

**EIGHTY-FOURTH GENERAL ASSEMBLY
2011 REGULAR SESSION
DAILY
HOUSE CLIP SHEET**

MARCH 29, 2011

HOUSE FILE 320

H-1466

1 Amend House File 320 as follows:

2 1. Page 2, after line 10 by inserting:

3 <Sec. _____. Section 724.28, Code 2011, is amended by
4 striking the section and inserting in lieu thereof the
5 following:

6 724.28 State preemption ---- prohibition of firearms,
7 firearm accessories, and ammunition regulation by
8 political subdivisions.

9 1. The purpose of this section is to establish
10 complete state control over firearms, firearm
11 accessories, and ammunition regulation and policy
12 in order to ensure that such regulation and policy
13 is applied uniformly throughout this state to each
14 person subject to the state's jurisdiction and to
15 ensure protection of the right to keep and bear arms
16 recognized by the Constitution of the United States.
17 This section is to be liberally construed to effectuate
18 its purpose.

19 2. As used in this section:

20 a. "Ammunition" means fixed cartridge ammunition,
21 shotgun shells, the individual components of fixed
22 cartridge ammunition and shotgun shells, projectiles
23 for muzzleloading firearms, and any propellant used in
24 firearms or in firearms ammunition.

25 b. "Firearm accessory" means a device specifically
26 adapted to enable the wearing or carrying about
27 one's person, or the storage or mounting in or on a
28 conveyance, of a firearm, or an attachment or device
29 specifically adapted to be inserted into or affixed
30 onto a firearm to enable, alter, or improve the
31 functioning or capabilities of the firearm.

32 c. "Firearms" means a pistol, revolver, rifle,
33 shotgun, machine gun, submachine gun, or black powder
34 weapon which is designed to, capable of, or may be
35 readily converted to expel a projectile by the action
36 of an explosive.

37 d. "Person adversely affected" means a person who
38 meets all of the following criteria:

39 (1) Lawfully resides within the United States.
40 (2) Can legally possess a firearm under the laws of
41 this state.

42 (3) Either of the following:

43 (a) Would be subject to the ordinance, measure,
44 enactment, rule, resolution, motion, or policy at issue
45 if the person were present within the jurisdictional
46 boundaries of the enacting political subdivision,
47 regardless of whether such person works or resides in
48 such political subdivision.

49 (b) Is a membership organization that includes as
50 a member a person described in subparagraphs (1) and

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1 (2) and subparagraph division (a) of this subparagraph
2 and that is dedicated in whole or in part to protecting
3 the rights of those persons who possess, own, or use
4 firearms for competitive, sporting, defensive, or other
5 lawful purposes.

6 e. "Political subdivision" means a county, city,
7 township, school district, or any other subunit of this
8 state.

9 3. Except as otherwise provided in this section,
10 the regulation of all of the following is hereby
11 declared to be the exclusive domain of the state:

12 a. Firearms, firearm accessories, and ammunition.

13 b. The ownership, possession, use, discharge,
14 carrying, transportation, registration, transfer,
15 and storage of firearms, firearm accessories, and
16 ammunition.

17 c. Commerce in and taxation of firearms, firearm
18 accessories, and ammunition.

19 d. Any other matter pertaining to firearms, firearm
20 accessories, and ammunition.

21 4. An ordinance, measure, enactment, rule,
22 resolution, motion, or policy adopted by a political
23 subdivision of this state, or an official action
24 including in any legislative, police power, or
25 proprietary capacity, taken by an employee or agent of
26 such political subdivision in violation of this section
27 is void.

28 5. This section shall not be construed to prevent
29 any of the following:

30 a. A duly organized law enforcement agency of a
31 political subdivision from promulgating and enforcing
32 rules pertaining to firearms, firearm accessories, or
33 ammunition issued to or used by peace officers in the
34 course of their official duties.

35 b. An employer from regulating or prohibiting an
36 employee from carrying firearms, firearm accessories,
37 or ammunition during and in the course of the
38 employee's official duties.

39 c. A court or administrative law judge from hearing
40 and resolving a case or controversy or issuing an
41 opinion or order on a matter within its jurisdiction.

42 d. The enactment or enforcement of a generally
43 applicable zoning or business ordinance that includes
44 firearms businesses along with other businesses,
45 provided that an ordinance designed or enforced to
46 effectively restrict or prohibit the sale, purchase,
47 transfer, manufacture, or display of firearms, firearm
48 accessories, or ammunition otherwise lawful under the
49 laws of this state, which is in conflict with this
50 section, is void.

1 6. a. A person adversely affected by an ordinance,
2 measure, enactment, rule, resolution, motion, or policy
3 promulgated or enforced in violation of this section
4 may file suit in the appropriate court for declarative
5 and injunctive relief and for all actual and
6 consequential damages attributable to the violation. A
7 court shall award the prevailing plaintiff in any such
8 suit all of the following:

9 (1) Reasonable attorney fees.

10 (2) Liquidated damages equal to the amount of three
11 times the attorney fees awarded in subparagraph (1).

12 (3) Litigation costs.

13 (4) Interest on the amounts awarded pursuant to
14 this subsection shall accrue at fifteen percent from
15 the date suit is filed.

16 b. Payment of such fees, damages, costs, and
17 interest may be secured by seizure of any vehicles
18 used or operated for the benefit of any elected office
19 holder in the political subdivision if not paid within
20 seventy-two hours of the court's order.

21 Sec. _____. APPLICABILITY DATE. The section of this
22 Act amending section 724.28 applies to ordinances,
23 measures, enactments, rules, or policies adopted by
24 a political subdivision of this state and official
25 actions including in any legislative, police power, or
26 proprietary capacity, taken by an employee or agent of
27 such political subdivision, prior to or on or after the
28 effective date of this Act.>

29 2. Title page, by striking lines 1 and 2 and
30 inserting <An Act relating to the regulation of
31 firearms and ammunition, providing a remedy, and
32 including applicability provisions.>

33 3. By renumbering as necessary.

By WINDSCHITL of Harrison

HOUSE FILE 470

H-1469

1 Amend House File 470 as follows:

2 1. By striking everything after the enacting clause
3 and inserting:

4 <Section 1. Section 22.7, subsection 24, Code 2011,
5 is amended by striking the subsection.

6 Sec. 2. Section 123.3, Code 2011, is amended by
7 adding the following new subsection:

8 NEW SUBSECTION. 014A. "Grape brandy" means brandy
9 produced by the distillation of fermented grapes or
10 grape juice.

