

JAN 24 1990

SENATE FILE 2169
BY STURGEON

Passed Senate, Date 2/1/90 (p. 832) Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

5223 1 An Act relating to actions by employers by prohibiting employers
2 from taking certain deductions from employees' wages and
3 requiring employers to provide certain services for non-
4 English speaking employees.

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

SF 2169

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1 Section 1. Section 91A.5, subsection 2, Code 1989, is
2 amended by adding the following new paragraphs:

3 NEW PARAGRAPH. e. Costs of safety equipment to be used by
4 the employee in the course of employment.

5 NEW PARAGRAPH. f. Costs of more than twenty dollars for
6 an employee's relocation to the place of employment.

7 NEW PARAGRAPH. g. Payment for an employee's residence in
8 a dwelling structure owned or managed by the employer.

9 Sec. 2. NEW SECTION. 91E.1 NON-ENGLISH SPEAKING EMPLOYEES
10 -- EMPLOYER OBLIGATIONS.

11 1. For the purposes of this section, the definitions of
12 "employer" and "employee" in chapter 91A apply.

13 2. If more than five percent of an employer's employees
14 are functionally illiterate in the English language, the
15 employer shall provide all of the following:

16 a. An interpreter at the work site who is available during
17 all working hours.

18 b. A person employed on a full-time basis to serve as a
19 referral agent to community services.

20 3. The labor commissioner shall enforce this chapter.

21 EXPLANATION

22 Section 1 of this bill prohibits an employer from deducting
23 from the wages of an employee the following: (1) costs of
24 safety equipment to be used by an employee in the course of
25 employment; (2) costs of more than \$20 for an employee's
26 relocation to the place of employment; and (3) payment for an
27 employee's residence in an employer-owned structure.

28 Section 2 requires an employer with a workforce, more than
29 5% of which is functionally illiterate in the English
30 language, to provide the following: (1) an interpreter at
31 the work site who is available during all working hours; and
32 (2) a person employed on a full-time basis to serve as a
33 referral agent to community services. The labor commissioner
34 is required to enforce the requirement.

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SENATE FILE 2169

S-5247

1 Amend Senate File 2169 as follows:

2 1. Page 1, by striking lines 3 and 4 and
3 inserting the following:

4 "NEW PARAGRAPH. e. Costs of personal protective
5 equipment, other than items of clothing which may be
6 used by an employee during nonworking hours, needed to
7 protect an employee from employment-related hazards,
8 unless provided otherwise in a collective bargaining
9 agreement."

10 2. Page 1, by striking lines 9 through 20 and
11 inserting the following:

12 "Sec. 2. NEW SECTION. 91E.1 DEFINITIONS.

13 As used in this chapter:

14 1. "Commissioner" means the commissioner of the
15 division of labor services of the department of
16 employment services.

17 2. "Employee" means a natural person who is
18 employed in this state for wages by an employer.

19 3. "Employer" means a person, as defined in
20 chapter 4, who in this state employs for wages twenty
21 or more natural persons. An employer does not include
22 a client, patient, customer, or other person who
23 obtains professional services from a licensed person
24 who provides the services on a fee service basis or as
25 an independent contractor.

26 4. "Non-English speaking employee" means an
27 employee who does not speak, read, write, or
28 understand spoken English to the degree necessary for
29 comprehension of the terms, conditions, and daily
30 responsibilities of employment.

31 Sec. 3. NEW SECTION. 91E.2 NON-ENGLISH SPEAKING
32 EMPLOYEES -- EMPLOYER OBLIGATIONS.

33 If more than five percent of an employer's
34 employees are non-English speaking, the employer shall
35 provide all of the following:

36 1. An interpreter available at the work site for
37 each shift during which non-English speaking employees
38 are employed. If the interpreter is needed for
39 Spanish-speaking employees, the employer must contract
40 with the Spanish speaking peoples commission for the

41 ~~interpreter.~~
42 An interpreter hired by an employer pursuant to
43 this section is deemed to be an employee of the
44 department of employment services, labor services
45 division.

46 2. A person employed on a full-time basis to serve
47 as a referral agent to community services.

48 Sec. 4. NEW SECTION. 91E.3 EMPLOYER RECRUITING
49 PRACTICES.

x50 1. An employer who actively recruits residents of

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* 1 other states for employment in this state must have on
2 file in the office of the commissioner an employment
3 contract signed by the employer and the employee and
4 approved by the commissioner which provides relevant
5 information regarding the position of employment,
6 including but not limited to the following:

7 a. The number of hours the employee can expect to
8 work on a weekly basis.

9 b. The wages of the position of employment includ-
10 ing the starting wage.

11 c. A detailed description of the responsibilities
12 and tasks of the position of employment.

13 d. The health risks to the employee involved in
14 the position of employment.

