified.
17 12 Therefore, political subdivisions are required to comply with
17 13 any state mandate included in the bill.
17 14 LSB 1462HC 83
17 15 jm/nh/5



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House Study Bill 172

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

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

Passed Senate, Date _____
Vote: Ayes _____ Nays _____

A BILL FOR

- 1 An Act relating to damages recoverable for the wrongful or
- 2 negligent injury or death of a spouse or parent.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4 TLSB 1737HC 83
- 5 rh/rj/5



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1 1 Section 1. Section 613.15, Code 2009, is amended to read
 1 2 as follows:
 1 3 613.15 INJURY OR DEATH OF SPOUSE OR PARENT == MEASURE OF
 1 4 RECOVERY.
 1 5 1. In any action for damages because of the wrongful or
 1 6 negligent injury or death of a ~~woman~~ spouse or parent, there
 1 7 shall be no disabilities or restrictions, and ~~recovery may be~~
~~1 8 had on account thereof in the same manner as in cases of~~
~~1 9 damage because of the wrongful or negligent injury or death of~~
~~1 10 a man. In addition she, or her administrator for her estate,~~
 1 11 the surviving spouse or child, including an adult child, may
 1 12 recover for physician's services, nursing and hospital
 1 13 expense, and in the case of both women and men, such person,
~~1 14 or the appropriate administrator, may recover expenses, the~~
 1 15 value of services and support as spouse or parent, or both, as
 1 16 the case may be, and the decedent's loss of enjoyment of life,
 1 17 in such sum as the jury deems proper; provided, however,
 1 18 recovery for these elements of damage may not be had by the
 1 19 spouse and ~~children, as such,~~ child of any person who, or
 1 20 whose administrator, is entitled to recover same.
 1 21 2. For purposes of this section:
 1 22 a. "Loss of enjoyment of life" includes but is not limited
 1 23 to the value of life itself and is measured separate from the
 1 24 economic productive value the decedent would have had.
 1 25 b. "Services and support" includes but is not limited to
 1 26 the expense and actual loss of financial support and
 1 27 companionship including the loss of counsel, guidance, advice,
 1 28 assistance, and protection.

1 29 EXPLANATION
 1 30 This bill relates to damages recoverable for the wrongful
 1 31 or negligent injury or death of a spouse or parent.
 1 32 The bill provides that in any action for damages because of
 1 33 the wrongful or negligent injury or death of a spouse or
 1 34 parent, the surviving spouse or child, including an adult
 1 35 child, may recover damages for the value of physician's



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2 1 services; nursing and hospital expenses; lost services and
2 2 support, defined to include but not be limited to the expense
2 3 and actual loss of financial support and companionship
2 4 including the loss of counsel, guidance, advice, assistance,
2 5 and protection; and the decedent's loss of enjoyment of life.
2 6 "Loss of enjoyment of life" includes but is not limited to the
2 7 value of life itself and is measured separate from the
2 8 economic productive value the decedent would have had.
2 9 LSB 1737HC 83
2 10 rh/rj/5.1



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House Study Bill 173

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

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

A BILL FOR

- 1 An Act relating to mechanic's liens including the establishment
- 2 of a state construction registry for residential property and
- 3 providing an effective date.
- 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 5 TLSB 1167HC 83
- 6 rh/rj/14



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1 1 Section 1. Section 572.1, Code 2009, is amended to read as
1 2 follows:
1 3 572.1 DEFINITIONS AND RULES OF CONSTRUCTION.
1 4 For the purpose of this chapter:
1 5 1. "Authority" means the Iowa finance authority
1 6 established in section 16.2.
1 7 ~~1. 2.~~ "Building" shall be construed as if followed by the
1 8 words "erection, or other improvement upon land".
1 9 3. "General contractor" includes every person who does
1 10 work or furnishes materials by contract, express or implied,
1 11 with an owner. "General contractor" does not include a person
1 12 who does work or furnishes materials on contract with an
1 13 owner=builder.
1 14 ~~2. 4.~~ "Labor" means labor completed by the claimant.
1 15 ~~3. 5.~~ "Material" ~~shall~~, in addition to its ordinary
1 16 meaning, ~~include~~ includes machinery, tools, fixtures, trees,
1 17 evergreens, vines, plants, shrubs, tubers, bulbs, hedges,
1 18 bushes, sod, soil, dirt, mulch, peat, fertilizer, fence wire,
1 19 fence material, fence posts, tile, and the use of forms,
1 20 accessories, and equipment furnished by the claimant.
1 21 ~~4. 6.~~ "Owner" means the record titleholder ~~and every~~
1 22 ~~person for whose use or benefit any building, erection, or~~
1 23 ~~other improvement is made, having the capacity to contract,~~
1 24 ~~including guardians.~~
1 25 ~~5.~~ "Owner=occupied dwelling" means the homestead of an
1 26 owner, as defined in section 561.1, and without respect to the
1 27 value limitations in section 561.3, and actually occupied by
1 28 the owner or the spouse of the owner, or both.
1 29 "Owner=occupied dwelling" includes a newly constructed
1 30 dwelling to be occupied by the owner as a homestead, or a
1 31 dwelling that is under construction and being built by or for
1 32 an owner who will occupy the dwelling as a homestead.
1 33 7. "Owner=builder" means the record titleholder who offers
1 34 or intends to offer to sell the owner=builder's property
1 35 without occupying or using the structures, properties,



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2 1 developments, or improvements for a period of more than one
2 2 year from the date the structure, property, development, or
2 3 improvement is substantially completed or abandoned. An
2 4 "owner-builder" retains such status after transferring title
2 5 to a new owner.

2 6 8. "State construction registry" means a centralized
2 7 computer database maintained and posted on the internet by the
2 8 authority that provides a central repository for the filing
2 9 and managing of certain prelien notices including preliminary
2 10 notices and notices of commencement of work on all residential
2 11 construction properties.

2 12 9. "State construction registry number" means a number
2 13 provided by the authority for all construction properties
2 14 posted to the state construction registry internet site.

2 15 ~~6.~~ 10. "Subcontractor" ~~shall include~~ includes every
2 16 person furnishing material or performing labor upon any
2 17 building, erection, or other improvement, except those having
2 18 contracts directly with the owner.

2 19 Sec. 2. Section 572.2, Code 2009, is amended to read as
2 20 follows:

2 21 572.2 PERSONS ENTITLED TO LIEN.

2 22 1. Every person who shall furnish any material or labor
2 23 for, or perform any labor upon, any building or land for
2 24 improvement, alteration, or repair thereof, including those
2 25 engaged in the construction or repair of any work of internal
2 26 or external improvement, and those engaged in grading,
2 27 sodding, installing nursery stock, landscaping, sidewalk
2 28 building, fencing on any land or lot, by virtue of any
2 29 contract with the owner, general contractor, or subcontractor
2 30 shall have a lien upon such building or improvement, and land
2 31 belonging to the owner on which the same is situated or upon
2 32 the land or lot so graded, landscaped, fenced, or otherwise
2 33 improved, altered, or repaired, to secure payment for the
2 34 material or labor furnished or labor performed.

2 35 2. If material is rented by a person to the owner, general



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3 1 contractor, or subcontractor, the person shall have a lien
3 2 upon such building, improvement, or land to secure payment for
3 3 the material rental. The lien is for the reasonable rental
3 4 value during the period of actual use of the material and any
3 5 reasonable periods of nonuse of the material taken into
3 6 account in the rental agreement. The delivery of material to
3 7 such building, improvement, or land, whether or not delivery
3 8 is made by the person, creates a presumption that the material
3 9 was used in the course of alteration, construction, or repair
3 10 of the building, improvement, or land. However, this
3 11 presumption shall not pertain to recoveries sought under a
3 12 surety bond.

3 13 Sec. 3. Section 572.8, subsection 1, Code 2009, is amended
3 14 by adding the following new paragraph:

3 15 NEW PARAGRAPH. d. The address of the property or a
3 16 description of the location of the property.

3 17 Sec. 4. Section 572.9, Code 2009, is amended to read as
3 18 follows:

3 19 572.9 TIME OF FILING.

3 20 The statement of account required by section 572.8 shall be
3 21 filed by a ~~principal~~ general contractor or subcontractor
3 22 within two years and ninety days after the date on which the
3 23 last of the material was furnished or the last of the labor
3 24 was performed.

3 25 Sec. 5. Section 572.10, Code 2009, is amended to read as
3 26 follows:

3 27 572.10 PERFECTING LIEN AFTER LAPSE OF NINETY DAYS.

3 28 A general contractor or a subcontractor may perfect a
3 29 mechanic's lien pursuant to section 572.8 beyond ninety days
3 30 after the date on which the last of the material was furnished
3 31 or the last of the labor was performed by filing a claim with
3 32 the clerk of the district court and giving written notice
3 33 thereof to the owner. Such notice may be served by any person
3 34 in the manner original notices are required to be served. If
3 35 the party to be served is out of the county wherein the



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4 1 property is situated, a return of that fact by the person
4 2 charged with making such service shall constitute sufficient
4 3 service from and after the time it was filed with the clerk of
4 4 the district court.

4 5 Sec. 6. Section 572.11, Code 2009, is amended to read as
4 6 follows:

4 7 572.11 EXTENT OF LIEN FILED AFTER NINETY DAYS.

4 8 Liens perfected under section 572.10 shall be enforced
4 9 against the property or upon the bond, if given, by the owner
4 10 or owner=builder, only to the extent of the balance due from
4 11 the owner to the general contractor or owner=builder at the
4 12 time of the service of such notice; but if the bond was given
4 13 by the general contractor or owner=builder, or person
4 14 contracting with the subcontractor filing the claim for a
4 15 lien, such bond shall be enforced to the full extent of the
4 16 amount found due the subcontractor.

4 17 Sec. 7. Section 572.13, Code 2009, is amended by striking
4 18 the section and inserting in lieu thereof the following:

4 19 572.13 LIABILITY OF OWNER TO GENERAL CONTRACTOR AND
4 20 OWNER=BUILDER == RESIDENTIAL CONSTRUCTION.

4 21 1. a. A general contractor who has contracted or will
4 22 contract with a subcontractor to provide labor or furnish
4 23 material for the property shall include the following notice
4 24 in any written contract with the owner and shall provide the
4 25 owner with a copy of the written contract:

4 26 "Persons or companies furnishing labor or materials for the
4 27 improvement of real property may enforce a lien upon the
4 28 improved property if they are not paid for their
4 29 contributions, even if the parties have no direct contractual
4 30 relationship with the owner. The state construction registry
4 31 provides a listing of all persons or companies furnishing
4 32 labor or materials who may file a lien upon the improved
4 33 property. If the person or company has registered its claim
4 34 with the state construction registry, you may be required to
4 35 pay the person or company even if you have paid the general



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5 1 contractor the full amount due. Therefore, please check the
5 2 state construction registry for information about the property
5 3 including persons or companies furnishing labor or materials
5 4 before paying your general contractor. In addition, when
5 5 making payment to your general contractor, please provide any
5 6 lien waivers from your general contractor and from persons or
5 7 companies furnishing labor or materials to your property. The
5 8 information in the state construction registry is posted on
5 9 the internet site of the Iowa finance authority."

5 10 b. If no written contract is entered into between the
5 11 general contractor and the owner, the general contractor
5 12 shall, within ten days of commencement of work on the
5 13 dwelling, provide written notice to the owner stating the name
5 14 and address of all subcontractors or suppliers that the
5 15 general contractor intends to use for the construction and,
5 16 that the subcontractors or suppliers may have lien rights in
5 17 the event they are not paid for their labor or material used
5 18 on this site; and the notice shall be updated as additional
5 19 subcontractors and suppliers are used from the names disclosed
5 20 on earlier notices.

5 21 2. A general contractor shall file a copy of the notice
5 22 set forth in subsection 1 with the state construction registry
5 23 internet site along with a dated signature of the owner
5 24 acknowledging receipt of the notice within ten days of
5 25 commencement of work on the property.

5 26 3. A general contractor or owner-builder shall file a
5 27 notice of commencement of work with the state construction
5 28 registry within ten days of commencement of work on the
5 29 property. A notice of commencement of work is effective only
5 30 as to any labor, service, equipment, and material furnished to
5 31 the property subsequent to the filing of the notice of
5 32 commencement of work. A notice of commencement of work shall
5 33 include all of the following information:

5 34 a. The name and address of the property owner.

5 35 b. The name and address of the general contractor or



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6 1 owner=builder.

6 2 c. The address of the property if the property can be
6 3 reasonably identified by an address or the name and a general
6 4 description of the location of the property if the property
6 5 cannot be reasonably identified by an address.

6 6 d. A legal description of the property.

6 7 e. Any other relevant information prescribed by the
6 8 authority pursuant to rule.

6 9 4. A general contractor who fails to provide notice under
6 10 subsections 1, 2, and 3 is not entitled to a lien and remedy
6 11 provided by this chapter.

6 12 5. If a general contractor fails to file the receipt of
6 13 notice with the state construction registry pursuant to
6 14 subsection 2, within ten days of commencement of work on the
6 15 property, a subcontractor may obtain and file the receipt.

6 16 6. If a general contractor or owner=builder fails to file
6 17 the required notice of commencement with the state
6 18 construction registry pursuant to subsection 3, within ten
6 19 days of commencement of the work on the property, a
6 20 subcontractor may file the notice in conjunction with the
6 21 filing of the required notice pursuant to section 572.14.

6 22 7. This section shall not apply to commercial construction
6 23 projects.

6 24 Sec. 8. Section 572.14, Code 2009, is amended by striking
6 25 the section and inserting in lieu thereof the following:

6 26 572.14 LIABILITY TO SUBCONTRACTOR AFTER PAYMENT TO GENERAL
6 27 CONTRACTOR OR OWNER=BUILDER == RESIDENTIAL CONSTRUCTION.

6 28 1. Except as provided in subsection 2, payment to the
6 29 general contractor or owner=builder by the owner of any part
6 30 or all of the contract price of the building or improvement
6 31 within ninety days after the date on which the last of the
6 32 materials was furnished or the last of the labor was performed
6 33 by a subcontractor, does not relieve the owner from liability
6 34 to the subcontractor for the full value of any material
6 35 furnished or labor performed upon the building, land, or



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7 1 improvement if the subcontractor files a lien within ninety
7 2 days after the date on which the last of the materials was
7 3 furnished or the last of the labor was performed.
7 4 2. A subcontractor shall file a preliminary notice with
7 5 the state construction registry within ten days of
7 6 commencement of work on the property. A preliminary notice
7 7 filed prior to the balance paid to the general contractor or
7 8 owner=builder by the owner is effective as to all labor,
7 9 service, equipment, and material furnished to the property.
7 10 The preliminary notice shall contain all of the following
7 11 information:
7 12 a. The name of the owner.
7 13 b. The state construction registry number.
7 14 c. The name, address, and telephone number of the
7 15 subcontractor furnishing the labor, service, equipment, or
7 16 material.
7 17 d. The name and address of the person who contracted with
7 18 the claimant for the furnishing of the labor, service,
7 19 equipment, or material.
7 20 e. The name of the general contractor or owner=builder
7 21 under which the claimant is performing or will perform the
7 22 work.
7 23 f. The address of the property or a description of the
7 24 location of the property.
7 25 g. Any other information required by the authority
7 26 pursuant to rule.
7 27 3. A mechanic's lien perfected under this chapter is
7 28 enforceable only to the extent of the balance due the general
7 29 contractor or owner=builder prior to the filing of a
7 30 preliminary notice specified in subsection 2.
7 31 4. A subcontractor who fails to file a preliminary notice
7 32 pursuant to this section shall not be entitled to a lien and
7 33 remedy provided under this chapter. If the receipt of notice
7 34 prescribed in section 572.13, subsection 2, is not filed with
7 35 the state construction registry prior to the balance being



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8 1 paid to the general contractor or owner-builder by the owner,
8 2 a subcontractor is not entitled to the lien and remedy
8 3 provided under this chapter.