11 Sec. 3. Section 123.41, Code 2011, is amended to
12 read as follows:

13 123.41 Manufacturer's license.

14 1. Upon application in the prescribed form and
15 accompanied by a fee of three hundred fifty dollars,
16 the administrator may in accordance with this chapter
17 grant and issue a license, valid for a one-year
18 period after date of issuance, to a manufacturer which
19 shall allow the manufacture, storage, and wholesale
20 disposition and sale of alcoholic liquors to the
21 division and to customers outside of the state.

22 2. As a condition precedent to the approval and
23 granting of a manufacturer's license, an applicant
24 shall file a statement under oath with the division
25 that the applicant is a bona fide manufacturer
26 of alcoholic liquors, and that the applicant will
27 faithfully observe and comply with all laws, rules,
28 and regulations governing the manufacture and sale of
29 alcoholic liquor.

30 ~~2. 3.~~ 3. A person who holds an experimental distilled
31 spirits plant permit or its equivalent issued by the
32 federal bureau of alcohol, tobacco and firearms alcohol
33 and tobacco tax and trade bureau of the United States
34 department of the treasury may produce alcohol for use
35 as fuel without obtaining a manufacturer's license from
36 the division.

37 4. A violation of the requirements of this section
38 shall subject the licensee to the general penalties
39 provided in this chapter and shall constitute grounds
40 for imposition of a civil penalty or suspension or
41 revocation of the license after notice and opportunity
42 for a hearing pursuant to section 123.39 and chapter
43 17A.

44 Sec. 4. Section 123.43A, subsection 8, Code 2011,
45 is amended to read as follows:

46 8. Micro-distilled spirits purchased at a
47 micro-distillery shall not be consumed ~~within three~~
48 ~~hundred feet of a micro distillery or~~ on any property
49 owned, operated, or controlled by a micro-distillery.

50 Sec. 5. NEW SECTION. 123.46A Delivery of alcoholic

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1 beverages by retailers.

2 1. Licensees and permittees authorized to sell
3 alcoholic liquor, wine, or beer in original unopened
4 containers for consumption off the licensed premises
5 may deliver alcoholic liquor, wine, or beer to a home
6 or other designated location in this state. Deliveries
7 shall be limited to alcoholic beverages authorized by
8 the licensee's or permittee's license or permit.

9 2. All deliveries of alcoholic liquor, wine, or
10 beer shall be subject to the following requirements and
11 restrictions:

12 a. Payment for the alcoholic liquor, wine, or beer
13 shall be received on the licensed premises at the time
14 of order.

15 b. Alcoholic liquor, wine, or beer delivered to a
16 person shall be for personal use and not for resale.

17 c. Deliveries shall only be made to persons in this
18 state who are twenty-one years of age or older.

19 d. Deliveries shall not be made to a person who is
20 intoxicated or is simulating intoxication.

21 e. Deliveries shall occur between 6:00 a.m. and
22 10:00 p.m. Monday through Saturday, and between 8:00
23 a.m. and 10:00 p.m. Sunday.

24 f. Delivery of alcoholic liquor, wine, or beer
25 shall be made by the licensee or permittee, or the
26 licensee's or permittee's employee, and not by a third
27 party.

28 g. Delivery personnel shall be twenty-one years of
29 age or older.

30 h. Deliveries shall be made in a vehicle owned,
31 leased, or under the control of the licensee or
32 permittee.

33 i. Valid proof of the recipient's identity and age
34 shall be obtained at the time of delivery, and the
35 signature of a person twenty-one years of age or older
36 shall be obtained as a condition of delivery.

37 j. Licensees and permittees shall maintain records
38 of deliveries which include the quantity delivered, the
39 recipient's name and address, and the signature of the
40 recipient of the alcoholic liquor, wine, or beer. The
41 records shall be maintained on the licensed premises
42 for a period of three years.

43 3. A violation of this section or any other
44 provision of this chapter shall subject the licensee or
45 permittee to the penalty provisions of section 123.39.

46 4. Nothing in this section shall impact the direct
47 shipment of wine as regulated by section 123.187.

48 Sec. 6. Section 123.50, Code 2011, is amended by
49 adding the following new subsection:

50 NEW SUBSECTION. 5. If an employee of a licensee

1 or permittee violates section 123.49, subsection 2,
2 paragraph "h", the licensee or permittee shall not
3 be assessed a penalty under subsection 3, and the
4 violation shall be deemed not to be a violation of
5 section 123.49, subsection 2, paragraph "h", for the
6 purpose of determining the number of violations for
7 which a penalty may be assessed pursuant to subsection
8 3, if the employee holds a valid certificate of
9 completion of the alcohol compliance employee training
10 program pursuant to section 123.50A at the time of
11 the violation, and if the violation involves selling,
12 giving, or otherwise supplying any alcoholic beverage,
13 wine, or beer to a person between the ages of eighteen
14 and twenty years of age. A violation involving a
15 person under the age of eighteen years of age shall not
16 qualify for the bar against assessment of a penalty
17 pursuant to subsection 3, for a violation of subsection
18 123.49, subsection 2, paragraph "h". A licensee or
19 permittee may assert only once in a four-year period
20 the bar under this subsection against assessment of a
21 penalty pursuant to subsection 3, for a violation of
22 subsection 123.49, subsection 2, paragraph "h", that
23 takes place at the same place of business location.

24 Sec. 7. NEW SECTION. 123.50A Alcohol compliance
25 employee training program.

26 1. If sufficient funding is appropriated, the
27 division shall develop an alcohol compliance employee
28 training program, not to exceed two hours in length
29 for employees and prospective employees of licensees
30 and permittees, to inform the employees about state
31 and federal liquor laws and regulations regarding the
32 sale of alcoholic liquor, wine, or beer to persons
33 under legal age, and compliance with and the importance
34 of laws regarding the sale of alcoholic liquor, wine,
35 or beer to persons under legal age. In developing
36 the alcohol compliance employee training program,
37 the division may consult with stakeholders who have
38 expertise in the laws and regulations regarding the
39 sale of alcoholic liquor, wine, or beer to persons
40 under legal age.