15 e. Other information as required by the
16 commissioner.

17 2. If an employee who resigns from employment with
18 an employer within six weeks of the employee's initial
19 date of employment requests payment of the cost of
20 transportation to return to the location from which
21 the employee was recruited and the location from which
22 the employee was recruited is five hundred or more
23 miles from the place of employment, the employer shall
24 provide the cost of that transportation to the
25 employee.

5244 26 Sec. 5. NEW SECTION. 91E.4 PENALTIES FOR
27 VIOLATION OF RECRUITMENT PRACTICE REQUIREMENTS.

28 1. An employer who violates section 91E.3 is
29 subject to a civil penalty and may be ordered to pay
30 punitive damages.

31 2. The corporate officers of an employer who,
32 through repeated violation of Section 91E.3,
33 demonstrate a pattern of abusive recruitment practices
34 are subject to criminal prosecution.

5245 35 Sec. 6. NEW SECTION. 91E.5 DUTIES OF THE LABOR
36 COMMISSIONER.

37 The commissioner shall do all of the following:

38 1. Adopt rules to implement and enforce this
39 chapter.

40 2. Provide further exemptions from the provisions
41 of this chapter where reasonable.

42 Sec. 7. NEW SECTION. 91E.6 CONFLICTS WITH
43 COLLECTIVE BARGAINING AGREEMENTS.

44 If the provisions of this chapter conflict with the
45 provisions of a collective bargaining agreement, the
46 provisions of the collective bargaining agreement
47 shall prevail."

48 3. Title page, by striking lines 1 through 4 and
49 inserting the following: "An Act relating to actions
50 by employers by prohibiting employers from taking

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1 certain deductions from employees' wages, requiring
2 employers to provide certain services for non-English
3 speaking employees, requiring certain practices upon
4 recruitment of employees from out-of-state locations,
5 and providing penalties."

By AL STURGEON

SENATE FILE 2169

S-5266

Amend the amendment, S-5247, to Senate File 2169 as follows:

1. Page 1, line 34, by inserting after the word "speaking" the following: "and speak the same non-English language".

2. Page 1, by striking lines 38 through 45, and inserting the following: "are employed.

The employer shall contract with the division of labor services of the department of employment services who shall select the interpreter, and if a Spanish-speaking interpreter is needed, the division shall select an interpreter through the Spanish-speaking peoples commission."

3. Page 2, line 1, by inserting after the word "states" the following: "more than five hundred miles from the place of employment".

4. Page 2, by striking lines 28 through 34 and inserting the following:

"1. An employer who violates section 91E.3 is subject to a civil penalty of up to five thousand dollars and may be ordered to pay punitive damages.

2. A corporate officer of an employer who, through repeated violation of section 91E.3, demonstrates a pattern of abusive recruitment practices is subject to criminal prosecution for commission of an aggravated misdemeanor.

3. The commission may petition the court for injunctive relief against an employer who repeatedly violates section 91E.3."

5. Page 2, by striking lines 35 through 41 and inserting the following:

"Sec. ____ . NEW SECTION. 91E.5 DUTIES AND AUTHORITY OF THE COMMISSIONER.

1. The commissioner shall adopt rules to implement and enforce this chapter and shall provide further exemptions from the provisions of this chapter where reasonable.

2. In order to carry out the purposes of this chapter, the commissioner or the commissioner's representative, upon presenting appropriate credentials to the owner, operator, or agent in charge, may:

a. Enter without delay and at reasonable times any factory, plant, establishment, construction site, or other area, workplace or environment where work is performed by an employee of an employer.

b. Inspect and investigate during regular working hours and at other reasonable times, and within reasonable limits and within a reasonable manner, a place of employment and all pertinent conditions,

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structures, machines, apparatus, devices, equipment, and materials in the place, and to question privately an employer, owner, operator, agent, or employee."

By AL STURGEON

SENATE FILE 2169

S-5223

1 Amend Senate File 2169 as follows:

- 2 1. Page 1, line 4, by inserting after the word
3 "employment" the following: ", unless the deduction
4 is an authorized deduction as provided in section
5 91A.5, subsection 1, paragraph "b"."
6 2. Page 1, by striking lines 9 through 20.
7 3. Title, by striking lines 2 through 4 and
8 inserting the following: "from taking certain
9 deductions from employees' wages."

By LINN FUHRMAN

S-5223 FILED FEBRUARY 26, 1990

Revised 3/1 (p. 831)

SENATE FILE 2169

S-5245

1 Amend Senate File 2169 as follows:

- 2 1. Page 1, by inserting after line 20 the
3 following:
4 "Sec. _____. The provisions of section 2, subsection
5 2 of this Act do not apply to employers of less than
6 one hundred employees."