8 4 5. This section shall not apply to commercial construction
8 5 projects.

8 6 Sec. 9. Section 572.15, Code 2009, is amended to read as
8 7 follows:

8 8 572.15 DISCHARGE OF SUBCONTRACTOR'S LIEN == BOND.

8 9 A mechanic's lien may be discharged at any time by ~~the~~
~~8 10 owner, principal contractor, or intermediate subcontractor~~
8 11 filing with the clerk of the district court of the county in
8 12 which the property is located a bond in twice the amount of
8 13 the sum for which the claim for the lien is filed, with surety
8 14 or sureties, to be approved by the clerk, conditioned for the
8 15 payment of any sum for which the claimant may obtain judgment
8 16 upon the claim.

8 17 Sec. 10. Section 572.17, Code 2009, is amended to read as
8 18 follows:

8 19 572.17 PRIORITY OF MECHANICS' LIENS BETWEEN MECHANICS.

8 20 Mechanics' liens shall have priority over each other in the
8 21 order of the filing of the statements ~~or~~ of accounts as ~~herein~~
8 22 provided in section 572.8.

8 23 Sec. 11. Section 572.18, subsections 1 and 3, Code 2009,
8 24 are amended to read as follows:

8 25 1. Mechanics' liens filed by a ~~principal~~ general
8 26 contractor or subcontractor within ninety days after the date
8 27 on which the last of the material was furnished or the last of
8 28 the claimant's labor was performed and for which notices were
8 29 required to be filed with the state construction registry
8 30 pursuant to sections 572.13 and 572.14 shall be superior to
8 31 all other liens which may attach to or upon a building or
8 32 improvement and to the land upon which it is situated, except
8 33 liens of record prior to the time of the original commencement
8 34 of the claimant's work or the claimant's improvements, except
8 35 as provided in subsection 2.



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9 1 3. The rights of purchasers, encumbrancers, and other
9 2 persons who acquire interests in good faith, for a valuable
9 3 consideration, and without notice of a lien perfected pursuant
9 4 to this chapter, are superior to the claims of all general
9 5 contractors or subcontractors who have perfected their liens
9 6 more than ninety days after the date on which the last of the
9 7 claimant's material was furnished or the last of the
9 8 claimant's labor was performed.

9 9 Sec. 12. Section 572.22, unnumbered paragraph 1, Code
9 10 2009, is amended to read as follows:

9 11 The clerk of the court shall endorse upon every claim for a
9 12 mechanic's lien filed in the clerk's office the date and hour
9 13 of filing and ~~make an abstract thereof in the mechanic's lien~~
~~9 14 book kept for that purpose. Said book shall be properly~~
9 15 indexed and index every claim in the office of the clerk of
9 16 the county where such real estate is situated. Each claim
9 17 shall contain the following items concerning each claim:

9 18 Sec. 13. Section 572.23, subsection 1, Code 2009, is
9 19 amended to read as follows:

9 20 1. When a mechanic's lien is satisfied by payment of the
9 21 claim, the claimant shall acknowledge satisfaction thereof
9 22 upon the mechanic's lien book, or otherwise in writing, and,
9 23 if the claimant neglects to do so for thirty days after demand
9 24 in writing is personally served upon the claimant, the
9 25 claimant shall forfeit and pay twenty-five dollars to the
9 26 owner or general contractor or owner-builder, and be liable to
9 27 any person injured to the extent of the injury.

9 28 Sec. 14. Section 572.30, Code 2009, is amended to read as
9 29 follows:

9 30 572.30 ACTION BY SUBCONTRACTOR OR OWNER AGAINST GENERAL
9 31 CONTRACTOR OR OWNER-BUILDER.

9 32 Unless otherwise agreed, a principal general contractor or
9 33 owner-builder who engages a subcontractor to supply labor or
9 34 materials or both for improvements, alterations or repairs to
9 35 a specific ~~owner-occupied dwelling~~ property shall pay the



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10 1 subcontractor in full for all labor and materials supplied
10 2 within thirty days after the date the ~~principal general~~
10 3 contractor or owner=builder receives full payment from the
10 4 owner. If a ~~principal general~~ contractor or owner=builder
10 5 fails without due cause to pay a subcontractor as required by
10 6 this section, the subcontractor, or the owner by subrogation,
10 7 may commence an action against the general contractor or
10 8 owner=builder to recover the amount due. Prior to commencing
10 9 an action to recover the amount due, a subcontractor, or the
10 10 owner by subrogation, shall give notice of nonpayment of the
10 11 cost of labor or materials to the ~~principal general~~ contractor
10 12 or owner=builder paid for the improvement. Notice of
10 13 nonpayment must be in writing, delivered in a reasonable
10 14 manner, and in terms that reasonably identify the real estate
10 15 improved and the nonpayment complained of. In an action to
10 16 recover the amount due a subcontractor, or the owner by
10 17 subrogation, under this section, the court in addition to
10 18 actual damages, shall award a successful plaintiff exemplary
10 19 damages against the general contractor or owner=builder in an
10 20 amount not less than one percent and not exceeding fifteen
10 21 percent of the amount due the subcontractor, or the owner by
10 22 subrogation, for the labor and materials supplied, unless the
10 23 ~~principal general~~ contractor or owner=builder does one or both
10 24 of the following, in which case no exemplary damages shall be
10 25 awarded:
10 26 1. Establishes that all proceeds received from the person
10 27 making the payment have been applied to the cost of labor or
10 28 material furnished for the improvement.
10 29 2. Within fifteen days after receiving notice of
10 30 nonpayment the ~~principal general~~ contractor or owner=builder
10 31 gives a bond or makes a deposit with the clerk of the district
10 32 court, in an amount not less than the amount necessary to
10 33 satisfy the nonpayment for which notice has been given under
10 34 this section, and in a form approved by a judge of the
10 35 district court, to hold harmless the owner or person having



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11 1 the improvement made from any claim for payment of anyone
11 2 furnishing labor or material for the improvement, other than
11 3 the ~~principal~~ general contractor or owner-builder.
11 4 Sec. 15. Section 572.31, Code 2009, is amended to read as
11 5 follows:
11 6 572.31 CO=OPERATIVE AND CONDOMINIUM HOUSING.
11 7 A lien arising under this chapter as a result of the
11 8 construction of an apartment house or apartment building which
11 9 is owned on a co-operative basis under chapter 499A, or which
11 10 is submitted to a horizontal property regime under chapter
11 11 499B, is not enforceable, notwithstanding any contrary
11 12 provision of this chapter, as against the interests of an
11 13 owner in ~~an owner-occupied dwelling~~ a unit contained in the
11 14 apartment house or apartment building acquired in good faith
11 15 and for valuable consideration, unless a lien statement
11 16 specifically describing the ~~dwelling~~ unit is filed under
11 17 section 572.8 within the applicable time period specified in
11 18 section 572.9, but determined from the date on which the last
11 19 of the material was supplied or the last of the labor was
11 20 performed in the construction of that ~~dwelling~~ unit.
11 21 Sec. 16. Section 572.32, Code 2009, is amended to read as
11 22 follows:
11 23 572.32 ATTORNEY FEES == REMEDIES.
11 24 1. In a court action to enforce a mechanic's lien, ~~if the~~
~~11 25 plaintiff furnished labor or materials directly to the~~
~~11 26 defendant,~~ a prevailing plaintiff may be awarded reasonable
11 27 attorney fees.
11 28 2. In a court action to challenge a filed mechanic's lien
11 29 ~~filed on an owner-occupied dwelling,~~ if the person challenging
11 30 the lien prevails, the court may award reasonable attorney
11 31 fees and actual damages. If the court determines that the
11 32 mechanic's lien was filed in bad faith or the supporting
11 33 affidavit was materially false, the court shall award the
11 34 owner reasonable attorney fees plus an amount not less than
11 35 five hundred dollars or the amount of the lien, whichever is



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12 1 less.

12 2 Sec. 17. Section 572.33, Code 2009, is amended to read as
12 3 follows:

12 4 572.33 REQUIREMENT OF NOTIFICATION FOR COMMERCIAL
12 5 CONSTRUCTION.

12 6 1. The notification requirements in this section shall
12 7 apply only to commercial construction.

12 8 ~~1- 2.~~ A person furnishing labor or materials to a
12 9 subcontractor shall not be entitled to a lien under this
12 10 chapter unless the person furnishing labor or materials does
12 11 all of the following:

12 12 a. Notifies the principal general contractor or
12 13 owner-builder in writing with a one-time notice containing the
12 14 name, mailing address, and telephone number of the person
12 15 furnishing the labor or materials, and the name of the
12 16 subcontractor to whom the labor or materials were furnished,
12 17 within thirty days of first furnishing labor or materials for
12 18 which a lien claim may be made. Additional labor or materials
12 19 furnished by the same person to the same subcontractor for use
12 20 in the same construction project shall be covered by this
12 21 notice.

12 22 b. Supports the lien claim with a certified statement that
12 23 the principal general contractor or owner-builder was notified
12 24 in writing with a one-time notice containing the name, mailing
12 25 address, and telephone number of the person furnishing the
12 26 labor or materials, and the name of the subcontractor to whom
12 27 the labor or materials were furnished, within thirty days
12 28 after the labor or materials were first furnished, pursuant to
12 29 paragraph "a".

12 30 ~~2. This section shall not apply to a mechanic's lien on~~
12 31 ~~single-family or two-family dwellings occupied or used or~~
12 32 ~~intended to be occupied or used for residential purposes.~~

12 33 3. Notwithstanding other provisions of this chapter, a
12 34 principal general contractor or owner-builder shall not be
12 35 prohibited from requesting information from a subcontractor or



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13 1 a person furnishing labor or materials to a subcontractor
13 2 regarding payments made or payments to be made to a person
13 3 furnishing labor or materials to a subcontractor.
13 4 Sec. 18. NEW SECTION. 572.34 STATE CONSTRUCTION REGISTRY
13 5 == RESIDENTIAL CONSTRUCTION.
13 6 1. A state construction registry is created within the
13 7 authority. The authority shall adopt rules pursuant to
13 8 chapter 17A for the creation and administration of the
13 9 registry.
13 10 2. The state construction registry shall be accessible to
13 11 the general public through the authority's internet site.
13 12 3. The registry shall be indexed by owner name, general
13 13 contractor name, state construction registry number, property
13 14 address, legal description, and any other identifier
13 15 considered appropriate as determined by the authority.
13 16 4. A general contractor, owner-builder, or subcontractor
13 17 who files fictitious, forged, or false information in the
13 18 registry shall be subject to a penalty as determined by the
13 19 authority by rule.
13 20 5. The authority shall charge and collect fees as
13 21 established by rule necessary for the administration and
13 22 maintenance of the registry.
13 23 6. A state construction registry fund is created within
13 24 the authority. Moneys collected by the authority pursuant to
13 25 subsection 5 shall be for the maintenance and administration
13 26 of the state construction registry. Moneys in the fund shall
13 27 not revert to the general fund and interest on the moneys in
13 28 the fund shall be deposited in the housing trust fund
13 29 established in section 16.181 and shall not accrue to the
13 30 general fund. If the authority determines that there are
13 31 surplus funds in the title guaranty fund after providing for
13 32 adequate reserves and operating expenses of the division, the
13 33 surplus funds shall be transferred to the housing assistance
13 34 fund created pursuant to section 16.40.
13 35 Sec. 19. Section 572.16, Code 2009, is repealed.



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House Study Bill 173 continued

14 1 Sec. 20. EFFECTIVE DATE. This Act takes effect July 1,
14 2 2010.

14 3 EXPLANATION

14 4 This bill relates to mechanic's liens including the
14 5 establishment of a state construction registry for residential
14 6 property and provides an effective date.

14 7 The bill amends all references to "principal contractor"
14 8 and "contractor" to "general contractor" defined in the bill
14 9 to mean a person who does work or furnishes materials by
14 10 contract, express or implied, with an owner. "General
14 11 contractor" does not include a person who does work or
14 12 furnishes materials on contract with an owner=builder.

14 13 The bill creates the definition of "owner=builder" to mean
14 14 the record titleholder who offers or intends to offer to sell
14 15 the owner=builder's property without occupying or using the
14 16 structures, properties, developments, or improvements for more
14 17 than one year from the date the structure, property,
14 18 development, or improvement is substantially completed or
14 19 abandoned. An "owner=builder" retains such status after
14 20 transferring title to a new owner. The bill extends
14 21 provisions currently in the Code for general contractors to
14 22 owner=builders. These provisions relate to perfecting a lien,
14 23 the acknowledgment of a lien that has been satisfied by
14 24 payment of a claim, actions by subcontractors or owners to
14 25 recover amounts due, and certain notification requirements.
14 26 The bill also extends provisions for general contractors
14 27 relating to notification requirements for commercial
14 28 construction to owner=builders.

14 29 The bill provides that a person who intends to perfect a
14 30 mechanic's lien shall include the address of the property or a
14 31 description of the location of the property in the person's
14 32 verified statement.

14 33 The bill provides that a general contractor who has
14 34 contracted or will contract with a subcontractor to provide
14 35 labor or furnish material for the property shall include a



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15 1 notice in any written contract with the owner stating that
15 2 persons or companies furnishing labor or materials for the
15 3 improvement of real property may enforce a lien upon the
15 4 improved property if they are not paid, even if the parties
15 5 have no direct contractual relationship with the owner. The
15 6 notice shall also provide information relating to the
15 7 availability of information posted on the state construction
15 8 registry, detailed below, and shall provide the owner with a
15 9 copy of the written contract to be signed by the owner. If no
15 10 written contract is entered into between the general
15 11 contractor and the owner, the general contractor shall provide
15 12 written notice to the owner. The general contractor shall
15 13 file a copy of the notice with the state construction registry
15 14 along with a dated signature of the owner acknowledging
15 15 receipt of the notice within 10 days of commencement of work
15 16 on the property.

15 17 The bill provides that a general contractor or
15 18 owner-builder shall file a notice of commencement of work,
15 19 including certain specific information, with the state
15 20 construction registry within 10 days of beginning work on a
15 21 residential property. A notice of commencement of work is
15 22 effective only as to any labor, service, equipment, and
15 23 material furnished to the property subsequent to the filing of
15 24 the notice of commencement of work. A general contractor who
15 25 fails to provide the requisite notice under the bill is not
15 26 entitled to a mechanic's lien and remedies provided pursuant
15 27 to Code chapter 572.

15 28 The bill provides that payment to the general contractor or
15 29 owner-builder by the owner of any part or all of the contract
15 30 price of the building or improvement within 90 days after the
15 31 date on which the last of the materials was furnished or the
15 32 last of the labor was performed by a subcontractor, does not
15 33 relieve the owner from liability to the subcontractor for the
15 34 full value of any material furnished or labor performed upon
15 35 the building, land, or improvement if the subcontractor files



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16 1 a lien within 90 days after the date on which the last of the
16 2 materials was furnished or the last of the labor was
16 3 performed.

16 4 The bill requires a subcontractor to file a notice of
16 5 commencement of work, including certain specific information,
16 6 with the state construction registry within 10 days of
16 7 beginning work on a residential property. A perfected
16 8 mechanic's lien is enforceable only to the extent of the
16 9 balance due the general contractor or owner-builder prior to
16 10 the filing of a preliminary notice. A subcontractor who fails
16 11 to file a preliminary notice pursuant shall not be entitled to
16 12 a lien and remedy provided under Code chapter 572.

16 13 The bill provides that the provisions relating to the
16 14 requirement that a general contractor and a subcontractor file
16 15 notices with the state construction registry do not apply to
16 16 commercial construction.