41 2. The alcohol compliance employee training program
42 shall be made available to employees and prospective
43 employees of licensees and permittees at no cost to the
44 employee, the prospective employee, or the licensee or
45 permittee, and in a manner which is as convenient and
46 accessible to the extent practicable throughout the
47 state so as to encourage attendance. Contingent upon
48 the availability of specified funds for provision of
49 the program, the division shall schedule the program
50 on at least a monthly basis and the program shall be

1 available at a location in at least a majority of
2 counties.

3 3. Upon completion of the alcohol compliance
4 employee training program, an employee or prospective
5 employee shall receive a certificate of completion,
6 which shall be valid for a period of two years, unless
7 the employee or prospective employee is convicted of a
8 violation of section 123.49, subsection 2, paragraph
9 "h", in which case the certificate shall be void.

10 4. The division shall also offer periodic
11 continuing employee training and recertification for
12 employees who have completed initial training and
13 received an initial certificate of completion as part
14 of the alcohol compliance employee training program.

15 Sec. 8. Section 123.56, subsections 1, 2, and 3,
16 Code 2011, are amended to read as follows:

17 1. Subject to rules of the division, manufacturers
18 of native wines from grapes, cherries, other fruits
19 or other fruit juices, vegetables, vegetable juices,
20 dandelions, clover, honey, or any combination of
21 these ingredients, holding a class "A" wine permit as
22 required by this chapter, may sell, keep, or offer for
23 sale and deliver the wine. ~~Sales may be made at retail
24 for off premises consumption when sold on the premises
25 of the manufacturer, or in a retail establishment
26 operated by the manufacturer. Sales may also be
27 made to class "A" or retail wine permittees or liquor
28 control licensees as authorized by the class "A" wine
29 permit.~~ Notwithstanding any other provision of this
30 chapter, manufacturers of native wine may purchase and
31 possess grape brandy from the division for the sole
32 purpose of manufacturing wine.

33 2. Native wine may be sold at retail for
34 off-premises consumption when sold on the premises of
35 the manufacturer, or in a retail establishment operated
36 by the manufacturer. Sales may also be made to
37 class "A" or retail wine permittees or liquor control
38 licensees as authorized by the class "A" wine permit.

39 A manufacturer of native wines shall not sell the wines
40 other than as permitted in this chapter and shall not
41 allow wine sold to be consumed upon the premises of the
42 manufacturer. However, prior to sale native wines may
43 be sampled on the premises where made, when no charge
44 is made for the sampling. A person may manufacture
45 native wine for consumption on the manufacturer's
46 premises, when the wine or any part of it is not
47 manufactured for sale.

48 3. A manufacturer of native wines may ship wine in
49 closed containers to individual purchasers inside ~~and
50 outside this state~~ by obtaining a wine direct shipper

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1 ~~license pursuant to section 123.187. The manufacturer~~
2 ~~shall label the package containing the wine with the~~
3 ~~words "deliver to adults only".~~

4 Sec. 9. Section 123.57, Code 2011, is amended to
5 read as follows:

6 123.57 Examination of accounts.

7 The financial condition and transactions of all
8 offices, departments, warehouses, and depots of
9 the division shall be examined at least once each
10 year by the state auditor and at shorter periods if
11 requested by the administrator, governor, commission,
12 ~~or executive council~~ the general assembly's standing
13 committees on government oversight.

14 Sec. 10. REPEAL. Section 123.43, Code 2011, is
15 repealed.>

By IVERSON of Wright

H-1469 FILED MARCH 28, 2011

HOUSE FILE 590

H-1460

1 Amend the amendment, H-1381, to House File 590 as
2 follows:

3 1. Page 1, by striking lines 3 through 17 and
4 inserting:

5 <Sec. ____ . NEW SECTION. 15.106E Review of
6 authority operations.

7 Commencing July 1, 2014, the general assembly
8 shall conduct a review of the authority and its
9 activities and shall issue a report with findings and
10 recommendations by January 1, 2015.>

11 2. By renumbering as necessary.

By LUKAN of Dubuque

H-1460 FILED MARCH 28, 2011

HOUSE FILE 590

H-1461

1 Amend the amendment, H-1412, to House File 590 as
2 follows:

3 1. Page 1, line 3, by striking <small> and
4 inserting <growing>

By LUKAN of Dubuque

H-1461 FILED MARCH 28, 2011

HOUSE FILE 590

H-1467

1 Amend the amendment, H-1432, to House File 590 as
2 follows:

3 1. Page 1, by striking lines 2 through 7 and
4 inserting:

5 <___. Page 6, by striking line 2 and inserting <to>

6 ___. Page 7, before line 31 by inserting:

7 <3. Not more than one principal executive,
8 employee, or other representative from a business or
9 its affiliates may serve concurrently on the authority
10 board, the board of directors of the corporation,
11 or any combination thereof. For purposes of this
12 subsection, "affiliate" means the same as defined in
13 section 423.1.>

14 ___. Page 8, by striking lines 1 and 2.

15 ___. By striking page 8, line 34, through page 9,
16 line 3.

17 ___. Page 9, line 35, after <fund.> by inserting
18 <The nonreversion of moneys allowed under this
19 paragraph does not apply to moneys appropriated to the
20 authority by the general assembly.>

21 ___. Page 11, before line 28 by inserting:

22 <(4) Notwithstanding section 8A.311 and any
23 rules promulgated thereunder by the department of
24 administrative services, the authority may enter into
25 contracts with the corporation for the sole source
26 procurement of services. In entering into such sole
27 source contracts, the authority shall negotiate a
28 fair and reasonable price for the services and shall
29 thoroughly document the circumstances of such sole
30 source procurements.>

31 ___. Page 12, line 7, after <office.> by inserting
32 <The director shall ensure that the authority is
33 operated free from political influence.>

34 ___. By striking page 12, line 30, through page 17,
35 line 8.

36 ___. Page 19, by striking lines 18 through 20.