By JOHN W. JENSEN

S-5245 FILED FEBRUARY 27, 1990

Revised 3/1 (p. 831)

SENATE FILE 2169

S-5251

1 Amend the amendment, S-5247, to Senate File 2169 as
2 follows:

- 3 1. Page 1, line 9, by inserting after the word
4 "agreement" the following: ", or unless the deduction
5 is an authorized deduction as provided in section
6 91A.5, subsection 1, paragraph "b"."
7 2. Page 1, by striking line 10 through page 2,
8 line 47 and inserting the following:
9 "_____. Page 1, by striking lines 9 through 20."
10 3. Page 3, by striking lines 1 through 5 and
11 inserting the following: "certain deductions from
12 employees' wages."

By LINN FUHRMAN

S-5251 FILED FEBRUARY 27, 1990

Revised 3/1 (p. 831)

SENATE FILE 2169

S-5256

1 Amend the amendment, S-5247, to Senate File 2169,
2 as follows:

- 3 1. Page 1, line 18, by inserting after the word
4 "employer." the following: "An employee does not
5 include a person engaged in agriculture as defined in
6 section 91A.2 or a person engaged in agriculture on a
7 seasonal basis."

By JOHN W. JENSEN

S-5256 FILED FEBRUARY 27, 1990

Revised 3/1 (p. 831)

SENATE FILE 2169

S-5324

1 Amend the amendment, S-5247, to Senate File 2169 as
2 follows:

3 1. Page 1, line 20, by striking the word "twenty"
4 and inserting the following: "fifty".

5 2. Page 1, line 33, by striking the word "five"
6 and inserting the following: "ten".

By JIM LIND

S-5324 FILED MARCH 1, 1990

ADOPTED (7.831)

SENATE FILE 2169
FISCAL NOTE

A fiscal note for Senate File 2169 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 2169 Section 1 prohibits an employer from deducting from the wages of an employee the following: (1) costs of safety equipment to be used by an employee in the course of employment; (2) costs of more than \$20 for an employee's relocation to the place of employment; and (3) payment for an employee's residence in an employer-owned structure.

Section 2 requires an employer with a work force, more than 5% of which is functionally illiterate in the English language, to provide the following: (1) an interpreter at the work site who is available during all working hours; and (2) a person employed on a full-time basis to serve as a referral agent to community services. The labor commissioner is required to enforce the requirement.

ASSUMPTIONS:

Complaints and requests for investigations to check for compliance would require the services of .5 FTE position.

FISCAL IMPACT:

The additional cost for .5 FTE position for enforcement would be \$16,897.

Also, smaller employers in the state (those employing 20 or less) who employ one or more employees who are functionally illiterate in English, would be required to hire a full time interpreter and a full time referral agent to community services.

Source: (Department of Employment Services
Labor Services Division)

(LSB 7942s, MAS)

FILED FEBRUARY 13, 1990

BY DENNIS PROUTY, FISCAL DIRECTOR

SENATE FILE 2169

S-5291

1 Amend Senate File 2169 as follows:

2 1. Page 1, by striking lines 11 and 12, and
3 inserting the following:

4 "1. For the purposes of this section, the
5 definition of "employee" in chapter 91A applies."

6 2. Page 1, by inserting after line 12 the
7 following:

8 "_____. For the purposes of this section "employer"
9 means a person, as defined in chapter 4, who in this
10 state employs for wages 5000 or more natural persons."

By RICHARD VANDE HOEF

S-5291 FILED MARCH 1, 1990

RULED OUT OF ORDER (p. 832)

SENATE FILE 2169

S-5293

1 Amend Senate File 2169 as follows:

2 1. Page 1, by inserting after line 20, the
3 following:

4 "4. This section shall not apply to an employer in
5 a city with a population under one hundred thousand."

By RICHARD VANDE HOEF

S-5293 FILED MARCH 1, 1990

RULED OUT OF ORDER (p. 832)

SENATE FILE 2169

S-5301

1 Amend the amendment, S-5247, to Senate File 2169 as
2 follows:

3 1. Page 1, line 5, by inserting after the word
4 "clothing" the following: "or footwear".

By RICHARD RUNNING

S-5301 FILED MARCH 1, 1990

ADOPTED (p. 830)

SENATE FILE 2169

S-5322

1 Amend the amendment S-5247 to Senate File 2169 as
2 follows:

3 1. Page 2, line 25, by inserting after the word
4 "employee." the following: "This subsection shall
5 apply to wage and hour employees, and shall not apply
6 to public employees."