16 17 The bill provides for the creation of a state construction
16 18 registry for the filing of notices by general contractors,
16 19 owner-builders, and subcontractors previously described in the
16 20 bill which such persons must file in order to protect their
16 21 lien rights. The state construction registry, once created,
16 22 shall be a publicly accessible centralized electronic database
16 23 known as the state construction registry created and
16 24 maintained by the Iowa finance authority. The Iowa finance
16 25 authority shall adopt rules pursuant to Code chapter 17A for
16 26 the creation and administration of the registry which shall
16 27 include a specific index and which shall be funded through the
16 28 collection of fees. The registry provides a centralized
16 29 resource of all persons or companies furnishing labor or
16 30 materials who may file a lien upon the improved property.

16 31 The bill eliminates the requirement that the clerk of court
16 32 make an abstract of a claim for a mechanic's lien but requires
16 33 the clerk instead to index every claim in the office of the
16 34 county where such real estate is located.

16 35 The bill expands the right of who may recover attorney fees



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17 1 from any prevailing plaintiff who furnishes materials or labor
17 2 directly to the defendant to any prevailing defendant.
17 3 The bill repeals Code section 572.16 relating to rules of
17 4 construction regarding the owner's obligation to pay certain
17 5 amounts in the owner's contract with the general contractor.
17 6 The bill takes effect July 1, 2010.
17 7 LSB 1167HC 83
17 8 rh/rj/14



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Senate File 145 - Introduced

SENATE FILE
BY HAMERLINCK

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

A BILL FOR

1 An Act excluding from the individual income tax retirement
2 benefits received for military service performed in the
3 national guard and including a retroactive applicability date
4 provision.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
6 TL5B 1755XS 83
7 tw/mg:sc/5



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Senate File 145 - Introduced continued

PAG LIN

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

1 3 NEW SUBSECTION. 31A. a. Subtract, to the extent
1 4 included, retirement pay received for military service
1 5 performed in the national guard.

1 6 b. The exclusion of retirement benefits under this
1 7 subsection is in addition to any exclusion provided under
1 8 subsection 31.

1 9 Sec. 2. RETROACTIVE APPLICABILITY DATE. This Act applies
1 10 retroactively to January 1, 2009, for tax years beginning on
1 11 or after that date.

1 12 EXPLANATION

1 13 This bill excludes from the individual income tax
1 14 retirement benefits received for military service in the
1 15 national guard. The exemption is in addition to the general
1 16 pension exclusions.

1 17 The bill applies retroactively to January 1, 2009, for tax
1 18 years beginning on or after that date.

1 19 LSB 175XS 83

1 20 tw/mg:sc/5



Iowa General Assembly
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Senate File 146 - Introduced

SENATE FILE
BY HAMERLINCK

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

Passed House, Date _____
Vote: Ayes _____ Nays _____

A BILL FOR

1 An Act exempting from the computation of the individual income
2 tax all pay received for service in the national guard and
3 including a retroactive applicability provision.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 1754XS 83
6 tw/mg:sc/14



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Senate File 146 - Introduced continued

PAG LIN

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

1 3 NEW SUBSECTION. 41. Subtract, to the extent included, all
1 4 pay received by the taxpayer for military service performed in
1 5 the national guard.

1 6 Sec. 2. RETROACTIVE APPLICABILITY. This Act applies
1 7 retroactively to January 1, 2009, for tax years beginning on
1 8 or after that date.

1 9 EXPLANATION

1 10 This bill provides an exemption from the individual income
1 11 tax for all pay received by a taxpayer for serving in the
1 12 national guard.

1 13 The bill applies retroactively to January 1, 2009, for tax
1 14 years beginning on or after that date.

1 15 LSB 1754XS 83

1 16 tw/mg:sc/14



Iowa General Assembly
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Senate File 147 - Introduced

SENATE FILE
BY COMMITTEE ON VETERANS
AFFAIRS

(SUCCESSOR TO SSB 1146)

(COMPANION TO LSB 1263HV BY
COMMITTEE ON VETERANS AFFAIRS)

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

Passed House, Date _____
Vote: Ayes _____ Nays _____

A BILL FOR

1 An Act relating to the county commissions of veteran affairs fund
2 and required hours of service for executive directors and
3 administrators.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TL5B 1263SV 83
6 md/rj/14



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Senate File 147 - Introduced continued

PAG LIN

1 1 Section 1. Section 35A.16, subsection 3, as enacted by
 1 2 2008 Iowa Acts, chapter 1130, section 2, is amended to read as
 1 3 follows:
 1 4 3. a. If sufficient moneys are available, the department
 1 5 shall annually allocate ten thousand dollars to each county
 1 6 commission of veteran affairs, or to each county sharing the
 1 7 services of an executive director or administrator pursuant to
 1 8 chapter 28E, to be used ~~for the employment of an executive~~
~~1 9 director or administrator~~ to provide services to veterans
 1 10 pursuant to section 35B.6.
 1 11 b. If a county fails to be in compliance with the
~~1 12 requirements of section 35B.6 on June 30 of each fiscal year,~~
~~1 13 all moneys received by the county pursuant to this subsection~~
~~1 14 during that fiscal year shall be reimbursed to the county~~
~~1 15 commissions of veteran affairs fund.~~
 1 16 c. Moneys distributed to a county under this subsection
~~1 17 shall be used to supplement and not supplant any existing~~
~~1 18 funding provided by the county or received by the county from~~
~~1 19 any other source. The department shall adopt a maintenance of~~
~~1 20 effort requirement for moneys distributed under this~~
~~1 21 subsection.~~
 1 22 Sec. 2. Section 35B.6, subsection 4, paragraph c, as
 1 23 enacted by 2008 Iowa Acts, chapter 1130, section 6, is amended
 1 24 to read as follows:
 1 25 c. Counties sharing the services of an executive director
 1 26 or administrator shall ~~consider the aggregate population of~~
~~1 27 such counties when determining~~ provide the number of hours of
 1 28 service required under paragraph "b" for each county. ~~The~~
~~1 29 number of hours shall be allocated between the counties in the~~
~~1 30 proportion that the population of each county bears to the~~
~~1 31 aggregate population.~~
 1 32 EXPLANATION
 1 33 This bill amends sections of 2008 Iowa Acts, chapter 1130,
 1 34 relating to administration of the county commissions of
 1 35 veteran affairs fund and the hours of service requirement for



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Senate File 147 - Introduced continued

2 1 county commission of veteran affairs executive directors and
2 2 administrators, which become effective on July 1, 2009.
2 3 The bill provides that moneys received by a county from the
2 4 county commissions of veteran affairs fund may be used to
2 5 provide veterans' services rather than only for the employment
2 6 of an executive director or an administrator. The bill also
2 7 provides that if a county fails to be in compliance with the
2 8 requirements of Code section 35B.6 on June 30 of any fiscal
2 9 year, all moneys received by the county from the county
2 10 commissions of veteran affairs fund during that fiscal year
2 11 must be reimbursed to the fund. The bill requires that moneys
2 12 distributed from the county commissions of veteran affairs
2 13 fund only be used to supplement and not supplant any existing
2 14 funding provided by the county or received by the county from
2 15 any other source.
2 16 The bill also amends the hours of service requirement for
2 17 executive directors and administrators that are being shared
2 18 between multiple counties. Instead of allocating the hours of
2 19 service among the counties based on population, the bill
2 20 requires each county to meet the hours of service requirement.
2 21 LSB 1263SV 83
2 22 md/rj/14



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Senate File 148 - Introduced

SENATE FILE
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 1076)

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

A BILL FOR

1 An Act providing for the development of a complaint response
2 process by the superintendent of credit unions and relating to
3 the confidentiality of information obtained during the course
4 of that process.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
6 TL5B 1227SV 83
7 rn/nh/14



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Senate File 148 - Introduced continued

PAG LIN

1 1 Section 1. Section 22.7, Code 2009, is amended by adding
1 2 the following new subsection:
1 3 NEW SUBSECTION. 62. Information obtained by the
1 4 superintendent of credit unions in connection with a complaint
1 5 response process as provided in section 533.501, subsection 3.
1 6 Sec. 2. Section 533.501, Code 2009, is amended by adding
1 7 the following new subsection:
1 8 NEW SUBSECTION. 3. COMPLAINT RESPONSE PROCESS. The
1 9 superintendent shall adopt rules establishing a complaint
1 10 response process that shall include provisions relating to but
1 11 not limited to complaint intake, preliminary informal and
1 12 formal investigation procedures, complaint dismissal
1 13 procedures, and imposition of remedial sanctions through an
1 14 administrative resolution procedure or a contested case
1 15 hearing.
1 16 a. Notwithstanding chapter 22, the superintendent shall
1 17 keep confidential any social security number, residence
1 18 address, or residence telephone number obtained in connection
1 19 with a complaint intake, investigation, dismissal, or
1 20 imposition of remedial sanctions, and may keep confidential
1 21 the name of the complainant, the name of the subject of the
1 22 complaint, and any other information obtained in connection
1 23 with a complaint intake, investigation, dismissal, or
1 24 imposition of remedial sanctions, if disclosure is not
1 25 required in the performance of the duties of the
1 26 superintendent, or in order to accomplish the provisions of
1 27 this chapter, or otherwise required by law. At the discretion
1 28 of the superintendent, the name of the complainant, residence
1 29 address of the complainant, and residence telephone number of
1 30 the complainant may be provided to the subject of the
1 31 complaint, or to an authorized agent of such person, without
1 32 waiving the confidentiality afforded by this subsection,
1 33 provided that the superintendent has notified the complainant
1 34 in advance of such disclosure. Disclosure or release of
1 35 information by the superintendent in the course of an



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2 1 administrative or judicial proceeding shall not constitute a
2 2 violation of this subsection.
2 3 b. Notwithstanding chapter 22, or paragraph "a" of this
2 4 subsection, if the superintendent determines it is necessary
2 5 or appropriate in the public interest or for the protection of
2 6 the public, the superintendent may share information with
2 7 other regulatory authorities or government agencies and may
2 8 publish information concerning a complaint if it is determined
2 9 that there is or has been a violation of this chapter, the
2 10 laws of this state or the United States, or a rule promulgated
2 11 or order issued pursuant to this chapter. Such information as
2 12 the superintendent deems appropriate may be redacted so that
2 13 the sharing, releasing, or publishing of the information in
2 14 accordance with this subsection does not make available
2 15 personally identifiable information.

2 16 EXPLANATION

2 17 This bill provides for the establishment of a complaint
2 18 response process pursuant to administrative rule by the
2 19 superintendent of credit unions.

2 20 The bill states that the process shall include provisions
2 21 relating to but not limited to complaint intake, preliminary
2 22 informal and formal investigation procedures, complaint
2 23 dismissal procedures, and imposition of remedial sanctions
2 24 through an administrative resolution procedure or a contested
2 25 case hearing. The bill specifies information obtained in the
2 26 course of the process which the superintendent is required to
2 27 keep confidential, and information which the superintendent
2 28 may choose to keep confidential, if disclosure is not
2 29 otherwise required by law, and provides that at the discretion
2 30 of the superintendent specified information relating to the
2 31 identity of the complainant may be disclosed to the subject of
2 32 the complaint, or to an authorized agent of such person
2 33 provided that the superintendent has notified the complainant
2 34 in advance of such disclosure. The bill specifies that
2 35 disclosure or release of information by the superintendent in



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3 1 the course of an administrative or judicial proceeding shall
3 2 not constitute a violation of the bill's provisions.
3 3 The bill authorizes disclosure of information which is
3 4 otherwise confidential if determined by the superintendent to
3 5 be in the public interest, and authorizes the superintendent
3 6 to share such information with other regulatory authorities or
3 7 government agencies and to publish information concerning a
3 8 complaint if it is determined a violation of federal or state
3 9 law, or administrative rule, has occurred, subject to
3 10 redaction as determined appropriate by the superintendent to
3 11 protect personally identifiable information.
3 12 The bill makes conforming changes to Code chapter 22
3 13 relating to confidential records.
3 14 LSB 1227SV 83
3 15 rn/nh/14



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Senate File 149 - Introduced

SENATE FILE
BY HAMERLINCK

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

A BILL FOR

- 1 An Act requiring the budget submissions of state agencies to
- 2 utilize a zero=base approach.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4 TLSB 2175XS 83
- 5 jp/mg/5



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Senate File 149 - Introduced continued

PAG LIN

1 1 Section 1. Section 8.23, subsection 1, paragraph a, Code
1 2 2009, is amended to read as follows:
1 3 a. The estimates of expenditure requirements shall ~~be~~
~~1 4 based upon seventy-five percent of the funding provided for~~
~~1 5 the current fiscal year accounted for by program reduced by~~
~~1 6 the historical employee vacancy factor in form specified by~~
~~1 7 the director and the remainder of the estimate of expenditure~~
~~1 8 requirements prioritized by program~~ utilize a zero-base
1 9 approach of providing sufficient supporting data and
1 10 explanations to justify each expenditure as though it were a
1 11 new expenditure. The estimates shall include a prioritization
1 12 of each expenditure in relation to the other expenditures
1 13 transmitted. The estimates shall be accompanied with by
1 14 performance measures for evaluating the effectiveness of the
1 15 program.

1 16 Sec. 2. Section 602.1301, subsection 2, paragraph a,
1 17 unnumbered paragraph 1, Code 2009, is amended to read as
1 18 follows:

1 19 As early as possible, but not later than December 1, the
1 20 supreme court shall submit to the legislative services agency
1 21 the annual budget request and detailed supporting information
1 22 for the judicial branch. The submission shall be designed to
1 23 assist the legislative services agency in its preparation for
1 24 legislative consideration of the budget request. The
1 25 information submitted shall contain and be arranged in a
1 26 format substantially similar to the format specified by the
1 27 director of management and used by all departments and
1 28 establishments in transmitting to the director estimates of
1 29 their expenditure requirements pursuant to section 8.23,
~~1 30 except the estimates of expenditure requirements shall be~~
~~1 31 based upon one hundred percent of funding for the current~~
~~1 32 fiscal year accounted for by program, and using the same line~~
~~1 33 item definitions of expenditures as used for the current~~
~~1 34 fiscal year's budget request, and the remainder of the~~
~~1 35 estimate of expenditure requirements prioritized by program~~ by



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2 1 utilizing a zero-base approach of providing sufficient
2 2 supporting data and explanations to justify each expenditure
2 3 as though it were a new expenditure. The estimates shall
2 4 include a prioritization of each expenditure in relation to
2 5 the other expenditures submitted. The supreme court shall
2 6 also make use of the department of management's automated
2 7 budget system when submitting information to the director of
2 8 management to assist the director in the transmittal of
2 9 information as required under section 8.35A. The supreme
2 10 court shall budget and track expenditures by the following
2 11 separate organization codes:

2 12 EXPLANATION

2 13 This bill requires the budget submissions of executive
2 14 branch departments and the judicial branch to utilize a zero=
2 15 base approach.

2 16 Under current law in Code section 8.23, the executive
2 17 branch departments' estimates of expenditure requirements are
2 18 based upon 75 percent of the funding provided for the current
2 19 fiscal year as adjusted by the historical employee vacancy
2 20 factor. The remaining expenditure requirements are
2 21 prioritized by program. Under the bill's zero-base approach,
2 22 the expenditure requirements must provide sufficient
2 23 supporting data and explanations to justify each expenditure
2 24 as though it were a new expenditure. The estimates are also
2 25 required to include a prioritization of each expenditure in
2 26 relation to the other expenditures transmitted.