37 ___. Page 21, line 34, after <15.107A> by inserting
38 <or when engaged in activities that utilize public
39 funding>

40 ___. Page 22, line 11, after <corporation> by
41 inserting <performed by a certified public accountant>

42 ___. Page 22, line 12, after <state> by inserting
43 <and made available to the public>

44 ___. Page 22, line 15, after <functions> by
45 inserting <or activities that utilize public funding>

46 ___. Page 22, line 20, after <functions> by
47 inserting <or activities that utilize public funding>

48 ___. Page 22, before line 21 by inserting:

49 <5. Notwithstanding other provisions of this
50 section to the contrary, if the corporation receives

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1 confidential information from the authority under the
2 process described in section 15.118, the corporation
3 shall comply with the provisions of section 15.118 in
4 the same manner as the authority.>

5 _____. Page 26, before line 20 by inserting:

6 <Sec. _____. Section 16.6, Code 2011, is amended by
7 adding the following new subsection:

8 NEW SUBSECTION. 5. Notwithstanding subsections
9 1 through 4, for purposes of the Iowa economic
10 development bond bank program described in sections
11 16.102 through 16.106, the water pollution control
12 works and drinking water facilities financing program
13 described in sections 16.131 through 16.135, and the
14 unsewered community revolving loan program described
15 in section 16.141, the executive director shall be the
16 director of the economic development authority created
17 in section 15.105.>>

By LUKAN of Dubuque

H-1467 FILED MARCH 28, 2011

HOUSE FILE 590

H-1468

1 Amend the amendment, H-1416, to House File 590 as
2 follows:

3 1. Page 1, line 6, by striking <the corporation
4 from engaging in>

By THOMAS of Clayton

H-1468 FILED MARCH 28, 2011

HOUSE FILE 483

H-1472

1 Amend House File 483 as follows:

2 1. By striking everything after the enacting clause
3 and inserting:

4 <Section 1. NEW SECTION. 537A.5 Indemnity
5 agreements ---- construction contracts.

6 1. As used in this section, "construction contract"
7 means an agreement relating to the construction,
8 alteration, improvement, development, demolition,
9 excavation, rehabilitation, maintenance, or repair
10 of buildings, highways, roads, streets, bridges,
11 tunnels, transportation facilities, airports, water or
12 sewage treatment plants, power plants, or any other
13 improvements to real property in this state, including
14 shafts, wells, and structures, whether on ground, above
15 ground, or underground, and includes agreements for
16 architectural services, design services, engineering
17 services, construction services, construction
18 management services, development services, maintenance
19 services, material purchases, equipment rental, and
20 labor. "Construction contract" includes all public,
21 private, foreign, or domestic agreements as described
22 in this subsection other than such public agreements
23 relating to highways, roads, and streets.

24 2. Except as excluded under subsection 3, a
25 provision in a construction contract that requires one
26 party to the construction contract to indemnify, hold
27 harmless, or defend any other party to the construction
28 contract, including the indemnitee's employees,
29 consultants, agents, or others for whom the indemnitee
30 is responsible, against liability, claims, damages,
31 losses, or expenses, including attorney fees, to the
32 extent caused by or resulting from the negligent act
33 or omission of the indemnitee or of the indemnitee's
34 employees, consultants, agents, or others for whom the
35 indemnitee is responsible, is void and unenforceable as
36 contrary to public policy.

37 3. This section does not apply to the
38 indemnification of a surety by a principal on any
39 surety bond, an insurer's obligation to its insureds
40 under any insurance policy or agreement, a borrower's
41 obligations to its lender, or any obligation of strict
42 liability otherwise imposed by law.>

43 2. Title page, line 1, after <to> by inserting <the
44 regulation of>

By HORBACH of Tama

H-1472 FILED MARCH 28, 2011

**SENATE AMENDMENT TO
HOUSE FILE 537**

H-1470

1 Amend House File 537, as amended, passed, and
2 reprinted by the House, as follows:
3 1. Page 1, before line 1 by inserting:
4 <Section 1. Section 231C.2, Code 2011, is amended
5 by adding the following new subsection:
6 NEW SUBSECTION. 2A. "Assisted living program"
7 or "program" means an entity that provides assisted
8 living.
9 Sec. ____ . Section 231C.5, subsection 2, paragraph
10 b, Code 2011, is amended to read as follows:
11 b. (1) A statement regarding the impact of the
12 fee structure on third-party payments, and whether
13 third-party payments and resources are accepted by the
14 assisted living program.
15 (2) The occupancy agreement shall specifically
16 include a statement regarding each of the following:
17 (a) Whether the program requires disclosure of a
18 tenant's personal financial information for occupancy
19 or continued occupancy.
20 (b) The program's policy regarding the continued
21 tenancy of a tenant following exhaustion of private
22 resources.
23 (c) Contact information for the department of human
24 services and the senior health insurance information
25 program to assist tenants in accessing third-party
26 payment sources.>
27 2. Title page, line 1, after <to> by inserting
28 <assisted living programs, including>
29 3. By renumbering as necessary.

RECEIVED FROM THE SENATE

H-1470 FILED MARCH 28, 2011

HOUSE FILE 648

H-1465

1 Amend House File 648 as follows:
2 1. Page 4, after line 31 by inserting:
3 <Of the amount appropriated in this paragraph
4 "a", \$112,000 shall be allocated for the planning and
5 development of the Iowa portion of the Mississippi
6 river trail located in a county with a population
7 between 42,000 and 43,000 in the latest preceding
8 certified federal census and a county with a population
9 between 160,000 and 175,000 in the latest preceding
10 certified federal census.>

By LYKAM of Scott

H-1465 FILED MARCH 28, 2011

HOUSE FILE 661

H-1476

1 Amend House File 661 as follows:
2 1. Page 3, by striking lines 14 through 17 and
3 inserting <the federal program being implemented.>
By ISENHART of Dubuque

H-1476 FILED MARCH 28, 2011

SENATE FILE 240

H-1463

1 Amend Senate File 240, as amended, passed, and
2 reprinted by the Senate, as follows:
3 1. Page 2, by striking lines 26 and 27 and
4 inserting <Monday through Saturday.>
By ALONS of Sioux

H-1463 FILED MARCH 28, 2011

SENATE FILE 240

H-1464

1 Amend Senate File 240, as amended, passed, and
2 reprinted by the Senate, as follows:
3 1. Page 4, line 14, by striking <may> and inserting
4 <shall>
By MASCHER of Johnson

H-1464 FILED MARCH 28, 2011

SENATE FILE 240

H-1474

1 Amend Senate File 240, as amended, passed, and
2 reprinted by the Senate, as follows:
3 1. Page 3, by striking lines 26 through 33 and
4 inserting <to section 123.50A at the time of the
5 violation. A licensee or permittee may assert>
By IVERSON of Wright

H-1474 FILED MARCH 28, 2011

SENATE FILE 326

H-1475

1 Amend Senate File 326, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 1, before line 1 by inserting:

4 <Section 1. Section 46.12, Code 2011, is amended to
5 read as follows:

6 46.12 Notification of vacancy and resignation.