By RICHARD DRAKE

S-5322 FILED MARCH 1, 1990

ADOPTED (p. 831)

1 Section 1. Section 91A.5, subsection 2, Code 1989, is
2 amended by adding the following new paragraphs:

3 NEW PARAGRAPH. e. Costs of personal protective equipment,
4 other than items of clothing or footwear which may be used by
5 an employee during nonworking hours, needed to protect an
6 employee from employment-related hazards, unless provided
7 otherwise in a collective bargaining agreement.

8 NEW PARAGRAPH. f. Costs of more than twenty dollars for
9 an employee's relocation to the place of employment.

10 NEW PARAGRAPH. g. Payment for an employee's residence in
11 a dwelling structure owned or managed by the employer.

12 Sec. 2. NEW SECTION. 91E.1 DEFINITIONS.

13 As used in this chapter:

14 1. "Commissioner" means the commissioner of the division
15 of labor services of the department of employment services.

16 2. "Employee" means a natural person who is employed in
17 this state for wages by an employer. An employee does not
18 include a person engaged in agriculture as defined in section
19 91A.2 or a person engaged in agriculture on a seasonal basis.

20 3. "Employer" means a person, as defined in chapter 4, who
21 in this state employs for wages fifty or more natural persons.
22 An employer does not include a client, patient, customer, or
23 other person who obtains professional services from a licensed
24 person who provides the services on a fee service basis or as
25 an independent contractor.

26 4. "Non-English speaking employee" means an employee who
27 does not speak, read, write, or understand spoken English to
28 the degree necessary for comprehension of the terms,
29 conditions, and daily responsibilities of employment.

30 Sec. 3. NEW SECTION. 91E.2 NON-ENGLISH SPEAKING
31 EMPLOYEES -- EMPLOYER OBLIGATIONS.

32 If more than ten percent of an employer's employees are
33 non-English speaking and speak the same non-English language,
34 the employer shall provide all of the following:

35 1. An interpreter available at the work site for each

1 shift during which non-English speaking employees are
2 employed.

3 The employer shall contract with the division of labor
4 services of the department of employment services who shall
5 select the interpreter, and if a Spanish-speaking interpreter
6 is needed, the division shall select an interpreter through
7 the Spanish-speaking peoples commission.

8 2. A person employed on a full-time basis to serve as a
9 referral agent to community services.

10 Sec. 4. NEW SECTION. 91E.3 EMPLOYER RECRUITING
11 PRACTICES.

12 1. An employer who actively recruits residents of other
13 states more than five hundred miles from the place of
14 employment for employment in this state must have on file in
15 the office of the commissioner an employment contract signed
16 by the employer and the employee and approved by the
17 commissioner which provides relevant information regarding the
18 position of employment, including but not limited to the
19 following:

20 a. The number of hours the employee can expect to work on
21 a weekly basis.

22 b. The wages of the position of employment including the
23 starting wage.

24 c. A detailed description of the responsibilities and
25 tasks of the position of employment.

26 d. The health risks to the employee involved in the
27 position of employment.

28 e. Other information as required by the commissioner.

29 2. If an employee who resigns from employment with an
30 employer within six weeks of the employee's initial date of
31 employment requests payment of the cost of transportation to
32 return to the location from which the employee was recruited
33 and the location from which the employee was recruited is five
34 hundred or more miles from the place of employment, the
35 employer shall provide the cost of that transportation to the

1 employee. This subsection shall apply to wage and hour
2 employees, and shall not apply to public employees.

3 Sec. 5. NEW SECTION. 91E.4 PENALTIES FOR VIOLATION OF
4 RECRUITMENT PRACTICE REQUIREMENTS.

5 1. An employer who violates section 91E.3 is subject to a
6 civil penalty of up to five thousand dollars and may be
7 ordered to pay punitive damages.

8 2. A corporate officer of an employer who, through
9 repeated violation of section 91E.3, demonstrates a pattern of
10 abusive recruitment practices is subject to criminal
11 prosecution for commission of an aggravated misdemeanor.

12 3. The commission may petition the court for injunctive
13 relief against an employer who repeatedly violates section
14 91E.3.

15 Sec. 6. NEW SECTION. 91E.5 DUTIES AND AUTHORITY OF THE
16 COMMISSIONER.

17 1. The commissioner shall adopt rules to implement and
18 enforce this chapter and shall provide further exemptions from
19 the provisions of this chapter where reasonable.

20 2. In order to carry out the purposes of this chapter, the
21 commissioner or the commissioner's representative, upon
22 presenting appropriate credentials to the owner, operator, or
23 agent in charge, may:

24 a. Enter without delay and at reasonable times any
25 factory, plant, establishment, construction site, or other
26 area, workplace or environment where work is performed by an
27 employee of an employer.

28 b. Inspect and investigate during regular working hours
29 and at other reasonable times, and within reasonable limits
30 and within a reasonable manner, a place of employment and all
31 pertinent conditions, structures, machines, apparatus,
32 devices, equipment, and materials in the place, and to
33 question privately an employer, owner, operator, agent, or
34 employee.