2 27 Under current law in Code section 602.1301, unlike the
2 28 requirement of the executive branch, the supreme court must
2 29 submit an annual operating budget for the judicial branch that
2 30 is based upon 100 percent of the funding provided for the
2 31 previous fiscal year. As with the executive branch
2 32 departments, the bill replaces the 100 percent requirement
2 33 with a zero-base approach requiring data and explanations for
2 34 each expenditure and a prioritization of the expenditures.

2 35 LSB 2175XS 83



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3 1 jp/mg/5



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Senate File 150 - Introduced

SENATE FILE
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 1083)

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

Passed House, Date _____
Vote: Ayes _____ Nays _____

A BILL FOR

- 1 An Act relating to notice of claims and the statute of limitation
- 2 period in an action involving a claim against a special
- 3 charter city.
- 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 5 TL5B 1094SV 83
- 6 rh/rj/8



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1 1 Section 1. Section 420.44, Code 2009, is amended to read
1 2 as follows:
1 3 420.44 UNLIQUIDATED CLAIM == LIMITATION OF ACTION.
1 4 ~~No suit~~ An action shall be brought against any such city
1 5 for any unliquidated claim or demand ~~unless~~ within ~~three~~
~~1 6 months from the time the same became due or cause of action~~
~~1 7 accrued thereon, nor unless a written, verified statement of~~
~~1 8 the general nature, cause, and amount of same is filed with~~
~~1 9 the clerk or recorder thirty days before the commencement of~~
~~1 10 such suit~~ two years after the alleged injury or damage.

1 11 Sec. 2. Section 420.45, Code 2009, is amended to read as
1 12 follows:

1 13 420.45 CLAIMS FOR PERSONAL INJURY == LIMITATION.
1 14 In all cases of personal injury or damage to property
1 15 resulting from defective streets or sidewalks, or from any
1 16 cause originating in the neglect or failure of any municipal
1 17 corporation or its officers to perform their duties, ~~no suit~~
1 18 an action shall be brought against any such city ~~after three~~
~~1 19 months~~ within two years from the time of ~~after the alleged~~
1 20 injury or damage, and not then unless a written verified
~~1 21 statement of the amount, nature, and cause of such injury or~~
~~1 22 damage, and the time when and the place where such injury~~
~~1 23 occurred, and the particular defect or negligence of the city~~
~~1 24 or its officers which it is claimed caused or contributed to~~
~~1 25 the injury or damage, shall be presented to the council or~~
~~1 26 filed with the clerk within thirty days after said alleged~~
~~1 27 injury or damage was sustained.~~

1 28 EXPLANATION

1 29 This bill eliminates the requirement that a notice of a
1 30 claim against a special charter city for personal injury or
1 31 damage to property resulting from defective streets or
1 32 sidewalks or from any cause originating in the neglect or
1 33 failure of any municipal corporation or its officers to
1 34 perform their duties be presented to the city council or filed
1 35 with the city clerk within 30 days after the injury or damage



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2 1 in order to sustain a tort action against the special charter
2 2 city. The bill also eliminates the requirement that a notice
2 3 of any unliquidated damage claim against a special charter
2 4 city be filed with the city clerk or recorder 30 days before a
2 5 lawsuit is filed against a special charter city. The
2 6 elimination of these notice of claim requirements are
2 7 consistent with the elimination of the notice of claim
2 8 requirement relating to tort claims against a municipality
2 9 enacted in 2007 Iowa Acts, chapter 110, section 5 (S.F. 384).
2 10 The bill specifies that all such actions against a special
2 11 charter city must be brought within two years after the
2 12 alleged injury or damage.
2 13 LSB 1094SV 83
2 14 rh/rj/8



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Senate File 151 - Introduced

SENATE FILE
BY COMMITTEE ON TRANSPORTATION

(SUCCESSOR TO SSB 1167)

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

A BILL FOR

1 An Act relating to railway assistance and passenger rail service,
2 including provisions for the administration of the railway
3 revolving loan and grant fund, the elimination of the railway
4 finance authority, and the administration of the passenger
5 rail service revolving fund.

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

7 TLSB 1349SV 83

8 dea/nh/14



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2 1 corporation may begin condemnation procedures in district
2 2 court for the land described by the department.

2 3 ~~2. The railway finance authority may begin condemnation
2 4 proceedings in district court.~~

2 5 Sec. 4. Section 6A.16, Code 2009, is amended to read as
2 6 follows:

2 7 6A.16 RIGHT TO CONDEMN ABANDONED RIGHT=OF=WAY.

2 8 Railroad right=of=way which has been abandoned by order of
2 9 the proper authority, may be condemned by a railway
2 10 corporation or the Iowa railway finance authority department
2 11 of transportation before or after the track materials have
2 12 been removed. The procedure to condemn abandoned right=of=way
2 13 shall be the same as for an original condemnation.

2 14 Sec. 5. Section 7E.7, subsection 2, Code 2009, is amended
2 15 by striking the subsection.

2 16 Sec. 6. Section 12.28, subsection 1, paragraph b, Code
2 17 2009, is amended to read as follows:

2 18 b. "State agency" means a board, commission, bureau,
2 19 division, office, department, or branch of state government.
2 20 However, state agency does not mean the state board of
2 21 regents, institutions governed by the board of regents, or
2 22 authorities created under chapter 16, 175, 257C, or 261A, ~~or~~
2 23 ~~327I~~.

2 24 Sec. 7. Section 12.30, subsection 1, paragraph a, Code
2 25 2009, is amended to read as follows:

2 26 a. "Authority" means a department, or public or
2 27 quasi-public instrumentality of the state including but not
2 28 limited to the authority created under chapter 12E, 16, 175,
2 29 257C, 261A, ~~327I~~, or 463C, which has the power to issue
2 30 obligations, except that "authority" does not include the
2 31 state board of regents or the Iowa finance authority to the
2 32 extent it acts pursuant to chapter 260C. "Authority" also
2 33 includes a port authority created under chapter 28J.

2 34 Sec. 8. Section 307.24, Code 2009, is amended to read as
2 35 follows:



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3 1 307.24 ADMINISTRATION OF HIGHWAYS.

3 2 The department's administrator of highways is responsible
3 3 for the planning, design, construction, and maintenance of the
3 4 state primary highways and shall administer chapters 306 to
3 5 320 and ~~327I~~ and perform other duties as assigned by the
3 6 director. The administration of highways shall be organized
3 7 to provide administration for urban systems, for secondary
3 8 roads, and other categories of administration as necessary.

3 9 Sec. 9. Section 321.145, subsection 2, paragraph b,
3 10 subparagraph (4), Code 2009, is amended by striking the
3 11 subparagraph.

3 12 Sec. 10. Section 327G.76, Code 2009, is amended to read as
3 13 follows:

3 14 327G.76 TIME OF REVERSION.

3 15 Railroad property rights which are extinguished upon
3 16 cessation of service by the railroad divest when the ~~railway~~
~~3 17 finance authority department of transportation~~ or the
3 18 railroad, having obtained authority to abandon the rail line,
3 19 removes the track materials to the right-of-way. If the
3 20 ~~railway finance authority department of transportation~~ does
3 21 not acquire the line and the railway company does not remove
3 22 the track materials, the property rights which are
3 23 extinguished upon cessation of service by the railroad divest
3 24 one year after the railway obtains the final authorization
3 25 necessary from the proper authority to remove the track
3 26 materials.

3 27 Sec. 11. Section 327H.20A, Code 2009, is amended to read
3 28 as follows:

3 29 327H.20A RAILROAD REVOLVING LOAN AND GRANT FUND.

3 30 1. A railroad revolving loan and grant fund is established
3 31 in the office of the treasurer of state under the control of
3 32 the ~~authority~~ department. Moneys in the fund shall be
3 33 expended for the following purposes:

3 34 a. Grants or loans to provide assistance for the
3 35 restoration, conservation, improvement, and construction of



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4 1 railroad main lines, branch lines, switching yards, sidings,
4 2 rail connections, intermodal yards, highway grade separations,
4 3 and other railroad-related improvements.

4 4 b. Grants or loans for rail economic development projects
4 5 that improve rail facilities, including the construction of
4 6 branch lines, sidings, rail connections, intermodal yards, and
4 7 other rail-related improvements that spur economic development
4 8 and job growth.

4 9 2. The ~~authority~~ department shall administer a program for
4 10 the granting and administration of loans and grants under this
4 11 section. ~~No more than fifty percent of the total moneys~~
~~4 12 available in the fund in any year shall be awarded in the form~~
~~4 13 of grants.~~ The ~~authority~~ department may establish a limit on
4 14 the amount that may be awarded as a grant for any given
4 15 project in order to maximize the use of the moneys in the
4 16 fund. The ~~authority~~ department may enter into agreements with
4 17 railroad corporations, the United States government, cities,
4 18 counties, and other persons for carrying out the purposes of
4 19 this section.

4 20 3. Notwithstanding any other provision to the contrary, on
4 21 or after July 1, 2006, moneys received as repayments for loans
4 22 made pursuant to this chapter or chapter 327I, Code 2009,
4 23 before, on, or after July 1, 2005, other than repayments of
4 24 federal moneys subject to section 327H.21, shall be credited
4 25 to the railroad revolving loan and grant fund.
4 26 Notwithstanding section 8.33, moneys in the railroad revolving
4 27 loan and grant fund shall not revert to the general fund of
4 28 the state but shall remain available indefinitely for
4 29 expenditure under this section.

4 30 Sec. 12. Section 327H.26, Code 2009, is amended to read as
4 31 follows:

4 32 327H.26 ~~DEFINITIONS~~ DEFINITION.

4 33 As used in this chapter, unless the context otherwise
4 34 requires:

4 35 1. ~~"Authority" means the railway finance authority created~~



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~~5 1 in chapter 327I.~~

5 2 2. ~~"Department", "department"~~ means the state department
5 3 of transportation.

5 4 Sec. 13. Section 427.1, subsection 25, Code 2009, is
5 5 amended by striking the subsection.

5 6 Sec. 14. Chapter 327I, Code 2009, is repealed.

5 7 Sec. 15. CONTINUATION OF PRIOR AGREEMENTS. It is the
5 8 intent of the general assembly that the enactment of this Act
5 9 shall not affect the terms or duration of railroad assistance
5 10 agreements entered into under chapter 327H or 327I prior to
5 11 the effective date of this Act. The department of
5 12 transportation is the successor to the rights and obligations
5 13 of any agreements entered into by the Iowa railway finance
5 14 authority.

5 15

DIVISION II

5 16

PASSENGER RAIL SERVICE

5 17 Sec. 16. Section 327J.1, Code 2009, is amended by adding
5 18 the following new subsection:

5 19 NEW SUBSECTION. 6. "Passenger rail service" means
5 20 long-distance, intercity, and commuter passenger
5 21 transportation, including the midwest regional rail system,
5 22 which is provided on railroad tracks.

5 23 Sec. 17. Section 327J.2, subsection 2, Code 2009, is
5 24 amended to read as follows:

5 25 2. FUNDING. To achieve the purposes of this chapter,
5 26 moneys shall be credited to the passenger rail service
5 27 revolving fund by the treasurer of state from the following
5 28 sources:

5 29 a. Appropriations made by the general assembly.

5 30 ~~a.~~ b. Private grants and gifts intended for these
5 31 purposes.

5 32 ~~b.~~ c. Federal, state, and local grants and loans intended
5 33 for these purposes.

5 34 Sec. 18. Section 327J.3, Code 2009, is amended to read as
5 35 follows:



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6 1 327J.3 ADMINISTRATION.

6 2 1. The director may expend moneys from the fund to pay the
6 3 costs associated with the initiation, operation, and
6 4 maintenance of ~~rail~~ passenger rail service. The director
6 5 shall report by February 1 of each year to the legislative
6 6 services agency concerning the status of the fund including
6 7 anticipated expenditures for the following fiscal year.

6 8 2. The director may enter into agreements with AMTRAK,
6 9 other rail operators, local jurisdictions, and other states
6 10 ~~associated with the midwest regional rail system~~ for the
6 11 purpose of developing a rail passenger system rail service
6 12 ~~erving the midwest, including service from Chicago, Illinois,~~
6 13 ~~to Omaha, Nebraska, through~~ Iowa. The agreements may include
6 14 any of the following:

6 15 a. Cost-sharing agreements associated with initiating
6 16 service, capital costs, operating subsidies, and other costs
6 17 necessary to develop and maintain service.

6 18 b. Joint powers agreements and other institutional
6 19 arrangements associated with the administration, management,
6 20 and operation of a ~~midwest regional rail system~~ passenger rail
6 21 service.

6 22 3. The director shall enter into discussions with members
6 23 of Iowa's congressional delegation to foster ~~rail~~ passenger
6 24 rail service in this state and the midwest and to maximize the
6 25 level of federal funding for the service, ~~including funding~~
6 26 ~~for the midwest regional rail system~~.

6 27 4. The director may provide assistance and enter into
6 28 agreements with ~~cities~~ local jurisdictions along the proposed
6 29 route of the midwest regional rail system or other passenger
6 30 rail ~~system~~ service operations ~~the Midwest Iowa~~ to
6 31 ensure that rail stations and terminals are designed and
6 32 developed in accordance with the following objectives:

6 33 a. To meet safety and efficiency requirements outlined by
6 34 AMTRAK and the federal railroad administration.

6 35 b. To aid intermodal transportation.



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7 1 c. To encourage economic development.
7 2 5. The director shall report annually to the general
7 3 assembly concerning the development and operation of the
7 4 midwest regional rail system and the state's passenger rail
7 5 service.

7 6 EXPLANATION

7 7 This bill contains provisions relating to assistance for
7 8 railroads and passenger rail service.

7 9 DIVISION I == RAILWAY ASSISTANCE. This division of the
7 10 bill contains the repeal of Code chapter 327I, in which the
7 11 Iowa railway finance authority was established. The duties
7 12 and responsibilities of the railway finance authority for
7 13 administration of the railroad revolving loan and grant fund
7 14 are transferred to the department of transportation. The bill
7 15 specifies that the department is the successor to the rights
7 16 and obligations of any agreements for railroad assistance
7 17 entered into by the Iowa railway finance authority, and the
7 18 terms and duration of those prior agreements are preserved.

7 19 The bill eliminates references to the railway finance
7 20 authority in provisions relating to the condemnation of
7 21 property for the location, construction, and use of a railway.
7 22 The bill specifies that the authority currently granted to the
7 23 railway finance authority to acquire lands for certain
7 24 additional purposes, such as constructing sections of track,
7 25 establishing additional depot grounds or yards, modifying or
7 26 adding right-of-way, and preserving abandoned railroad
7 27 right-of-way, is retained by the department along with the
7 28 right to condemn abandoned railroad right-of-way.

7 29 The bill lifts the current limitation on the total amount
7 30 available in the railroad revolving loan and grant fund that
7 31 may be awarded annually in the form of grants.

7 32 Under current law, moneys are appropriated from the
7 33 statutory allocations fund for the payment of principal and
7 34 interest on obligations of the railway finance authority or
7 35 the payment of leases guaranteed by the authority. The bill



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8 1 strikes that appropriation.

8 2 DIVISION II == PASSENGER RAIL SERVICE. This division of
8 3 the bill provides for the administration of passenger rail
8 4 service, including administration of the passenger rail
8 5 service revolving fund, by the department of transportation.
8 6 The term "passenger rail service" is defined in the bill as
8 7 long-distance, intercity, and commuter passenger
8 8 transportation, including the midwest regional rail system,
8 9 which is provided on railroad tracks. The bill amends
8 10 language describing funding sources for the passenger rail
8 11 service revolving fund to include appropriations made by the
8 12 general assembly.

8 13 Currently, the director of transportation has authority to
8 14 enter into agreements with AMTRAK and with states associated
8 15 with the midwest regional rail system for the purpose of
8 16 developing a passenger rail system serving the midwest. The
8 17 bill modifies that authority to allow agreements with AMTRAK,
8 18 other rail operators, local jurisdictions, and any other
8 19 states for the purpose of developing passenger rail service
8 20 serving Iowa.