7 1. When a vacancy occurs or will occur within one
8 hundred twenty days in the supreme court, ~~the court of~~
9 ~~appeals~~, or district court, the state commissioner of
10 elections shall forthwith so notify the chairperson
11 of the proper judicial nominating commission. The
12 chairperson shall call a meeting of the commission
13 within ten days after such notice; if the chairperson
14 fails to do so, the chief justice shall call such
15 meeting.

16 2. When a vacancy occurs or will occur within one
17 hundred twenty days in the court of appeals, the state
18 commissioner of elections shall notify the governor of
19 the vacancy. The governor shall make the appointment
20 to fill the vacancy pursuant to section 46.14A.

21 3. When a judge of the supreme court, court
22 of appeals, or district court resigns, the judge
23 shall submit a copy of the resignation to the state
24 commissioner of elections at the time the judge submits
25 the resignation to the governor; and when a judge of
26 the supreme court, court of appeals, or district court
27 dies, the clerk of district court of the county of the
28 judge's residence shall in writing forthwith notify the
29 state commissioner of elections of such fact.

30 Sec. . Section 46.14A, Code 2011, is amended to
31 read as follows:

32 46.14A Court of appeals ---- ~~nominees~~ appointment.

33 Vacancies in the court of appeals shall be filled
34 by appointment by the governor ~~from a list of nominees~~
35 ~~submitted by the state judicial nominating commission.~~
36 ~~Three nominees shall be submitted for each vacancy~~
37 subject to confirmation by the senate. Nominees A
38 person appointed to the court of appeals shall have the
39 qualifications prescribed for nominees to the supreme
40 court. The governor shall make the appointment to fill
41 a vacancy on the court of appeals within one hundred
42 twenty days of receiving notice that such a vacancy
43 has occurred. The senate shall vote on confirmation
44 during the regular session of the general assembly, if
45 the governor appoints the person during the regular
46 session of the general assembly. If the appointment is
47 made after the regular session of the general assembly,
48 the senate shall vote on confirmation during the next
49 regular session of the general assembly. If the senate
50 fails to confirm an appointment to fill the vacancy,

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1 the governor shall make another appointment to the
2 court of appeals subject to confirmation by the senate
3 until the vacancy is filled.

4 Sec. _____. Section 46.15, subsection 1, Code 2011,
5 is amended to read as follows:

6 1. All appointments to the supreme court ~~and court~~
7 ~~of appeals~~ shall be made from the nominees of the state
8 judicial nominating commission, and all appointments to
9 the district court shall be made from the nominees of
10 the district judicial nominating commission.

11 Sec. _____. Section 46.16, subsection 1, paragraph a,
12 Code 2011, is amended to read as follows:

13 a. The initial term of office of judges of the
14 supreme court, ~~court of appeals,~~ and district court
15 shall be for one year after appointment and until
16 January 1 following the next judicial election after
17 expiration of such year, ~~and.~~

18 Sec. _____. Section 46.16, subsection 1, Code 2011,
19 is amended by adding the following new paragraph:

20 NEW PARAGRAPH. 0b. The initial term of office of
21 judges of the court of appeals shall be for one year
22 after confirmation and until January 1 following the
23 next judicial election after expiration of such year.>

24 2. Page 1, line 7, by striking <, court of
25 appeals,>

26 3. Page 1, after line 8 by inserting:

27 <1A. Notwithstanding section 46.12, the chief
28 justice may order the state commissioner of elections
29 to delay for budgetary reasons, the sending of the
30 notification to the governor that a vacancy in the
31 court of appeals has occurred or will occur.>

32 4. Page 1, after line 25 by inserting:

33 <Sec. _____. Section 602.5102, subsection 2, Code
34 2011, is amended to read as follows:

35 2. Judges of the court of appeals shall be
36 ~~nominated and appointed~~ and shall stand for retention
37 in office as provided in chapter 46. Judges of the
38 court of appeals shall qualify for office as provided
39 in chapter 63.>

40 5. Page 3, after line 25 by inserting:

41 <Sec. _____. EFFECTIVE UPON ENACTMENT. This Act,
42 being deemed of immediate importance, takes effect upon
43 enactment.>

44 6. Title page, line 2, after <judges> by inserting
45 <and including effective date provisions>

46 7. By renumbering as necessary.

By ALONS of Sioux CHAMBERS of O'Brien
PEARSON of Polk DE BOEF of Keokuk
SHAW of Pocahontas MASSIE of Warren

SENATE FILE 406

H-1473

1 Amend Senate File 406, as amended, passed, and
2 reprinted by the Senate, as follows:
3 1. Page 24, line 13, by striking <apart from
4 commissions paid by an insurer>

By OLDSON of Polk
T. OLSON of Linn
SWAIM of Davis

H-1473 FILED MARCH 28, 2011

SENATE FILE 407

H-1462

1 Amend Senate File 407, as passed by the Senate, as
2 follows:

3 1. Page 2, after line 23 by inserting:

4 <Sec. _____. Section 455B.191, Code 2011, is amended
5 by adding the following new subsection:

6 NEW SUBSECTION. 8. Any civil penalty collected by
7 the state or a county relating to the construction of
8 semipublic sewage disposal systems shall be deposited
9 in the unsewered community revolving loan fund created
10 pursuant to section 16.141.>

11 2. Page 2, before line 24 by inserting:

12 <Sec. _____. Section 455B.199B, subsection 2, Code
13 2011, is amended to read as follows:

14 2. The department shall find that a regulated
15 entity and the affected community are a disadvantaged
16 community by ~~using~~ evaluating all of the following
17 criteria:

18 a. The ability of the regulated entity and the
19 affected community to pay for a project based on the
20 ratio of the total annual project costs per household
21 to median household income.

22 b. Median household income in the community as
23 a percentage of statewide household income and the
24 unemployment rate of the county in which the community
25 is located.

26 ~~b. Annual water and sewer rates as a percentage of~~
27 ~~median household income.~~

28 c. ~~Families below the poverty level in the~~
29 ~~community as a percentage of the statewide number of~~
30 ~~families below the poverty level.~~

31 d. ~~Per capita~~ The outstanding debt of the system as
32 a percentage of median household income and the bond
33 rating of the community.

34 e. ~~Cost effectiveness calculated by determining~~
35 ~~construction costs per user.~~

36 Sec. _____. Section 455B.199B, Code 2011, is amended
37 by adding the following new subsections:

38 NEW SUBSECTION. 2A. The department shall find that
39 an unsewered community is a disadvantaged community by
40 evaluating all of the following:

41 a. The ability of the community to pay for a
42 project based on the ratio of the total annual project
43 costs per household to median household income.