35 Sec. 7. NEW SECTION. 91E.6 CONFLICTS WITH COLLECTIVE

1 BARGAINING AGREEMENTS.

2 If the provisions of this chapter conflict with the
3 provisions of a collective bargaining agreement, the
4 provisions of the collective bargaining agreement shall
5 prevail.

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SENATE FILE 2169
AMENDMENT H-5690 TO SENATE FILE 2169
FISCAL NOTE

A fiscal note for Amendment H-5690 to Senate File 2169 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Amendment H-5690 to Senate File 2169 prohibits an employer from deducting from the wages of an employee the following: (1) costs of personal protective equipment; and, (2) costs of more than \$20 for an employee's relocation costs to the place of employment.

Section 2 provides definitions applicable in the amendment.

Section 3 requires an employer with a work force, more than 10% of which are non-English speaking and speak the same non-English language, to provide the following: (1) an interpreter available at the work site during all shifts during which non-English speaking persons work; and (2) an employee on staff whose primary responsibility is to serve as a referral agent to community services. Section 3 also states that if a Spanish-speaking interpreter is needed the employer is to select an individual from a list of interpreters developed by the Department of Employment Services, drawn from the Spanish-speaking peoples commission's statewide list of interpreters qualified to serve Iowa courts and administrative agencies.

Section 4 requires an employer who actively recruits non-English speaking residents of other states more than 500 miles from the place of employment to keep on file certain information to be made available to the employee. Section 4 also requires that an employer to provide return transportation for employees if the employee so requests within 3 days after termination, if the employee was recruited from a distance at least 500 miles from the place of employment.

Section 5 sets forth penalties for violations of the recruitment practice requirements.

Section 6 sets forth the duties and authority of the Labor Commissioner of the Department of Employment Services in implementing and enforcing the amendment. These duties include adopting rules, inspection of employment records, and interviewing employers and employees.

Section 7 exempts the amendment from the collective bargaining process.

ASSUMPTIONS:

1. The Labor Commissioner is to investigate complaints regarding recruitment practices as set forth in the amendment.

The Department of Employment Services is to develop and distribute, upon

request, a list of Spanish-speaking interpreters.

- 3. The effective date of the rule process can be deferred to January 1, 1991 since public comment is necessary under Chapter 17A.
- 4. If a hearing process is deemed necessary there will be additional costs which cannot be estimated at this time.

FISCAL IMPACT: The State cost to the public for this amendment would be \$38,752 per detail below:

| | |
|-----------------------|----------|
| Field Auditor (0.5) | \$13,200 |
| Secretary (0.5) | 9,350 |
| Benefits (19%) | 4,285 |
| DES overhead (8.5%) | 1,917 |
| Travel | 5,000 |
| Phone, printing, etc. | 5,000 |
| | ----- |
| Total | \$38,752 |

Source: (Department of Employment Services,
Labor Services Division)

(LSB 7942s.2. MAS)

FILED MARCH 15, 1990

BY DENNIS PROUTY, FISCAL DIRECTOR

SENATE FILE 2169

H-5690

1 Amend Senate File 2169, as amended, passed, and
2 reprinted by the Senate, as follows:

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

5 "Section 1. Section 91A.5, subsection 2, Code
6 1989, is amended by adding the following new
7 paragraphs:

8 NEW PARAGRAPH. e. Costs of personal protective
9 equipment, other than items of clothing or footwear
10 which may be used by an employee during nonworking
11 hours, needed to protect an employee from employment-
12 related hazards, unless provided otherwise in a
13 collective bargaining agreement.

14 NEW PARAGRAPH. f. Costs of more than twenty
15 dollars for an employee's relocation to the place of
16 employment. This paragraph shall apply only to an
17 employer as defined in section 91E.1.

18 Sec. 2. NEW SECTION. 91E.1 DEFINITIONS.

19 As used in this chapter:

20 1. "Commissioner" means the commissioner of the
21 division of labor services of the department of
22 employment services.

23 2. "Employee" means a natural person who is
24 employed in this state for wages paid on an hourly
25 basis by an employer.

26 3. "Employer" means a person, as defined in
27 chapter 4, who in this state employs for wages, paid
28 on an hourly basis, one hundred or more natural
29 persons. An employer does not include a client,
30 patient, customer, or other person who obtains
31 professional services from a licensed person who
32 provides the services on a fee service basis or as an
33 independent contractor, or the state, or an agency
34 or governmental subdivision of the state.

35 4. "Non-English speaking employee" means an
36 employee who does not speak, read, write, or
37 understand English.