8 21 LSB 1349SV 83

8 22 dea/nh/14



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Senate Study Bill 1201

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

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

Passed House, Date _____
Vote: Ayes _____ Nays _____

A BILL FOR

- 1 An Act relating to the certificate of needs process including
- 2 procedures for contested applications and applications
- 3 relating to institutional health facilities in rural areas.
- 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 5 TLSB 1980XC 83
- 6 pf/nh/8



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1 1 Section 1. Section 135.61, Code 2009, is amended by adding
1 2 the following new subsection:

1 3 NEW SUBSECTION. 21A. "Rural area" means any of the
1 4 following:

1 5 a. A county with a population of less than fifty thousand
1 6 persons.

1 7 b. A geographic area outside an urban or suburban setting
1 8 which, due to its location, requires at least twenty minutes
1 9 of travel time on normally traveled roads under normal traffic
1 10 conditions between institutional health facilities of the same
1 11 type.

1 12 Sec. 2. Section 135.62, subsection 2, paragraph d,
1 13 subparagraph (1), Code 2009, is amended to read as follows:

1 14 (1) Make the final decision, as required by section
1 15 135.69, with respect to each uncontested application for a
1 16 certificate of need accepted by the department.

1 17 Sec. 3. Section 135.63, subsection 2, Code 2009, is
1 18 amended by adding the following new paragraph:

1 19 NEW PARAGRAPH. q. An institutional health facility
1 20 constructed, renovated, relocated, or otherwise offered or
1 21 developed in a rural area.

1 22 Sec. 4. Section 135.64, subsection 1, unnumbered paragraph
1 23 1, Code 2009, is amended to read as follows:

1 24 In determining whether a certificate of need shall be
1 25 issued, the department and council, and the administrative law
1 26 judge with respect to a contested application pursuant to
1 27 section 135.66A, shall consider the following:

1 28 Sec. 5. Section 135.64, subsection 1, paragraph r, Code
1 29 2009, is amended to read as follows:

1 30 r. The recommendations of staff personnel of the
1 31 department assigned to the area of certificate of need,
1 32 concerning the application, if requested by the council or by
1 33 the administrative law judge pursuant to section 135.66A.

1 34 Sec. 6. Section 135.64, subsection 2, unnumbered paragraph
1 35 1, Code 2009, is amended to read as follows:



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2 1 In addition to the findings required with respect to any of
2 2 the criteria listed in subsection 1 of this section, the
2 3 council ~~shall grant~~ or the administrative law judge pursuant
2 4 to section 135.66A may approve an application for a
2 5 certificate of need for a new institutional health service or
2 6 changed institutional health service only if ~~it~~ the council or
2 7 the administrative law judge finds in writing, on the basis of
2 8 data submitted ~~to it~~ by the department, that:

2 9 Sec. 7. NEW SECTION. 135.66A CONTESTED APPLICATION
2 10 PROCEDURE.

2 11 1. After formal review of an application for a certificate
2 12 of need has been initiated and notification has been made
2 13 pursuant to section 135.66 and prior to any final decision on
2 14 the application, any affected party or affected party's
2 15 designated representative may contest the application by
2 16 filing a petition with the department for a hearing on the
2 17 application. The hearing shall be a contested case proceeding
2 18 subject to all of the provisions of chapter 17A applicable to
2 19 contested cases, unless otherwise specified in this section.

2 20 a. A party contesting the application may petition the
2 21 department for a contested case hearing under this section by
2 22 submitting a written request to the director within fifteen
2 23 days of the date of public notification of formal review
2 24 pursuant to section 135.66, subsection 2. Any petition filed
2 25 after the fifteen-day period shall not be accepted and the
2 26 department shall not have jurisdiction to consider such
2 27 petition.

2 28 b. Upon receipt of a timely filed petition, the department
2 29 shall immediately forward the petition to the department of
2 30 inspections and appeals for assignment to an administrative
2 31 law judge.

2 32 c. A contested case proceeding under this section shall be
2 33 heard and presided over by an administrative law judge sitting
2 34 alone. The administrative law judge shall conduct the
2 35 proceedings as a matter of first impression subject to de novo



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3 1 review.

3 2 d. The subject of the contested case proceeding shall be
3 3 limited to a single application and shall not concern the
3 4 merits of any other pending application of the same applicant.

3 5 e. The administrative law judge shall convene the parties
3 6 for a scheduling conference within fifteen days of the date
3 7 the petition was filed. During the scheduling conference,
3 8 each party shall state the party's position regarding the
3 9 alternative of mediation as provided in paragraph "g". If the
3 10 parties do not agree to mediation, the hearing shall be
3 11 scheduled to allow for completion of the proceedings within
3 12 one hundred eighty days from the date the petition was filed,
3 13 with an initial decision to be entered within sixty days of
3 14 the date of completion of the hearing. Extensions of or
3 15 variances in the scheduling shall only be made if substantial
3 16 prejudice to a party would otherwise result.

3 17 f. The administrative law judge shall enter a proposed
3 18 decision within thirty days of the date of the initial
3 19 decision. Following entry of the proposed decision, the
3 20 decision shall become a final decision unless a party appeals
3 21 to the department within the time frames established in and in
3 22 accordance with section 17A.15. If the department declines to
3 23 hear an appeal on a proposed decision, the proposed decision
3 24 is a final decision and may be subject to judicial review.

3 25 g. In lieu of a contested case hearing, the parties may
3 26 participate in mediation. If the parties agree to mediation,
3 27 the mediator shall be designated by mutual agreement of the
3 28 parties. Mediation proceedings shall not be subject to the
3 29 time frames established under this subsection for contested
3 30 case hearings. Any mediation agreement or failure to reach an
3 31 agreement shall be part of the record of the proceedings and
3 32 final decision by the administrative law judge.

3 33 h. A party who is aggrieved or adversely affected by a
3 34 final decision under this section is entitled to judicial
3 35 review pursuant to section 17A.19.



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4 1 i. All costs of a contested case hearing under this
4 2 section shall be paid equally by all nonprevailing parties.
4 3 No costs shall be assessed against the department.

4 4 2. This section shall not apply to contested cases
4 5 initiated by the health facilities council regarding
4 6 certificate of need decisions.

4 7 Sec. 8. Section 135.69, Code 2009, is amended to read as
4 8 follows:

4 9 135.69 COUNCIL TO MAKE FINAL DECISION ON UNCONTESTED
4 10 APPLICATIONS.

4 11 1. The department shall complete its formal review of the
4 12 application, which is not contested and subject to section
4 13 135.66A, within ninety days after acceptance of the
4 14 application, except as otherwise provided by section 135.72,
4 15 subsection 4. Upon completion of the formal review, the
4 16 council shall approve or deny the application. The council
4 17 shall issue written findings stating the basis for its
4 18 decision on the application, and the department shall send
4 19 copies of the council's decision and the written findings
4 20 supporting the decision to the applicant and to any other
4 21 person who so requests.

4 22 2. Failure by the council to issue a written decision on
4 23 an application for a certificate of need, which is not
4 24 contested and subject to section 135.66A, within the time
4 25 required by this section shall constitute denial of and final
4 26 administrative action on the application.

4 27 Sec. 9. Section 135.70, Code 2009, is amended to read as
4 28 follows:

4 29 135.70 APPEAL OF UNCONTESTED CERTIFICATE OF NEED
4 30 DECISIONS.

4 31 1. The council's decision on an uncontested application
4 32 for certificate of need, when announced pursuant to section
4 33 135.69, is a final decision.

4 34 2. Any dissatisfied party who is an affected person with
4 35 respect to the uncontested application, and who participated



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5 1 or sought unsuccessfully to participate in the formal review
5 2 procedure prescribed by section 135.66, may request a
5 3 rehearing in accordance with chapter 17A and rules of the
5 4 department.

5 5 3. If a rehearing is not requested or an affected party
5 6 remains dissatisfied after the request for rehearing, an
5 7 appeal may be taken in the manner provided by chapter 17A.

5 8 4. Notwithstanding the Iowa administrative procedure Act,
5 9 chapter 17A, a request for rehearing is not required, prior to
5 10 appeal under section 17A.19.

5 11 Sec. 10. Section 135.72, Code 2009, is amended by adding
5 12 the following new subsection:

5 13 NEW SUBSECTION. 5. Rules relating to contested
5 14 applications for a certificate of need including procedures
5 15 pursuant to section 135.66A.

5 16 EXPLANATION

5 17 This bill relates to the certificate of need process. The
5 18 bill provides for an exclusion from the certificate of need
5 19 process for institutional health facilities constructed,
5 20 renovated, relocated, or otherwise offered or developed in a
5 21 rural area. The bill defines "rural area" as a county with a
5 22 population of less than 50,000 persons or a geographic area
5 23 outside an urban or suburban setting which, due to its
5 24 location, requires at least 20 minutes of travel time on
5 25 normally traveled roads under normal traffic conditions
5 26 between institutional health facilities of the same type.

5 27 The bill also establishes a procedure for contested
5 28 certificate of need applications. The bill provides that
5 29 after the department of public health has received an
5 30 application for a certificate of need, formal review of the
5 31 application has been initiated, and notification regarding the
5 32 application has been made, if any affected party or a party's
5 33 representative contests the application and follows the
5 34 specified process for petitioning, the contested application
5 35 may be subject to a contested case hearing as provided in the



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6 1 administrative procedure Act, Code chapter 17A, and the
6 2 provisions of the bill. The bill establishes time frames for
6 3 the contested case proceeding and also provides for mediation
6 4 in lieu of the contested case proceeding. A contested case
6 5 proceeding on an application is to be heard and presided over
6 6 by an administrative law judge sitting alone, and the hearing
6 7 is to be conducted as a matter of first impression subject to
6 8 de novo review. The subject matter of the contested case
6 9 proceeding is limited to the single application and is not to
6 10 concern the merits of any other pending application of the
6 11 same applicant. Once the administrative law judge makes a
6 12 proposed decision on the application, the proposed decision
6 13 becomes a final decision unless a party appeals to the
6 14 department of public health within the specified time frames.
6 15 If the department declines to hear an appeal on a proposed
6 16 decision, the proposed decision is a final decision and may be
6 17 subject to judicial review. A party who is aggrieved or
6 18 adversely affected by a final decision under the bill is
6 19 entitled to judicial review. The costs of a contested case
6 20 hearing are to be paid equally by all nonprevailing parties.
6 21 No costs are to be assessed against the department. The
6 22 procedure does not apply to contested cases initiated by the
6 23 health facilities council regarding certificate of need
6 24 decisions.
6 25 The bill makes other conforming changes to reflect the new
6 26 procedure for contested certificate of need applications.
6 27 LSB 1980XC 83
6 28 pf/nh/8



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Senate Study Bill 1202

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

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

Passed House, Date _____
Vote: Ayes _____ Nays _____

A BILL FOR

1 An Act relating to civil actions including certain limitations on
2 actions, judgments, and executions and including actions
3 relating to the foreclosure of real estate mortgages, and
4 providing applicability provisions.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
6 TLSB 1471SC 83
7 rh/rj/5



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Senate Study Bill 1202 continued

PAG LIN

1 1 Section 1. NEW SECTION. 614.18A JUDGMENT AND DECREE
1 2 AFFECTING REAL PROPERTY.

1 3 In an action in which the court had jurisdiction of the
1 4 aggrieved party, a motion or other legal proceeding attacking
1 5 the validity of the judgment or decree based on noncompliance
1 6 with the requirements of rule of civil procedure 1.972 shall
1 7 not affect the interests of any purchaser or mortgagee for
1 8 value of the real property involved unless the motion or
1 9 proceeding is initiated within thirty days after the recording
1 10 of the sheriff's deed or within ninety days after the filing
1 11 of a judgment or decree not providing for the issuance of a
1 12 sheriff's deed.

1 13 Sec. 2. Section 615.1, subsection 1, Code 2009, is amended
1 14 to read as follows:

1 15 1. After the expiration of a period of two years from the
1 16 date of entry of judgment, exclusive of any time during which
1 17 execution on the judgment was stayed pending a bankruptcy
1 18 action or order of court, a judgment entered in ~~either~~ any of
1 19 the following actions shall be null and void, all liens shall
1 20 be extinguished, and no execution shall be issued ~~for any~~
1 21 ~~purpose other than~~ except as a setoff or counterclaim:

1 22 a. (1) ~~An~~ For a real estate mortgage, deed of trust, or
1 23 real estate contract executed prior to July 1, 2009, an action
1 24 for the foreclosure of a the real estate mortgage, deed of
1 25 trust, or real estate contract upon property which at the time
1 26 of judgment the foreclosure is commenced is either used for an
1 27 agricultural purpose as defined in section 535.13 or as a
1 28 one-family or two-family dwelling which is the residence of
1 29 the mortgagor.

1 30 (2) For a real estate mortgage, deed of trust, or real
1 31 estate contract executed on or after July 1, 2009, an action
1 32 for the foreclosure of the real estate mortgage, deed of
1 33 trust, or real estate contract upon property which at the time
1 34 of the execution of the mortgage, deed, or contract is either
1 35 used for, or is being acquired for, an agricultural purpose as



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2 1 defined in section 535.13 or as a one-family or two-family
2 2 dwelling which is the residence of the mortgagor.
2 3 b. An action on a claim for rent.
2 4 Sec. 3. Section 615.3, Code 2009, is amended to read as
2 5 follows:
2 6 615.3 FUTURE JUDGMENTS WITHOUT FORECLOSURE.
2 7 1. a. A judgment hereafter rendered on a promissory
2 8 obligation secured by a mortgage, deed of trust, or real
2 9 estate contract upon property which at the time of the
~~2 10 judgment is either used for an agricultural purpose as defined~~
~~2 11 in section 535.13 or a one-family or two-family dwelling which~~
~~2 12 is the residence of the mortgagor executed prior to July 1,~~
2 13 2009, but without foreclosure against the security, shall not
2 14 be subject to renewal by action thereon, and, after the lapse
2 15 of two years from the date of rendition judgment, shall be
2 16 without force and effect for any purpose whatsoever except as
2 17 a setoff or counterclaim, if the mortgage, deed, or contract
2 18 was upon property which at the time of either the execution of
2 19 the judgment or the commencement of a proceeding foreclosing a
2 20 prior mortgage or a disposition in lieu of a prior mortgage,
2 21 was either used for an agricultural purpose as defined in
2 22 section 535.13 or as a one-family or two-family dwelling which
2 23 was the residence of the mortgagor. As used in this section,
~~2 24 "mortgagor" means a mortgagor of a mortgage or a borrower~~
~~2 25 executing a deed of trust as provided in chapter 654 or the~~
~~2 26 vendee of a real estate contract.~~
2 27 b. A judgment rendered on a promissory obligation secured
2 28 by a real estate mortgage, deed of trust, or real estate
2 29 contract executed on or after July 1, 2009, but without
2 30 foreclosure against the security, shall not be subject to
2 31 renewal by action thereon, and, after the lapse of two years
2 32 from the date of judgment, shall be without force and effect
2 33 except as a setoff or counterclaim, if at the time of the
2 34 execution of the mortgage, deed, or contract the property
2 35 encompassed by the mortgage, deed, or contract is either used



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3 1 for, or is being acquired for, an agricultural purpose as
3 2 defined in section 535.13 or as a one-family or two-family
3 3 dwelling which is the residence of the mortgagor.
3 4 2. As used in this section, "mortgagor" means a mortgagor
3 5 of a mortgage or a borrower executing a deed of trust as
3 6 provided in chapter 654 or the vendee of a real estate
3 7 contract.