44 b. The unemployment rate in the county where the
45 community is located.

46 c. The median household income of the community.

47 NEW SUBSECTION. 2B. The department shall not
48 consider a regulated entity, affected community, or
49 unsewered community a disadvantaged community if the
50 ratio of compliance costs to median household income

H-1462

H-1462

Page 2

1 is below one percent.

2 NEW SUBSECTION. 3A. The department shall not
3 require installation of a wastewater treatment system
4 by an unsewered community if the department determines
5 that such installation would create substantial and
6 widespread economic and social impact.>

7 3. Title page, line 1, by striking <delegating to
8 counties> and inserting <relating to counties and other
9 regulated entities and>

10 4. Title page, by striking line 3 and inserting
11 <the inspection and construction of certain sewage
12 disposal systems and>

13 5. By renumbering as necessary.

COMMITTEE ON ENVIRONMENTAL PROTECTION

S. OLSON of Clinton, Chairperson

H-1462 FILED MARCH 28, 2011

SENATE FILE 453

H-1471

1 Amend Senate File 453, as passed by the Senate, as
2 follows:

3 1. Page 1, line 13, by striking <an eighth grade>
4 and inserting <any>

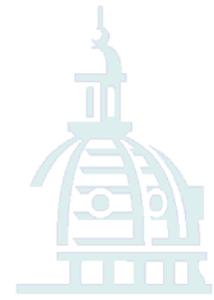
5 2. Page 1, line 16, by striking <one year> and
6 inserting <a unit>

7 3. Page 1, by striking lines 17 through 20 and
8 inserting <requirements for that area and shall be
9 issued high school credit for the unit.>

COMMITTEE ON EDUCATION

FORRISTALL of Pottawattamie, Chairperson

H-1471 FILED MARCH 28, 2011



HF 580 – Home School Assistance Program Enrollment (LSB 2362HV)
Analyst: Shawn Snyder (Phone: 515-281-7799) (shawn.snyder@legis.state.ia.us)
Fiscal Note Version – New

Description

House File 580 modifies the age requirement for children receiving competent private instruction to qualify for the home school assistance program (HSAP) and dual enrollment to include children that are of school age rather than compulsory attendance age.

Background

Compulsory age is defined by Section 299.1A as a child between the ages of 6 and 16. School age is defined by Section 282.1 as a child between the ages of 5 and 21. Students that receive competent private instruction through the HSAP are included in a school district's budget enrollment and receive a weighting of 0.3. Students that receive competent private instruction under dual enrollment are included in a school district's budget enrollment and receive a weighting of 0.1. Funding generated from these weightings is to be used to fund the costs to school districts associated with providing services to these students.

Based on the certified enrollment data from October 2010, the total weighting for HSAP and dual enrolled students was 2,030.0. This weighting level will generate an estimated \$10.6 million of funding, including \$9.3 million of State aid and \$1.4 million of property tax through the school aid formula for FY 2012. Included in this count were students of school age that were not of compulsory attendance age. The weighting for these students totaled 223.9, and will generate \$1.3 million, including \$1.15 million of State aid and \$0.17 million of property tax.

Under current law, the students outside the compulsory attendance age should not have been included in the budget enrollment count. An enrollment audit adjustment will be made to correct FY 2012 school aid funding in FY 2013. The amount of the enrollment audit adjustment will result in a total funding decrease of \$1.3 million, including \$1.15 million of State aid, and \$0.17 million of property tax in FY 2013.

Assumptions

- Assumes a 0.0% allowable growth rate for FY 2012 and FY 2013.
- Assumes no growth in the amount of HSAP and dual enrollment weighting at each age level.
- Assumes that an enrollment audit adjustment will be made in FY 2013 to correct the October 2010 enrollment count that included students outside the compulsory attendance age. The enrollment audit adjustment will be required to rectify the overpayment of school aid in FY 2012 that will result from the inclusion of students that were not eligible to be counted. This enrollment audit adjustment will result in decreasing school aid funding by \$1.3 million (\$1.15 million of State aid and \$0.17 million of property tax).
- Although the students were included in the FY 2012 school aid estimates, an adjustment will be made and these students will not be included in the FY 2013 school aid estimate if **HF 580** is not enacted.

Fiscal Impact

The estimated fiscal impact of [HF 580](#) will be an increase of school aid funding of \$1.3 million in FY 2013 compared to current law estimates. State General Fund expenditures to fund State school aid will increase \$1.15 million, and local school district property tax will increase \$0.17 million. The following table provides the estimated fiscal impact.

Estimated Fiscal Impact of Proposal in FY 2013				
	<u>Weighting</u>	<u>Total Funding</u>	<u>State Aid Portion</u>	<u>Property Tax Portion</u>
HSAP	177.3	\$ 1,046,944	\$ 912,725	\$ 134,219
Dual Enrolled	46.6	275,250	239,919	35,331
Total	223.9	\$ 1,322,194	\$ 1,152,644	\$ 169,550

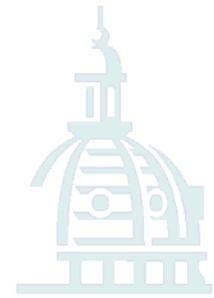
Sources

Iowa Department of Education, Project EASIER Enrollment and Certified Enrollment files
Iowa Department of Management, School Aid file
LSA calculations and analysis

/s/ Holly M. Lyons

March 28, 2011

The fiscal note for this bill was prepared pursuant to [Joint Rule 17](#) and the correctional and minority impact statements were prepared pursuant to Code [Section 2.56](#). Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.



HF 580 – Home School Assistance Program Enrollment (LSB 2362HV.H1455)
Analyst: Shawn Snyder (Phone: 515-281-7799) (shawn.snyder@legis.state.ia.us)
Fiscal Note Version – As amended by **H-1455**

Description

House File 580 modifies the age requirement for children receiving competent private instruction to qualify for the home school assistance program (HSAP) and dual enrollment to include children that are of school age rather than compulsory attendance age. Amendment **H-1455** makes the sections changing compulsory age to school age retroactive to July 1, 2009.