38 Sec. 3. NEW SECTION. 91E.2 NON-ENGLISH SPEAKING
39 EMPLOYEES -- EMPLOYER OBLIGATIONS.

40 If more than ten percent of an employer's employees
41 are non-English speaking and speak the same non-
42 English language, the employer shall provide all of
43 the following:

44 1. An interpreter available at the work site for
45 each shift during which non-English speaking employees
46 are employed.

47 If a Spanish-speaking interpreter is needed, the
48 employer shall select an interpreter from a list of
49 interpreters developed by the department of employment
50 services, drawn from the Spanish-speaking peoples

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1 commission's statewide list of interpreters qualified
2 to serve Iowa courts and administrative agencies.

3 2. A person employed by the employer whose primary
4 responsibility is to serve as a referral agent to
5 community services.

6 Sec. 4. NEW SECTION. 91E.3 EMPLOYER RECRUITING
7 PRACTICES.

8 1. An employer or a representative of an employer
9 who actively recruits non-English speaking residents
10 of other states more than five hundred miles from the
11 place of employment, for employment as employees for
12 wages paid on an hourly basis in this state, must have
13 on file, a copy of which must be provided to the
14 employee, a written statement signed by the employer
15 and the employee which provides relevant information
16 regarding the position of employment, including but
17 not limited to the following information:

18 a. The minimum number of hours the employee can
19 expect to work on a weekly basis.

20 b. The hourly wages of the position of employment
21 including the starting hourly wage.

22 c. A description of the responsibilities and tasks
23 of the position of employment.

24 d. The health risks, known to the employer, to the
25 employee involved in the position of employment.

26 2. If an employee who resigns from employment with
27 an employer within four weeks of the employee's
28 initial date of employment requests, within three
29 business days of termination, transportation to return
30 to the location from which the employee was recruited
31 and the location from which the employee was recruited
32 is five hundred or more miles from the place of
33 employment, the employer shall provide the employee
34 with transportation at no cost to the employee.

35 Sec. 5. NEW SECTION. 91E.4 PENALTIES FOR
36 VIOLATION OF RECRUITMENT PRACTICE REQUIREMENTS.

37 1. An employer who violates section 91E.3 is
38 subject to a civil penalty of up to one thousand
39 dollars.

40 2. A corporate officer of an employer who, through
41 repeated violation of section 91E.3, demonstrates a
42 pattern of abusive recruitment practices commits a
43 serious misdemeanor.

44 3. An employer who, through repeated violation of
45 section 91E.3, demonstrates a pattern of abusive
46 recruitment practices may be ordered to pay punitive
47 damages.

48 Sec. 6. NEW SECTION. 91E.5 DUTIES AND AUTHORITY
49 OF THE COMMISSIONER.

50 1. The commissioner shall adopt rules to implement

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Page 3

1 and enforce this chapter and shall provide further
 2 exemptions from the provisions of this chapter where
 3 reasonable.

4 2. In order to carry out the purposes of this
 5 chapter, the commissioner or the commissioner's
 6 representative, upon presenting appropriate
 7 credentials to the owner, operator, or agent in
 8 charge, may:

9 a. Inspect employment records relating to the
 10 total number of employees and non-English speaking
 11 employees, and the services provided to non-English
 12 speaking employees.

13 b. Interview an employer, owner, operator, agent,
 14 or employee, during working hours or at other
 15 reasonable times.

16 Sec. 7. NEW SECTION. 91E.6 COLLECTIVE BARGAINING
 17 AGREEMENTS.

18 Compliance with the minimum standards required in
 19 this chapter shall not be subject to or considered in
 20 collective bargaining."

By SHERZAN of Polk
 BISIGNANO of Polk
 WISE of Lee

PLASIER of Sioux
 TRENT of Muscatine

H-5690 FILED MARCH 14, 1990

Adopted as amended by 5695, 5700, 5704, 5707, 5751, 5753

SENATE FILE 2169

695

Amend amendment, H-5690, to Senate File 2169, as
 2 amended, passed, and reprinted by the Senate, as
 3 follows:

4 1. Page 1, line 25, by inserting after the word
 5 "employer." the following: "An employee does not
 6 include a person engaged in agriculture as defined in
 7 section 91A.2 or a person engaged in agriculture on a
 8 seasonal basis."

By MUHLBAUER of Crawford

H-5695 FILED MARCH 14, 1990

ADOPTED (3/14/90)

SENATE FILE 2169

H-5698

1 Amend amendment H-5690 to Senate File 2169, as
 2 amended, passed and reprinted by the Senate, as
 3 follows:

4 1. Page 1, by striking line 47 through page 2,
 5 line 2.