3 8 Sec. 4. Section 626.81, Code 2009, is amended to read as
3 9 follows:

3 10 626.81 SALE POSTPONED.

3 11 When there are no bidders, or when the amount offered is
3 12 grossly inadequate, ~~or~~ when from any cause the sale is
3 13 prevented from taking place on the day fixed, when requested
3 14 by the judgment creditor, or when the parties so agree, the
3 15 officer may postpone the sale ~~for not more than three days~~
3 16 without being required to give any further notice thereof,
3 17 which postponement shall be publicly announced at the time the
3 18 sale was to have been made, but not more than two such
3 19 adjournments of not more than sixty days in the aggregate
3 20 shall be made, except by agreement of the parties in writing
3 21 and made a part of the return upon the execution.

3 22 Sec. 5. NEW SECTION. 654.1A MAINTENANCE OF MORTGAGOR
3 23 PROTECTIONS == DISCONTINUATION OF OCCUPATION.

3 24 For purposes of sections 615.1, 615.3, 628.28, 654.2D,
3 25 654.20, 654.21, and 654.26, property shall be deemed the
3 26 residence of and occupied by the mortgagor where occupation
3 27 has ceased because of the effects of natural disaster, injury
3 28 to the property not willfully caused by the mortgagor, or the
3 29 mortgagor's state military service or federal military service
3 30 as those terms are defined in section 29A.1.

3 31 Sec. 6. NEW SECTION. 654.4A SERVICE OF PROCESS == IN REM
3 32 RELIEF.

3 33 In addition to any other form of service authorized by law,
3 34 where in rem relief is the only relief requested in a
3 35 foreclosure action against either a party or a person to be



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4 1 served with a notice pursuant to section 614.15B, all of the
4 2 following shall apply:

4 3 1. If the person to be served is a judgment creditor,
4 4 service may be made by certified mail, with proof of delivery,
4 5 to the judgment creditor's registered agent or to the judgment
4 6 creditor at the judgment creditor's principal place of
4 7 business in the state where the business is organized, as
4 8 indicated by the records in the office of the secretary of
4 9 state, or to the judgment creditor at the last address
4 10 indicated in the case in which the judgment was entered.

4 11 2. Upon affidavit that service cannot be made on a
4 12 judgment creditor either pursuant to subsection 1 or by
4 13 personal service in this state, service may be made by
4 14 certified mail, with proof of delivery, on the judgment
4 15 creditor's attorney of record if that attorney is a practicing
4 16 attorney in this state, along with a copy of this section, and
4 17 a payment of ten dollars. The attorney shall forward the
4 18 notice by ordinary mail to the judgment creditor's last known
4 19 address but the attorney shall have no further duties under
4 20 this section with respect to the notice.

4 21 3. An attorney who agrees to accept service on behalf of a
4 22 judgment creditor may charge a reasonable fee, not to exceed
4 23 ten dollars, for accepting service.

4 24 4. If a person, other than a governmental taxing unit, is
4 25 an interested person with respect to a decedent's estate in
4 26 probate, the person may be named generally as a person
4 27 interested in the decedent's estate and service of process
4 28 shall be made by personal service or certified mail, along
4 29 with proof of delivery, on the attorney for the personal
4 30 representative. If the estate is probated in this state and a
4 31 person has requested notice pursuant to section 633.42, the
4 32 mortgagee shall also serve that person by ordinary mail at the
4 33 address specified in the request for notice. A person so
4 34 served may intervene as a named defendant as a matter of
4 35 right.



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5 1 5. If a defendant, other than a governmental taxing unit,
5 2 is a person whose identity is not reasonably ascertainable,
5 3 and the person has an interest in a decedent's estate not
5 4 probated in this state, such person may be named generally as
5 5 a person with an interest in the decedent's estate and service
5 6 of process shall be made by publication unless the mortgagee
5 7 has actual notice that the decedent's estate is probated in
5 8 another state. A person so served may intervene as a named
5 9 defendant as a matter of right.

5 10 Sec. 7. Section 654.5, Code 2009, is amended to read as
5 11 follows:

5 12 654.5 JUDGMENT == SALE AND REDEMPTION.

5 13 1. When a mortgage or deed of trust is foreclosed, the
5 14 court shall do all of the following:

5 15 a. ~~render~~ Render judgment for the entire amount found to
5 16 be due, and ~~must direct~~.

5 17 b. Direct the mortgaged property, or so much thereof as is
5 18 necessary, to be sold to satisfy the judgment, with interest
5 19 and costs.

5 20 c. Determine issues of title raised in the pleadings to
5 21 establish the rights and priorities of the parties and persons
5 22 served with notice pursuant to section 654.15B in the property
5 23 subject to foreclosure as may be reasonably necessary to allow
5 24 a purchaser at a sheriff's sale to obtain clear title.

5 25 2. A special execution shall issue ~~accordingly~~ under such
5 26 conditions as the decree may prescribe, and the sale under the
5 27 special execution is subject to redemption as in cases of sale
5 28 under general execution unless the plaintiff has elected
5 29 foreclosure without redemption under section 654.20.

5 30 3. The clerk shall provide a copy of the decree by
5 31 ordinary or electronic mail to all parties in the foreclosure
5 32 proceeding and all persons served with notices under section
5 33 654.15B.

5 34 Sec. 8. Section 654.15B, Code 2009, is amended to read as
5 35 follows:



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6 1 654.15B RIGHT TO INTERVENE == NOTICE.
6 2 A lender may serve a judgment creditor in a foreclosure
6 3 action with notice in substantially the following form
6 4 advising the creditor that the property that is the subject of
6 5 the foreclosure action shall be foreclosed and describing the
6 6 creditor's interest in the action and that unless such
6 7 creditor intervenes in the foreclosure action such creditor
6 8 shall lose the creditor's interest in the mortgaged property.
6 9 Unless the creditor intervenes within thirty days of the
6 10 service of notice, the court may adjudicate the creditor's
6 11 rights against the property as if the creditor had been added
6 12 as a defendant and default had been entered against the
6 13 defendant. If a creditor cannot be located for personal
6 14 service, the plaintiff may, at any time prior to sixty days
6 15 before the date of trial, amend the petition as a matter of
6 16 right to add the creditor as a defendant for service by
6 17 publication as provided by rule. The notice prescribed by
6 18 this section is as follows:

6 19 NOTICE OF PENDING FORECLOSURE

6 20 To: (Name and address of creditor)

6 21 Date: (Enter date)

6 22 Plaintiff (Name of foreclosing party) has filed a
6 23 foreclosure of mortgage against the property of (titleholder)
6 24 located at (street address of property) which is legally
6 25 described as (legal description). This foreclosure was filed
6 26 as (Plaintiff v. Defendant), Case # (..), in the Iowa District
6 27 Court for (.....) County and is intended to foreclose a
6 28 mortgage dated (date of mortgage) and recorded on (date of
6 29 recording) in the (county recorder's office). You have an
6 30 apparent interest in the property because ~~(description of~~
~~6 31 creditor's interest)~~ of an apparent judgment lien in (short
6 32 caption of case, case number, court where judgment entered,
6 33 and judgment date). If you desire to protect this interest,
6 34 you have the right to intervene in the foreclosure action
6 35 within thirty days of the service of notice by filing an



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7 1 intervention with the clerk of court in (.....) County.
7 2 Unless you intervene in the foreclosure, the foreclosure may
7 3 eliminate any interest you have in the property but will not
7 4 otherwise affect your rights. If you have any questions about
7 5 this notice, contact your attorney. Whether or not you
7 6 intervene, the foreclosure may have certain tax consequences
7 7 to you about which you should consult your tax advisor.
7 8

7 9 Name, address, and telephone number of attorney representing
7 10 ~~plaintiff~~ (name of foreclosing party).

7 11 Sec. 9. Section 654.17, Code 2009, is amended to read as
7 12 follows:

7 13 654.17 RECISION OF FORECLOSURE.

7 14 1. At any time prior to the recording of the sheriff's
7 15 deed, and before the mortgagee's rights become unenforceable
7 16 by operation of the statute of limitations, the judgment
7 17 creditor, or the judgment creditor who is the successful
7 18 bidder at the sheriff's sale, ~~with the written consent of the~~
~~7 19 mortgagor~~ may rescind the foreclosure action by filing a
7 20 notice of recision with the clerk of court in the county in
7 21 which the property is located along with a filing fee of fifty
7 22 dollars. In addition, if the original loan documents are
7 23 contained in the court file, the mortgagee shall pay a fee of
7 24 twenty-five dollars to the clerk of the district court. Upon
7 25 the payment of the fee, the clerk shall make copies of the
7 26 original loan documents for the court file, and return the
7 27 original loan documents to the mortgagee.

7 28 2. Upon the filing of the notice of recision, the mortgage
7 29 loan shall be enforceable according to the original terms of
7 30 the mortgage loan and the rights of all persons with an
7 31 interest in the property may be enforced as if the foreclosure
7 32 had not been filed. However, any findings of fact or law
7 33 shall be preclusive for purposes of any future action unless
7 34 the court, upon hearing, rules otherwise and the mortgagee
7 35 shall be permanently barred from a deficiency judgment if the



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8 1 judgment rescinded was subject to the provisions of section
8 2 615.1. The mortgagee may charge the mortgagor ~~shall be~~
~~8 3 assessed for the~~ costs, including reasonable attorney fees, of
8 4 foreclosure and recision if ~~provided by the mortgage agreement~~
8 5 agreed to in writing by the mortgagor.

8 6 Sec. 10. Section 655A.9, Code 2009, is amended to read as
8 7 follows:

8 8 655A.9 APPLICATION OF CHAPTER.

8 9 This chapter does not apply to real estate used for an
8 10 agricultural purpose as defined in section 535.13, or to a one
8 11 or two family dwelling which is, at the time of the initiation
8 12 of the foreclosure, occupied by ~~an~~ a legal or equitable
8 13 titleholder.

8 14 Sec. 11. APPLICABILITY DATES.

8 15 1. The section of this Act enacting section 654.1A applies
8 16 to all actions commenced on or after the effective date of
8 17 this Act.

8 18 2. The section of this Act amending section 655A.9 applies
8 19 to all nonjudicial foreclosures of nonagricultural mortgages
8 20 commenced on or after the effective date of this Act.

8 21 EXPLANATION

8 22 This bill relates to civil actions including certain
8 23 limitations on actions, judgments, and executions, and
8 24 including actions relating to the foreclosure of real estate
8 25 mortgages, and provides applicability provisions.

8 26 The bill provides that in an action in which the court had
8 27 jurisdiction of the aggrieved party, a motion or other legal
8 28 proceeding attacking the validity of the judgment or decree
8 29 based on failure to comply with the rules of civil procedure
8 30 relating to the entry of default judgments shall not affect
8 31 the interests of any purchaser or mortgagee for value of the
8 32 real property involved unless the motion or proceeding is
8 33 initiated within 30 days after the recording of the sheriff's
8 34 deed or within 90 days after the filing of a judgment or
8 35 decree not providing for the issuance of a sheriff's deed.



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9 1 The bill provides that, in regard to an execution on a
9 2 judgment in a foreclosure action, a judgment entered in either
9 3 of the following situations shall be null and void, all liens
9 4 shall be extinguished, and no execution shall be issued for
9 5 any purpose except as a setoff or counterclaim:

9 6 1. For a real estate mortgage, deed of trust, or real
9 7 estate contract executed prior to July 1, 2009, an action for
9 8 the foreclosure of a real estate mortgage, deed of trust, or
9 9 real estate contract upon property which at the time the
9 10 foreclosure is commenced is either used for an agricultural
9 11 purpose or as a one=family or two=family dwelling which is the
9 12 residence of the mortgagor, borrower, or vendee.

9 13 2. For a real estate mortgage, deed of trust, or real
9 14 estate contract executed on or after July 1, 2009, an action
9 15 for the foreclosure of a real estate mortgage, deed of trust,
9 16 or real estate contract upon property which at the time of the
9 17 execution of the mortgage, deed of trust, or real estate
9 18 contract is either used for, or is being acquired for, an
9 19 agricultural purpose as defined in Code section 535.13 or as a
9 20 one=family or two=family dwelling which is the residence of
9 21 the mortgagor, borrower, or vendee.

9 22 The bill provides that a judgment rendered on a promissory
9 23 obligation secured by a mortgage, deed of trust, or real
9 24 estate contract executed prior to July 1, 2009, but without
9 25 foreclosure against the security, shall not be subject to
9 26 renewal by action thereon, and, after the lapse of two years
9 27 from the date of judgment, shall be without force and effect
9 28 except as a setoff or counterclaim, if the mortgage, deed, or
9 29 contract was upon property which at the time of either the
9 30 judgment or the commencement of a proceeding foreclosing a
9 31 prior mortgage or a disposition in lieu of a prior mortgage,
9 32 was either used for an agricultural purpose or as a one=family
9 33 or two=family dwelling which was the residence of the
9 34 mortgagor. A judgment rendered on a promissory obligation
9 35 secured by a real estate mortgage, deed of trust, or real



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10 1 estate contract executed on or after July 1, 2009, but without
10 2 foreclosure against the security, shall not be subject to
10 3 renewal by action thereon, and, after the lapse of two years
10 4 from the date of judgment, shall be without force and effect
10 5 except as a setoff or counterclaim, if at the time of the
10 6 execution of the mortgage, deed, or contract the property
10 7 encompassed by the mortgage, deed, or contract is either used
10 8 for, or is being acquired for, an agricultural purpose or as a
10 9 one-family or two-family dwelling which is the residence of
10 10 the mortgagor.

10 11 The bill expands the options for allowing postponements of
10 12 a sheriff's sale to include allowing a postponement upon a
10 13 request by a judgment creditor and also extends the number of
10 14 allowable postponements from two postponements of not more
10 15 than three days each to two postponements not to exceed a
10 16 total of 60 days in the aggregate.

10 17 The bill establishes a provision preserving mortgage
10 18 protections for a mortgagor in situations where the mortgagor
10 19 ceases to occupy the mortgagor's residence because of the
10 20 effects of natural disasters, injuries to the property, and
10 21 relocations due to military service. This provision applies
10 22 to all actions commenced on or after the effective date of the
10 23 bill.

10 24 The bill provides specific service of process provisions
10 25 for judgment creditors and their attorneys as well as
10 26 executors and administrators of a decedent's estate where in
10 27 rem relief is the only relief requested in a foreclosure
10 28 action.

10 29 The bill requires courts to determine the rights of all
10 30 persons joined as parties or receiving notices of their right
10 31 to intervene in a foreclosure action where title issues have
10 32 been raised by the pleadings and resolution of such issues is
10 33 necessary to provide clear title to persons purchasing the
10 34 land at a sheriff's sale.

10 35 The bill amends notice provisions relating to pending



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11 1 foreclosures to require a mortgagee to provide additional
11 2 information relevant to a judgment creditor's decision to
11 3 intervene in a foreclosure action.

11 4 The bill eliminates the requirement that the mortgagor
11 5 consent to a rescission of a foreclosure action.

11 6 The bill eliminates deficiency judgments against the
11 7 mortgagee if such judgments would otherwise be restricted and
11 8 limits the assessment of costs, including reasonable attorney
11 9 fees, of foreclosure and rescission actions to those agreed to
11 10 in writing by the mortgagor.

11 11 The bill prohibits the use of a nonjudicial foreclosure in
11 12 circumstances where the real estate that is the subject of the
11 13 foreclosure is a one-family or two-family home occupied by a
11 14 legal titleholder. This provision applies to all nonjudicial
11 15 foreclosures of nonagricultural mortgages commenced on or
11 16 after the effective date of the bill.

11 17 Unless otherwise provided, the bill takes effect July 1,
11 18 2009.