Background

Compulsory age is defined by Section 299.1A as a child between the ages of 6 and 16. School age is defined by Section 282.1 as a child between the ages of 5 and 21. Students that receive competent private instruction through the HSAP are included in a school district's budget enrollment and receive a weighting of 0.3. Students that receive competent private instruction under dual enrollment are included in a school district's budget enrollment and receive a weighting of 0.1. Funding generated from these weightings is to be used to fund the costs to school districts associated with providing services to these students.

Based on an analysis of the Department of Education's Project EASIER certified enrollment data collection from October 2009 and October 2010 the following information was obtained:

- October 2009 certified enrollment counts included HSAP and dual enrollment weighting outside of the compulsory attendance age definition totaling 261.0. This generated school aid funding totaling \$1.5 million (\$1.3 million in State aid and \$0.2 million in local property tax).
- October 2010 certified enrollment counts included HSAP and dual enrollment weighting outside of the compulsory attendance age definition totaling 223.9. This generated school aid funding totaling \$1.3 million (\$1.1 million in State aid and \$0.2 million in local property tax).

Under current law, the students outside the compulsory attendance age should not have been included in the budget enrollment count. The LSA anticipates that without enactment of **HF 580**, an enrollment audit adjustment will be made to correct FY 2011 and FY 2012 school aid funding in FY 2013.

Assumptions

- Assumes a 0.0% allowable growth rate for FY 2012 and FY 2013.
- Assumes an enrollment audit adjustment will be made to correct enrollment data for FY 2011 and FY 2012 certified enrollment counts under current law. The enrollment audit adjustment will be made in FY 2013.
- Assumes no growth in the amount of HSAP and dual enrollment weighting at each age level for the October 2011 certified enrollment count.

Fiscal Impact

Enactment of [HF 580](#) as amended by [H-1455](#) will result in an increase in total school aid of \$4.2 million in FY 2013. This includes \$3.6 million in State aid (General Fund cost) and \$0.5 million in total local property tax. The following table provides additional detail of the fiscal impact.

Impact of HF 580: Changing from Compulsory Age to School Age				
	<u>Weighting</u>	<u>Total Funding</u>	<u>State Aid</u>	<u>Property Tax</u>
FY 2013 Impact	223.9	\$ 1,322,194	\$ 1,152,644	\$ 169,550
Impact of H-1455: Retroactive Provision Eliminating the Need for the Enrollment Audit Adjustment				
	<u>Weighting</u>	<u>Total Funding</u>	<u>State Aid</u>	<u>Property Tax</u>
FY 2011	261.0	\$ 1,540,810	\$ 1,343,634	\$ 197,176
FY 2012	223.9	\$ 1,322,194	\$ 1,152,644	\$ 169,550
FY 2013 Impact	484.9	\$ 2,863,004	\$ 2,496,278	\$ 366,726
Total Fiscal Impact of HF 580 as Amended by H-1455				
	<u>Weighting</u>	<u>Total Funding</u>	<u>State Aid</u>	<u>Property Tax</u>
Total Impact in FY 2013	708.8	\$ 4,185,198	\$ 3,648,922	\$ 536,276

Sources

Iowa Department of Education, Project EASIER Enrollment and Certified Enrollment files
Iowa Department of Management, School Aid file
LSA calculations and analysis

/s/ Holly M. Lyons

March 28, 2011

The fiscal note for this bill was prepared pursuant to [Joint Rule 17](#) and the correctional and minority impact statements were prepared pursuant to Code [Section 2.56](#). Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.

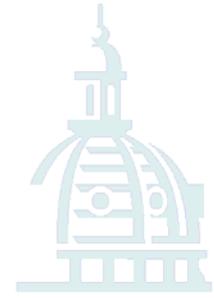


**LEGISLATIVE
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Fiscal Note

Fiscal Services Division



HF 653 – Local Exchange Carrier Property Tax (LSB 2041HV)

Analyst: Jeff Robinson (Phone: 515-281-4614) (jeff.robinson@legis.state.ia.us)

Fiscal Note Version – New

Description

House File 653 alters the basis of property taxation for certain local exchange carriers (telephone companies). The change applies to companies with fewer than 50,000 customer lines in the Iowa. The change will make the property of the companies subject to property tax in a manner consistent with the commercial class of property. The property will also move from being centrally-assessed by the Department of Revenue to being locally assessed.

The change is effective with valuations determined January 1, 2012, (FY 2014) or after.

Background

Currently, local exchange carriers are assessed by the Department of Revenue. In determining the assessed value of the property, the Department is required to determine the value of all company property of any character, whether real, personal, or mixed. This differs significantly from the processes utilized for assessing the commercial class of property.

Assumptions

- The commercial rollback will be 100.0%.
- The average property tax rate for the impacted companies in FY 2014 will be \$30.00 per thousand of taxable value and that rate will increase 1.4% each year.
- Estimated assessed value under current law and under the proposed law was provided by the Department of Revenue.
- The State School Aid Foundation levy is \$5.40 per thousand.

Fiscal Impact

House File 653 will reduce the assessed value of local telephone companies with fewer than 50,000 customers. The projected impact on the State General Fund School Aid appropriation, local government property tax revenue, and the property taxes paid by the impacted telephone companies is presented in the final three columns of the following table. The impacts will be similar in future fiscal years.

Assessment Year	Fiscal Year	Assessed Value Under Current Law in Millions	Assessed Value Under Proposed Law in Millions	Assessment Reduction in Millions	Average Tax Rate of Impacted Companies in Dollars per Thousand	State School Aid Increase in Millions	Local Government Tax Revenue Decrease in Millions	Property Tax Reduction for Companies in Millions
2012	2014	\$482.3	\$95.5	\$386.8	\$30.00	\$2.1	\$ -9.5	\$ -11.6
2013	2015	492.0	98.4	393.6	30.42	2.1	-9.9	-12.0
2014	2016	501.8	100.4	401.4	30.85	2.2	-10.2	-12.4
2015	2017	511.9	104.4	407.5	31.28	2.2	-10.5	-12.7
2016	2018	522.1	106.5	415.6	31.72	2.2	-11.0	-13.2

The actual impact to local governments will depend on whether a local government is willing and able to raise property tax levies above where they otherwise would be in response to reduced taxable value.