By BENNETT of Ida

H-5698 FILED MARCH 14, 1990

Adopted 3/14/90

SENATE FILE 2169

H-5704

1 Amend the amendment, H-5690, to Senate File 2169,
2 as amended, passed, and reprinted by the Senate, as
3 follows:
4 1. Page 1, line 37, by inserting after the word
5 "English" the following: "to the degree necessary for
6 comprehension of the terms, conditions, and daily
7 responsibilities of employment".

By OSTERBERG of Linn

H-5704 FILED MARCH 15, 1990

ADOPTED (p. 1109)

SENATE FILE 2169

H-5706

1 Amend the amendment, H-5690, to Senate File 2169,
2 as amended, passed, and reprinted by the Senate, as
3 follows:
4 1. Page 1, by striking lines 20 through 22, and
5 inserting the following:
6 "1. "Commissioner" means a member or agent of the
7 Iowa state civil rights commission."

By TYRRELL of Iowa

H-5706 FILED MARCH 15, 1990

LOST (p. 1112)

SENATE FILE 2169

H-5707

1 Amend the amendment, H-5690, to Senate File 2169,
2 as amended, passed, and reprinted by the Senate, as
3 follows:
4 1. Page 2, by striking lines 40 through 43.
5 2. Page 2, by striking lines 44 through 47.
6 3. By renumbering as necessary.

By TYRRELL of Iowa

H-5707 FILED MARCH 15, 1990

LOST (p. 1112)

SENATE AMENDMENT TO HOUSE AMENDMENT TO SENATE FILE 2169

H-5819

1 Amend the House amendment, S-5549, to Senate File
2 2169, as amended, passed, and reprinted by the Senate,
3 as follows:
4 1. Page 1, by inserting after line 44 the
5 following:
6 "5. "Farm owner" does not include a person who
7 uses cropland for research or experimental purposes,
8 testing, developing, or producing seeds or plants for
9 sale or resale."

RECEIVED FROM THE SENATE

H-5819 FILED MARCH 22, 1990

SENATE FILE 2169

H-5651

- 1 Amend Senate File 2169 as amended, passed, and
 2 reprinted by the Senate as follows:
 3 1. By striking page 2, line 10 through page 3,
 4 line 2.
 5 2. By renumbering as necessary.

By TYRRELL of Iowa

H-5651 FILED MARCH 13, 1990

Placed o/s (p. 1115)

SENATE FILE 2169

H-5652

- 1 Amend Senate File 2169 as amended, passed, and
 2 reprinted by the Senate as follows:
 3 1. Page 3, by striking lines 6 and 7 and
 4 inserting the following: "civil penalty of up to
 5 \$7,500."

By HALVORSON of Clayton

H-5652 FILED MARCH 13, 1990

Placed o/s (p. 1113)

SENATE FILE 2169

H-5658

- 1 Amend amendment, H-5573, to Senate File 2169, as
 2 amended, passed, and reprinted by the Senate, as
 3 follows:
 4 1. Page 1, by inserting before line 3, the
 5 following:
 6 "_____. Page 1, line 17, by inserting after the
 7 word "wages" the following: "in an amount equal to or
 8 less than the statewide average weekly wage as defined
 9 in section 96.19, subsection 42".
 10 2. Page 1, by inserting before line 3, the
 11 following:
 12 "_____. Page 1, lines 17 through 19, by striking
 13 the words "An employee does not include a person
 14 engaged in agriculture as defined in section 91A.2 or
 15 a person engaged in agriculture on a seasonal basis."
 16 3. Page 1, by inserting after line 4, the
 17 following:
 18 "_____. Page 1, line 25, by inserting after the
 19 word "contractor" the following: ", or to the state,
 20 or an agency or governmental subdivision of the
 21 state".
 22 4. Page 1, by inserting after line 15, the
 23 following:
 24 "_____. Page 2, line 26, by inserting after the
 25 word "risks" the following: ", known to the
 26 employer,."
 27 5. Page 1, by inserting after line 18, the
 28 following:
 29 "_____. Page 3, by striking lines 1 and 2, and
 30 inserting the following: "employee.""

By BISIGNANO of Polk

SHERZAN of Polk

WISE of Lee

DODERER of Johnson

H-5658 FILED MARCH 13, 1990

Placed o/s (p. 1113)

SENATE FILE 2169

H-5665

1 Amend Senate File 2169, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 1, by inserting after line 9 the
4 following:

5 "NEW PARAGRAPH. g. Costs of more than twenty
6 dollars for an employee's return to the place of
7 recruitment."

8 2. By relettering as necessary.

By TYRRELL of Iowa

H-5665 FILED MARCH 14, 1990

Placed o/c 3/15 (p. 115)

SENATE FILE 2169

H-5700

1 Amend the amendment H-5690, to Senate File 2169,
2 as amended, passed, and reprinted by the Senate, as
3 follows:

4 1. Page 1, line 25, by inserting after the word
5 "employer." the following: "However, this exemption
6 shall not apply to farm owners who hire workers
7 to work on cropland other than their own."