11 19 LSB 1471SC 83

11 20 rh/rj/5.1



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Senate Study Bill 1203

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

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

A BILL FOR

1 An Act relating to criminal law by making changes to existing
2 criminal offenses, adding new criminal offenses, relating to
3 deferred judgments and expunged records, and making penalties
4 applicable.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
6 TLBS 1462SC 83
7 jm/nh/5



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1 1 Section 1. Section 123.46, Code 2009, is amended to read
1 2 as follows:
1 3 123.46 CONSUMPTION OR INTOXICATION IN PUBLIC PLACES ==
1 4 NOTIFICATIONS == CHEMICAL TESTS == ~~EXONERATION~~ EXPUNGED
1 5 RECORD.

1 6 1. As used in this section, unless the context otherwise
1 7 requires:

1 8 a. "Arrest" means the same as defined in section 804.5 and
1 9 includes taking into custody pursuant to section 232.19.

1 10 b. "Chemical test" means a test of a person's blood,
1 11 breath, or urine to determine the percentage of alcohol
1 12 present by a qualified person using devices and methods
1 13 approved by the commissioner of public safety.

1 14 c. "Controlled substance" means a substance or compound
1 15 listed in section 124.204 or 124.206.

1 16 d. "Expunged" means the segregation of a court's criminal
1 17 record with reference to a violation of this section in an
1 18 area or database which is secured from public access.

1 19 e. "Inhalant" means any substance which, if inhaled,
1 20 causes intoxication.

1 21 ~~e.~~ f. "Peace officer" means the same as defined in
1 22 section 801.4.

1 23 ~~d.~~ g. "School" means a public or private school or that
1 24 portion of a public or private school which provides teaching
1 25 for any grade from kindergarten through grade twelve.

1 26 2. a. A person shall not use or consume alcoholic liquor,
1 27 wine, or beer upon the public streets or highways. A person
1 28 shall not use or consume alcoholic liquor in any public place
1 29 except premises covered by a liquor control license. A person
1 30 shall not possess or consume alcoholic liquors, wine, or beer
1 31 on public school property or while attending a public or
1 32 private school-related function. A person shall not be
1 33 intoxicated ~~or simulate intoxication~~ in a public place. A
1 34 person violating this subsection is guilty of a simple
1 35 misdemeanor.



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2 1 ~~3. b. When~~ If a peace officer arrests a person on a
2 2 charge of public intoxication under this section when
2 3 intoxication by alcohol is alleged, the peace officer shall
2 4 inform the person that the person may have a chemical test
2 5 administered at the person's own expense. If a device
2 6 approved by the commissioner of public safety for testing a
2 7 sample of a person's breath to determine the person's blood
2 8 alcohol concentration is available, that is the only test that
2 9 need be offered the person arrested. In a prosecution for
2 10 public intoxication pursuant to this subsection, evidence of
2 11 the results of a chemical test performed under this subsection
2 12 is admissible upon proof of a proper foundation. The
2 13 percentage of alcohol present in a person's blood, breath, or
2 14 urine established by the results of a chemical test performed
2 15 within two hours after the person's arrest on a charge of
2 16 public intoxication is presumed to be the percentage of
2 17 alcohol present at the time of arrest.
2 18 3. a. A person shall not use or consume a controlled
2 19 substance or intentionally inhale or consume an inhalant upon
2 20 the public streets or highways. A person shall not use or
2 21 consume a controlled substance or intentionally inhale or
2 22 consume an inhalant in a public place. A person shall not be
2 23 intoxicated by a controlled substance or by intentional
2 24 inhalation or consumption of an inhalant in a public place. A
2 25 person violating this subsection is guilty of a simple
2 26 misdemeanor.
2 27 b. If a peace officer arrests a person on a charge of
2 28 public intoxication under this section when intoxication by a
2 29 controlled substance or inhalant is alleged, the peace officer
2 30 shall inform the person that the person may have a chemical
2 31 test of the person's blood or urine administered at the
2 32 person's own expense. In a prosecution for public
2 33 intoxication pursuant to this subsection, evidence of the
2 34 results of a chemical test performed under this subsection is
2 35 admissible upon proof of a proper foundation. The percentage



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3 1 of a controlled substance or inhalant present in a person's
3 2 blood or urine established by the results of a chemical test
3 3 performed within two hours after the person's arrest on a
3 4 charge of public intoxication is presumed to be the percentage
3 5 of a controlled substance or inhalant present at the time of
3 6 arrest.

3 7 4. a. A peace officer shall make a reasonable effort to
3 8 identify a person under the age of eighteen who violates this
3 9 section and, if the person is not referred to juvenile court,
3 10 the law enforcement agency of which the peace officer is an
3 11 employee shall make a reasonable attempt to notify the
3 12 person's custodial parent or legal guardian of the violation,
3 13 whether or not the person is taken into custody, unless the
3 14 officer has reasonable grounds to believe that notification is
3 15 not in the best interests of the person or will endanger that
3 16 person.

3 17 b. The peace officer shall also make a reasonable effort
3 18 to identify the elementary or secondary school which the
3 19 person attends if the person is enrolled in elementary or
3 20 secondary school and to notify the superintendent or the
3 21 superintendent's designee of the school which the person
3 22 attends, or the authorities in charge of the nonpublic school
3 23 which the person attends, of the violation. If the person is
3 24 taken into custody, the peace officer shall notify a juvenile
3 25 court officer who shall make a reasonable effort to identify
3 26 the elementary or secondary school the person attends, if any,
3 27 and to notify the superintendent of the school district or the
3 28 superintendent's designee, or the authorities in charge of the
3 29 nonpublic school, of the violation. A reasonable attempt to
3 30 notify the person includes, but is not limited to, a telephone
3 31 call or notice by first-class mail.

3 32 5. a. Upon the expiration of two years following
3 33 conviction for a violation of this section, a person may
3 34 petition the court to ~~exonerate the person~~ expunge the record
3 35 of the conviction, and if the person has had no other criminal



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4 1 convictions, other than simple misdemeanor violations of
4 2 chapter 321 during the two-year period, ~~the person shall be~~
~~4 3 deemed exonerated of the offense as a matter of law the record~~
4 4 of conviction shall be expunged. The court shall ~~enter an~~
4 5 order ~~exonerating the person of the conviction, and ordering~~
4 6 that the record of the conviction be expunged by the clerk of
4 7 the district court.

4 8 b. An expunged record is a confidential record unavailable
4 9 for examination and copying by members of the public. The
4 10 expunged record shall be made available to persons as provided
4 11 in section 907.4.

4 12 6. A person does not commit a violation of subsection 4 if
4 13 the controlled substance, inhalant, or other substance used,
4 14 inhaled, or consumed, was prescribed for the person and was
4 15 used, inhaled, or consumed in accordance with the directions
4 16 of a practitioner as defined in section 155A.3 or if such
4 17 substance was dispensed by a pharmacist without a prescription
4 18 pursuant to the rules of the board of pharmacy.

4 19 Sec. 2. Section 147.111, Code 2009, is amended to read as
4 20 follows:

4 21 147.111 REPORT OF TREATMENT OF WOUNDS AND OTHER INJURIES.
4 22 ~~Any~~ A person licensed under the provisions of this subtitle
4 23 or certified under the provisions of chapter 147A who ~~shall~~
~~4 24 administer~~ administers any treatment to any person suffering a
4 25 gunshot or stab wound or other serious injury, as defined in
4 26 section 702.18, which appears to have been received in
4 27 connection with the commission of a criminal offense including
4 28 the criminal offense of homicide or serious injury by vehicle
4 29 as provided in section 707.6A, or to whom an application is
4 30 made for treatment of any nature because of any such gunshot
4 31 or stab wound or other serious injury, as defined in section
4 32 702.18, shall at once but not later than twelve hours
4 33 thereafter, report that fact to the law enforcement agency
4 34 within whose jurisdiction the treatment was administered or an
4 35 application ~~therefor~~ for treatment was made, or if



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5 1 ascertainable, to the law enforcement agency in whose
5 2 jurisdiction the gunshot or stab wound or other serious injury
5 3 occurred, stating the name of such person, the person's
5 4 residence if ascertainable, and giving a brief description of
5 5 the gunshot or stab wound or other serious injury. Any
5 6 provision of law or rule of evidence relative to confidential
5 7 communications is suspended insofar as the provisions of this
5 8 section are concerned.

5 9 Sec. 3. Section 232.51, Code 2009, is amended to read as
5 10 follows:

5 11 232.51 DISPOSITION OF CHILD WITH MENTAL ILLNESS OR MENTAL
5 12 RETARDATION.

5 13 If the evidence received at an adjudicatory or a
5 14 dispositional hearing indicates that the child is mentally
5 15 ill, the court may direct the juvenile court officer or the
5 16 department to initiate proceedings or to assist the child's
5 17 parent or guardian to initiate civil commitment proceedings in
5 18 the juvenile court. These proceedings in the juvenile court
5 19 shall adhere to the requirements of chapter 229. If the
5 20 evidence received at an adjudicatory or a dispositional
5 21 hearing indicates that the child is mentally retarded, the
5 22 court may direct the juvenile court officer or the department
5 23 to initiate proceedings or to assist the child's parent or
5 24 guardian to initiate civil commitment proceedings in the
5 25 juvenile court. These proceedings shall adhere to the
5 26 requirements of chapter 222. ~~If the child is committed as a~~
~~5 27 child with mental illness or mental retardation, any order~~
~~5 28 adjudicating the child to have committed a delinquent act~~
~~5 29 shall be set aside and the petition shall be dismissed.~~

5 30 Sec. 4. Section 236.2, subsection 2, paragraph c, Code
5 31 2009, is amended to read as follows:

5 32 c. The assault is between persons who are parents of the
5 33 same ~~minor~~ child, regardless of whether they have been married
5 34 or have lived together at any time.

5 35 Sec. 5. Section 701.11, Code 2009, is amended to read as



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6 1 follows:

6 2 701.11 EVIDENCE OF SIMILAR OFFENSES == SEXUAL ABUSE.

6 3 1. In a criminal prosecution in which a defendant has been
6 4 charged with sexual abuse, evidence of the defendant's
6 5 commission of another sexual abuse is admissible and may be
6 6 considered for its bearing on any matter for which the
6 7 evidence is relevant. ~~This evidence, though relevant, may be~~
~~6 8 excluded if the probative value of the evidence is~~
~~6 9 substantially outweighed by the danger of unfair prejudice,~~
~~6 10 confusion of the issues, or misleading the jury, or by~~
~~6 11 considerations of undue delay, waste of time, or needless~~
~~6 12 presentation of cumulative evidence.~~ This evidence is not
6 13 admissible unless the state presents clear proof of the
6 14 commission of the prior act of sexual abuse.

6 15 2. If the prosecution intends to offer evidence pursuant
6 16 to this section, the prosecution shall disclose such evidence
6 17 to the defendant, including statements of witnesses or a
6 18 summary of the substance of any testimony that is expected to
6 19 be offered, ten days prior to the scheduled date of trial.
6 20 The court may for good cause shown permit disclosure less than
6 21 ten days prior to the scheduled date of trial.

6 22 3. For purposes of this section, "sexual abuse" means any
6 23 ~~commission of or conviction for a crime defined in chapter 709~~
6 24 aggravated offense, criminal offense against a minor, sexual
6 25 exploitation, or other relevant offense as those terms are
6 26 defined in section 692A.1. "Sexual abuse" also means any
6 27 commission of or conviction for a crime in another
6 28 jurisdiction under a statute that is substantially similar to
6 29 ~~any crime defined in chapter 709~~ aggravated offense, criminal
6 30 offense against a minor, sexual exploitation, or other
6 31 relevant offense as those terms are defined in section 692A.1.

6 32 Sec. 6. Section 709.21, subsection 3, Code 2009, is
6 33 amended to read as follows:

6 34 3. A person who violates or attempts to violate this
6 35 section commits a serious misdemeanor.



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7 1 Sec. 7. NEW SECTION. 709.23 FORCED SEX ACT == CHILD OR
7 2 MINOR.

7 3 1. A person eighteen years of age or older who, for the
7 4 purpose of arousing or satisfying the sexual desires of any
7 5 person, forces, coerces, solicits, or uses a position of
7 6 authority to persuade two or more minors to engage in a sex
7 7 act, where at least one of the participants is a child under
7 8 the age of twelve, is guilty of a class "C" felony.

7 9 2. A person eighteen years of age or older who, for the
7 10 purpose of arousing or satisfying the sexual desires of any
7 11 person, forces, coerces, solicits, or uses a position of
7 12 authority to persuade two or more minors to engage in a sex
7 13 act, where at least one of the participants is a child twelve
7 14 or thirteen years of age, is guilty of a class "D" felony.

7 15 3. A person eighteen years of age or older who, for the
7 16 purpose of arousing or satisfying the sexual desires of any
7 17 person, forces, coerces, solicits, or uses a position of
7 18 authority to persuade a child to use an artificial or
7 19 substitute sexual organ to contact the child's genitalia or
7 20 anus, is guilty of a class "D" felony.

7 21 4. The act of forcing, coercing, soliciting, or persuading
7 22 minors or children to engage in a sex act constitutes a
7 23 separate offense for each minor or child forced, coerced,
7 24 solicited, or persuaded.

7 25 Sec. 8. Section 719.1, subsections 1 and 2, Code 2009, are
7 26 amended to read as follows:

7 27 1. A person who knowingly resists or obstructs anyone
7 28 known by the person to be a peace officer, emergency medical
7 29 care provider under chapter 147A, or fire fighter, whether
7 30 paid or volunteer, in the performance of any act which is
7 31 within the scope of the lawful duty or authority of that
7 32 officer, emergency medical care provider under chapter 147A,
7 33 or fire fighter, whether paid or volunteer, or who knowingly
7 34 resists or obstructs the service or execution by any
7 35 authorized person of any civil or criminal process or order of



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8 1 any court, commits a simple misdemeanor. In addition to any
8 2 other penalties, the punishment imposed for a violation of
8 3 this subsection shall include assessment of a fine of not less
8 4 than two hundred fifty dollars. However, if a person commits
8 5 an interference with official acts, as defined in this
8 6 subsection, ~~and in so doing inflicts~~ which results in bodily
8 7 injury ~~other than serious injury~~, that person commits an
8 8 aggravated misdemeanor. If a person commits an interference
8 9 with official acts, as defined in this subsection, ~~and in so~~
~~8 10 doing inflicts or attempts to inflict~~ which results in serious
8 11 injury, or displays a dangerous weapon, as defined in section
8 12 702.7, or is armed with a firearm, that person commits a class
8 13 "D" felony.

8 14 2. A person under the custody, control, or supervision of
8 15 the department of corrections who knowingly resists,
8 16 obstructs, or interferes with a correctional officer, agent,
8 17 employee, or contractor, whether paid or volunteer, in the
8 18 performance of the person's official duties, commits a serious
8 19 misdemeanor. If a person violates this subsection and in so
8 20 doing commits an assault, as defined in section 708.1, the
8 21 person commits an aggravated misdemeanor. If a person
8 22 violates this subsection and ~~in so doing inflicts or attempts~~
~~8 23 to inflict~~ the violation results in bodily injury ~~other than~~
~~8 24 serious injury~~ to another, displays a dangerous weapon, as
8 25 defined in section 702.7, or is armed with a firearm, the
8 26 person commits a class "D" felony. If a person violates this
8 27 subsection and uses or attempts to use a dangerous weapon, as
8 28 defined in section 702.7, or ~~inflicts~~ the violation results in
8 29 serious injury to another, the person commits a class "C"
8 30 felony.

8 31 Sec. 9. Section 728.5, Code 2009, is amended to read as
8 32 follows:

8 33 728.5 PUBLIC INDECENT EXPOSURE IN CERTAIN ESTABLISHMENTS.