- If, in response to the reduced taxable value, no local government sets a tax rate higher than they otherwise would, then the local government revenue decrease will be \$9.5 million in FY 2014, and the average property tax rate statewide will not be impacted.
- Using the FY 2011 Statewide taxable value of all property (\$133.89 billion), an average tax rate increase of 7.1 cents per thousand would be necessary to fully replace \$9.5 million in reduced FY 2014 local government tax revenue. If all local governments are willing and able to set rates higher than they otherwise would in order to capture the same level of revenue, the statewide average property tax rate would be \$0.071 higher and local government revenue would be unchanged.
- The likely result is a mixture of higher tax rates and lower local government revenue.

Since the change in property assessment method only applies to a subset of companies engaged in the same business activity (telephone companies with fewer than 50,000 lines), the change could produce a constitutional challenge. Should the law change be determined unconstitutional on equal protection or other grounds, the fiscal impact of the change could be significantly different. A constitutional challenge could result in the assessment change being required for all telephone companies, not just those with fewer than 50,000 customers. Such a decision would significantly increase the ultimate fiscal impact of [HF 653](#).

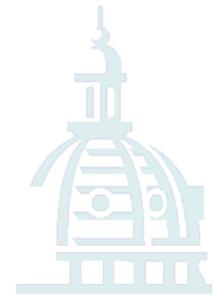
Source

Department of Revenue

/s/ Holly M. Lyons

March 28, 2011

The fiscal note for this bill was prepared pursuant to [Joint Rule 17](#) and the correctional and minority impact statements were prepared pursuant to Code [Section 2.56](#). Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.



SF 424 – Joint School Infrastructure Projects (LSB 1864SV.1)
Analyst: Shawn Snyder (Phone: 515-281-7799) (shawn.snyder@legis.state.ia.us)
Fiscal Note Version – As amended and passed by the Senate
Requested by Representative Mary Mascher

Description

Senate File 424 as amended and passed by the Senate, allows a consortium (at least four school districts and a community college) meeting specific requirements to participate in a district-to-community college program and facilities sharing pilot program pending Department of Education approval.

Background

Based on the language specifications in the Bill, the pilot program would be limited to a consortium of school districts that include Grundy Center, Aplington-Parkersburg, Gladbrook-Reinbeck, and Dike-New Hartford and the Hawkeye Community College.

Assumptions

- Each of the four school districts in the consortium is currently at the maximum Regular Physical Plant and Equipment Levy (PPEL) rate of \$0.33 per \$1,000 of assessed valuation.
- Of the four districts, three currently have a voter-approved PPEL and one district is at the maximum rate of \$1.34 per \$1,000 of assessed valuation. The three districts that are not at the maximum rate have a remaining voter-approved PPEL capacity that totals approximately \$616,000. However, any changes in the voter-approved PPEL tax rates would require voter approval.
- The Department of Education has indicated that costs to administer the pilot program, if any, would be minimal.

Fiscal Impact

There is minimal, if any, impact to the State General Fund. Additionally, there is no impact to the regular PPEL rate for any of these districts since they are currently at the maximum tax rate. Although there is remaining capacity for the voter-approved PPEL, any increases would require voter approval.

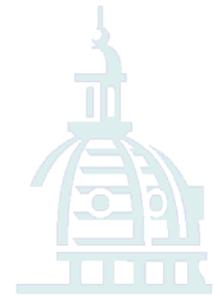
Sources

Iowa Department of Education
Iowa Department of Management, School Aid file
LSA calculations and analysis

/s/ Holly M. Lyons

March 28, 2011

The fiscal note for this bill was prepared pursuant to **Joint Rule 17** and the correctional and minority impact statements were prepared pursuant to Code **Section 2.56**. Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.



HF 101 – Sales Tax Exemption – Employment Agencies (LSB 1419YH)
Analyst: Shawn Snyder (Phone: 515-281-7799) (shawn.snyder@legis.state.ia.us)
Fiscal Note Version – New
Requested by Representative Erik Helland

Description

House File 101 provides a sales/use tax exemption for sales and service income of executive search agencies and private employment agencies. The Bill makes the exemption retroactive to January 1, 2002.

The Bill provides for refunds of sales tax for the retroactive period (January 1, 2002, through enactment date). Sales tax refund claims for the retroactive period must be filed by October 1, 2011, and total claims are limited to \$50,000. If claims exceed \$50,000, the Department of Revenue is required to prorate the claims.

Assumptions

Assumptions include:

- Data was merged between the Workforce Development registration file and the Department of Revenue's sales/use tax database based on North American Industry Classification System (NAICS) codes.
- There were 32 executive search agencies identified generating \$1.9 million of taxable sales in Iowa during FY 2010.
- There were 127 private employment agencies identified generating \$36.7 million of taxable sales in Iowa during FY 2010.
- Based on the Department of Revenue's sales/use tax model, taxable sales are estimated to increase for FY 2011 - FY 2014 by 3.9%, 4.10%, 5.10%, and 5.80% respectively.
- The local option sales tax (LOST) statewide effective rate is 0.087% for the fiscal years estimated.

Fiscal Impact

The retroactive provision of HF 101 will reduce State General Fund receipts by a maximum of \$50,000 in FY 2012.

Beginning in FY 2012, the sales/use tax revenue will be reduced as a result of HF 101. The estimated fiscal impact of HF 101 is a reduction in State sales/use tax of \$2.5 million in FY 2012, \$2.6 million in FY 2013, and \$2.8 million in FY 2014. The impact to the State General Fund is a reduction of \$2.1 million in FY 2012, \$2.2 million in FY 2013, and 2.3 million in FY 2014. Additionally, the Secure an Advanced Vision for Education (SAVE) Fund will experience a reduction of \$400,000 in FY 2012 and FY 2013 and \$500,000 in FY 2014. The following table summarizes the fiscal impact.

Estimated Fiscal Impact of HF 101 (Dollars in Millions)							
	<u>Sales/Use</u>		<u>General</u>		<u>SAVE Fund</u>		<u>LOST</u>
	<u>Tax Impact</u>		<u>Fund</u>		<u>Impact</u>		<u>Impact</u>
FY 2012	\$	-2.5	\$	-2.1	\$	-0.4	\$ -0.4
FY 2013	\$	-2.6	\$	-2.2	\$	-0.4	\$ -0.4
FY 2014	\$	-2.8	\$	-2.3	\$	-0.5	\$ -0.4

Sources

Iowa Department of Revenue
 Iowa Workforce Development

/s/ Holly M. Lyons

March 28, 2011

The fiscal note for this bill was prepared pursuant to [Joint Rule 17](#) and the correctional and minority impact statements were prepared pursuant to Code [Section 2.56](#). Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.