8 34 1. An owner, manager, or person who exercises direct
8 35 control over a place of business required to obtain a sales



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9 1 tax permit shall be guilty of a serious misdemeanor under any
9 2 of the following circumstances:

9 3 ~~1.~~ a. If such person allows or permits the actual or
9 4 simulated public performance of any sex act upon or in such
9 5 place of business.

9 6 ~~2.~~ b. If such person allows or permits the exposure of
9 7 the genitals or buttocks or female breast of any person who
9 8 acts as a waiter or waitress.

9 9 ~~3.~~ c. If such person allows or permits the exposure of
9 10 the genitals or female breast nipple of any person who acts as
9 11 an entertainer, whether or not the owner of the place of
9 12 business in which the activity is performed employs or pays
9 13 any compensation to such person to perform such activity.

9 14 ~~4.~~ d. If such person allows or permits any person to
9 15 remain in or upon the place of business who exposes to public
9 16 view the person's genitals, pubic hair, or anus.

9 17 ~~5.~~ e. If such person advertises that any activity
9 18 prohibited by this section is allowed or permitted in such
9 19 place of business.

9 20 ~~6.~~ f. If such person allows or permits a minor to engage
9 21 in or otherwise perform in a live act intended to arouse or
9 22 satisfy the sexual desires or appeal to the prurient interests
9 23 of patrons.

9 24 2. However, if such person allows or permits a minor to
9 25 participate in any act included in ~~subsections 1 through 4~~
9 26 subsection 1, paragraphs "a" through "d", the person shall be
9 27 guilty of an aggravated misdemeanor.

9 28 3. ~~The~~ Except for subsection 1, paragraph "f", the
9 29 provisions of this section shall not apply to a theater,
9 30 concert hall, art center, museum, or similar establishment
9 31 which is primarily devoted to the arts or theatrical
9 32 performances and in which any of the circumstances contained
9 33 in this section were permitted or allowed as part of such art
9 34 exhibits or performances.

9 35 Sec. 10. Section 728.8, Code 2009, is amended to read as



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10 1 follows:

10 2 728.8 SUSPENSION OF LICENSES OR PERMITS.

10 3 Any person who knowingly permits a violation of section
10 4 728.2, 728.3, or 728.5, subsection ¶ 1, paragraph "f", to
10 5 occur on premises under the person's control shall have all
10 6 permits and licenses issued to the person under state or local
10 7 law as a prerequisite for doing business on such premises
10 8 revoked for a period of six months. The county attorney shall
10 9 notify all agencies responsible for issuing licenses and
10 10 permits of any conviction under section 728.2, 728.3, or
10 11 728.5, subsection ¶ 1, paragraph "f".

10 12 Sec. 11. Section 728.12, subsection 1, Code 2009, is
10 13 amended to read as follows:

10 14 1. It shall be unlawful to employ, use, persuade, induce,
10 15 entice, coerce, solicit, knowingly permit, or otherwise cause
10 16 or attempt to cause a minor, or a person reasonably believed
10 17 to be a minor, to engage in a prohibited sexual act or in the
10 18 simulation of a prohibited sexual act. A person must know, or
10 19 have reason to know, or intend that the act or simulated act
10 20 may be photographed, filmed, or otherwise preserved in a
10 21 negative, slide, book, magazine, computer, computer disk, or
10 22 other print or visual medium, or be preserved in an
10 23 electronic, magnetic, or optical storage system, or in any
10 24 other type of storage system. A person who commits a
10 25 violation of this subsection commits a class "C" felony.
10 26 Notwithstanding section 902.9, the court may assess a fine of
10 27 not more than fifty thousand dollars for each offense under
10 28 this subsection in addition to imposing any other authorized
10 29 sentence.

10 30 Sec. 12. Section 907.1, Code 2009, is amended by adding
10 31 the following new subsection:

10 32 NEW SUBSECTION. 2A. "Expunged" means the court's criminal
10 33 record with reference to a deferred judgment has been
10 34 segregated in an area or database which is secured from public
10 35 access.



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11 1 Sec. 13. Section 907.4, Code 2009, is amended to read as
11 2 follows:

11 3 907.4 DEFERRED JUDGMENT DOCKET.

11 4 1. A deferment of judgment under section 907.3 shall be
11 5 entered promptly by the clerk of the district court, or the
11 6 clerk's designee, into the deferred judgment database of the
11 7 state, which shall serve as the deferred judgment docket. The
11 8 deferred judgment docket shall be maintained by the state
11 9 court administrator and shall not be destroyed. The docket

11 10 shall contain a permanent record of the deferred judgment
11 11 including the name and date of birth of the defendant, the
11 12 district court docket number, the nature of the offense, and
11 13 the date of the deferred judgment. Before granting deferred
11 14 judgment in any case, the court shall search the deferred
11 15 judgment docket and shall consider any prior record of a
11 16 deferred judgment against the defendant.

11 17 2. The permanent record provided for in ~~this section~~
11 18 subsection 1 is a confidential record exempted from public
11 19 access under section 22.7 and shall be available only to
11 20 justices of the supreme court, judges of the court of appeals,
11 21 district judges, district associate judges, judicial
11 22 magistrates, clerks of the district court, judicial district
11 23 departments of correctional services, county attorneys, and
11 24 the department of corrections requesting information pursuant
11 25 to this section, or the designee of a justice, judge,
11 26 magistrate, clerk, judicial district department of
11 27 correctional services, or county attorney, or department.

11 28 Sec. 14. Section 907.9, subsection 4, Code 2009, is
11 29 amended to read as follows:

11 30 4. At the expiration of the period of probation if the
11 31 fees imposed under section 905.14 and court debt collected
11 32 pursuant to section 602.8107 have been paid, the court shall
11 33 order the discharge of the person from probation. If portions
11 34 of the court debt remain unpaid, the person shall establish a
11 35 payment plan with the clerk of the district court or the



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12 1 county attorney prior to the discharge. The court shall
12 2 forward to the governor a recommendation for or against
12 3 restoration of citizenship rights to that person upon
12 4 discharge. A person who has been discharged from probation
12 5 shall no longer be held to answer for the person's offense.
12 6 4A. Upon discharge from probation, if judgment has been
12 7 deferred under section 907.3, the court's criminal record with
12 8 reference to the deferred judgment shall be expunged. ~~The~~
~~12 9 record maintained by the state court administrator as required~~
~~12 10 by section 907.4 shall not be expunged.~~ The expunged record
12 11 is a confidential record exempt from public access under
12 12 section 22.7 but shall be made available by the clerk of the
12 13 district court, upon request and without court order, to an
12 14 agency or person granted access to the deferred docket under
12 15 section 907.4. The court's record shall not be expunged in
12 16 any other circumstances unless otherwise authorized by law.

12 17 Sec. 15. IMPLEMENTATION OF ACT. Section 25B.2, subsection
12 18 3, shall not apply to this Act.

12 19 EXPLANATION

12 20 This bill makes changes to criminal offenses, adds new
12 21 criminal offenses, relates to deferred judgments and expunged
12 22 records, and makes penalties applicable.

12 23 The amendment to Code section 123.46 provides that a person
12 24 shall not use or consume a controlled substance or
12 25 intentionally inhale or consume an inhalant upon the public
12 26 streets or highways. The bill also prohibits a person from
12 27 using or consuming a controlled substance or intentionally
12 28 inhaling or consuming an inhalant in a public place or being
12 29 intoxicated by such a controlled substance or inhalant in a
12 30 public place. The bill requires a peace officer to inform the
12 31 person that the person may have a chemical test of the
12 32 person's blood or urine administered at the person's own
12 33 expense to determine the percentage of a controlled substance
12 34 or inhalant present in a person's blood or urine.

12 35 The bill defines "controlled substance" to mean a schedule



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13 1 I or II substance or compound listed in Code section 124.204
13 2 or 124.206. The bill also defines "inhalant" to mean any
13 3 substance which, if inhaled, causes intoxication.
13 4 The bill strikes a provision making it unlawful to simulate
13 5 intoxication in a public place.
13 6 The bill also provides that a person does not violate Code
13 7 section 123.46 if the controlled substance, inhalant, or other
13 8 substance used, consumed, or inhaled, was prescribed for the
13 9 person and was used, consumed, or inhaled in accordance with
13 10 the directions of a medical practitioner as defined in Code
13 11 chapter 155A or if the substance was dispensed by a pharmacist
13 12 without a prescription pursuant to the rules of the board of
13 13 pharmacy.
13 14 The amendment to Code section 123.46 also changes
13 15 provisions relating to expunging the record of conviction for
13 16 public intoxication after two years. The bill defines
13 17 "expunged" to mean the segregation of a court's criminal
13 18 record with reference to a public intoxication violation in an
13 19 area or database which is secured from public access. Under
13 20 the bill, two years after a conviction for public intoxication
13 21 a person may petition the court to expunge the record of the
13 22 conviction, and under some circumstances the record or
13 23 conviction may be expunged. Currently, a person may petition
13 24 the court to exonerate the person and have the court enter an
13 25 order exonerating the person as a matter of law.
13 26 A person who violates Code section 123.46 commits a simple
13 27 misdemeanor.
13 28 The bill amends Code section 147.111 relating to reporting
13 29 the treatment of serious wounds to a law enforcement agency.
13 30 The bill specifies that a first responder, an emergency
13 31 medical care provider, or any other person certified under
13 32 Code chapter 147A is required to report the treatment of any
13 33 gunshot or stab wound, or any other serious injury, to the
13 34 local law enforcement agency, if such an injury is received in
13 35 connection with the commission of a criminal offense. Current



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14 1 law specifies that a person licensed under Code chapters 147
14 2 through 158 is required to report such serious injuries
14 3 received in connection with a criminal offense to a local law
14 4 enforcement agency if treatment is administered.

14 5 The amendment to Code section 147.111 also specifies that
14 6 serious injuries received in connection with the criminal
14 7 offense of homicide or serious injury by vehicle are to be
14 8 reported to the local law enforcement agency.

14 9 Under the bill and in current law, Code section 147.111
14 10 suspends any law or rule relating to confidential information
14 11 in order to effectuate the reporting of a serious wound
14 12 received from the commission of a criminal offense.

14 13 A person who violates Code section 147.111 commits a simple
14 14 misdemeanor as provided in Code section 147.113.

14 15 The amendment to Code section 232.51 strikes a provision
14 16 permitting an order adjudicating a child to have committed a
14 17 delinquent act to be set aside if the child is committed as a
14 18 child with mental illness or mental retardation.

14 19 The amendment to Code section 236.2 specifies that a person
14 20 commits domestic abuse if the assault is between persons who
14 21 are parents of the same child. Currently, the law specifies
14 22 that the parents be the parents of the same minor child.

14 23 The amendment to Code section 701.11 strikes a provision
14 24 relating to the admissibility of evidence in a criminal
14 25 prosecution involving sexual abuse. The bill also defines
14 26 "sexual abuse" to mean an aggravated offense, criminal offense
14 27 against a minor, sexual exploitation, or other relevant
14 28 offense as defined in Code section 692A.1. Current law
14 29 defines "sexual abuse" to mean a violation of Code chapter 709
14 30 (sexual abuse).

14 31 The amendment to Code section 709.21 provides that any
14 32 person who attempts to commit invasion of privacy also commits
14 33 a serious misdemeanor.

14 34 New Code section 709.23 creates a criminal offense
14 35 involving a forced sex act.



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15 1 Code section 709.23 prohibits a person 18 years of age or
15 2 older, for the purpose of arousing or satisfying the sexual
15 3 desires of any person, forces, coerces, solicits, or uses a
15 4 position of authority to persuade two or more minors to engage
15 5 in a sex act, where at least one of the participants is a
15 6 child under the age of 12. A person who violates the
15 7 provision commits a class "C" felony.

15 8 Code section 709.23 also prohibits a person 18 years of age
15 9 or older who, for the purpose of arousing or satisfying the
15 10 sexual desires of any person, forces, coerces, solicits, or
15 11 uses a position of authority to persuade two or more minors to
15 12 engage in a sex act, where at least one of the participants is
15 13 a child 12 or 13 years of age. A person who violates the
15 14 provision commits a class "D" felony.

15 15 The new Code section also prohibits a person 18 years of
15 16 age or older who, for the purpose of arousing or satisfying
15 17 the sexual desires of any person, forces, coerces, solicits,
15 18 or uses a position of authority to persuade a child to use an
15 19 artificial or substitute sexual organ to contact the child's
15 20 genitalia or anus. A person who violates the provision
15 21 commits a class "D" felony.

15 22 The amendment to Code section 719.1 provides that a person
15 23 commits the offense of interference with official acts if the
15 24 violation results in bodily or serious injury to a peace
15 25 officer, emergency medical care provider, correctional
15 26 officer, or other member of a protected class under Code
15 27 section 719.1.

15 28 Current law provides that a person commits the offense of
15 29 interference with official acts if the person inflicts or
15 30 attempts to inflict bodily or serious injury.

15 31 The amendment to Code section 719.1 also provides that if a
15 32 person commits interference with official acts that results in
15 33 bodily injury to a member of a protected class, the person
15 34 commits an aggravated misdemeanor if the injury is to a peace
15 35 officer or emergency medical officer, or a class "D" felony if



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16 1 the injury is to a correctional officer.

16 2 If a person commits interference with official acts that

16 3 results in serious injury, the person commits a class "D"

16 4 felony if the injury is to a peace officer or emergency

16 5 medical officer, or a class "C" felony if the injury is to a

16 6 correctional officer.

16 7 The amendment to Code section 728.5 provides that a person

16 8 commits an aggravated misdemeanor for permitting public

16 9 indecent exposure in a theater, concert hall, art center,

16 10 museum, or similar establishment which is primarily devoted to

16 11 the arts if such person allows or permits a minor to engage in

16 12 a live act intended to arouse or satisfy the sexual desires or

16 13 appeal to the prurient interests of patrons.

16 14 The amendment to Code section 728.12(1) provides that a

16 15 person commits sexual exploitation of a minor if the victim is

16 16 reasonably believed to be a minor by the perpetrator.

16 17 The amendments to Code sections 907.1, 907.4, and 907.9

16 18 relate to deferred judgment criminal records.

16 19 The bill defines "expunged" to mean the court's criminal

16 20 record with reference to a deferred judgment has been

16 21 segregated into a separate area or database which is secured

16 22 from public access. The expunged record is a confidential

16 23 record exempt from public access, but shall be made available

16 24 by the clerk of the district court, upon request and without

16 25 court order, to the agencies or persons granted access to the

16 26 deferred judgment docket under Code section 907.4.

16 27 Currently, the court's criminal record relating to a

16 28 deferred judgment is expunged, but a record of the deferred

16 29 judgment is made permanent in the deferred judgment docket.

16 30 The permanent record in the deferred judgment docket under

16 31 current law includes the name and date of birth of the

16 32 defendant, the district court docket number, the nature of the

16 33 offense, and the date of the deferred judgment.

16 34 The bill also strikes a provision in Code section 907.9

16 35 requiring the state court administrator to maintain deferred



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17 1 judgment records and moves the provision to Code section
17 2 907.4.
17 3 The bill also provides that the court's record shall not be
17 4 expunged unless otherwise authorized by law. Current law
17 5 authorizes criminal records to be expunged under Code sections
17 6 123.46, 321.211A, and 321.385A.
17 7 The bill may include a state mandate as defined in Code
17 8 section 25B.3. The bill makes inapplicable Code section
17 9 25B.2, subsection 3, which would relieve a political
17 10 subdivision from complying with a state mandate if funding for
17 11 the cost of the state mandate is not provided or specified.
17 12 Therefore, political subdivisions are required to comply with
17 13 any state mandate included in the bill.
17 14 LSB 1462SC 83
17 15 jm/nh/5