By DODERER of Johnson

OSTERBERG of Linn

NEUHAUSER of Johnson

H-5700 FILED MARCH 14, 1990

Adopted 3/15 (p. 109)

SENATE FILE 2169

H-5617

- 1 Amend Senate File 2169, as amended, passed, and
 2 reprinted by the Senate, as follows:
 3 1. Page 1, by inserting after line 29 the
 4 following:
 5 "Sec. ____ . NEW SECTION. 91E.1A APPLICABILITY.
 6 This chapter shall apply to hourly employees
 7 covered by the federal Fair Labor Standards Act, 29
 8 U.S.C. § 201 et seq., and shall not apply to salaried
 9 employees exempt from the federal Fair Labor Standards
 10 Act, 29 U.S.C. § 201 et seq., or to public employees.
 11 2. Page 3, by striking lines 1 and 2, and
 12 inserting the following: "employee."
 13 3. By renumbering as necessary.

By KREMER of Buchanan

H-5617 FILED MARCH 13, 1990

Blair o/c 3/15 (p 1113)

SENATE FILE 2169

H-5618

- 1 Amend Senate File 2169 as amended, passed, and
 2 reprinted by the Senate, as follows:
 3 1. Page 2, by striking lines 3 through 7.

By HANSON of Delaware

H-5618 FILED MARCH 13, 1990

Blair o/c 3/15 (p 1113)

SENATE FILE 2169

H-5619

- 1 Amend Senate File 2169 as amended, passed, and
 2 reprinted by the Senate, as follows:
 3 1. Page 3, by striking lines 8 through 11.
 4 2. By renumbering as necessary.

By KREMER of Buchanan

H-5619 FILED MARCH 13, 1990

Blair o/c 3/15 (p 1113)

SENATE FILE 2169

H-5620

- 1 Amend Senate File 2169, as amended, passed, and
 2 reprinted by the Senate, as follows:
 3 1. Page 1, line 7, by inserting after the word
 4 "agreement" the following: "or agreed to in writing
 5 by an employee".

By TYRRELL of Iowa

H-5620 FILED MARCH 13, 1990

Blair o/c 3/15 (p 1113)

SENATE FILE 2169

H-5621

- 1 Amend Senate File 2169, as amended, passed, and
- 2 reprinted by the Senate, as follows:
- 3 1. Page 1, line 5, by inserting after the word
- 4 "hours" the following: "or personal protective
- 5 equipment lost or damaged by the employee".

By TYRRELL of Iowa

H-5621 FILED MARCH 13, 1990

Placed in 315 (p 113)

SENATE FILE 2169

H-5622

- 1 Amend Senate File 2169, as amended, passed, and
- 2 reprinted by the Senate, as follows:
- 3 1. Page 1, line 32, by inserting after the word
- 4 "employees" the following: "at a work site".

By TYRRELL of Iowa

H-5622 FILED MARCH 13, 1990

Placed in 315 (p 113)

SENATE FILE 2169

H-5648

- 1 Amend Senate File 2169 as amended, passed, and
- 2 reprinted by the Senate as follows:
- 3 1. Page 2, line 20, by inserting after the word
- 4 "The" the following: "minimum".

By TYRRELL of Iowa

H-5648 FILED MARCH 13, 1990

Placed in 315 (p 113)

SENATE FILE 2169

H-5649

- 1 Amend Senate File 2169, as amended, passed, and re-
- 2 printed by the Senate, as follows:
- 3 1. Page 3, by striking lines 1 and 2 and
- 4 inserting the following: "employee. This subsection
- 5 applies only to public employees."

By HERMANN of Scott
TYRRELL of Iowa

H-5649 FILED MARCH 13, 1990

Placed in 315 (p 113)

SENATE FILE 2169

H-5650

- 1 Amend Senate File 2169 as amended, passed, and
- 2 reprinted by the Senate as follows:
- 3 1. Page 2, line 19, by striking the word
- 4 "designated" and inserting the following: "in
- 5 dismissed".

By HERMANN of Scott
TYRRELL of Iowa
KREMER of Buchanan
TYRRELL of Iowa

H-5650 FILED MARCH 13, 1990

Placed in 315 (p 113)

SENATE FILE 2169

H-5573

- 1 Amend Senate File 2169, as amended, passed, and re-
2 printed by the Senate, as follows:
3 1. Page 1, line 21, by striking the word "fifty"
4 and inserting the following: "one hundred".
5 2. Page 2, by striking lines 12 through 19 and
6 inserting the following:
7 "1. An employer or a representative of an employer
8 who actively recruits residents of other states more
9 than five hundred miles from the place of employment
10 for employment in this state must have on file, a copy
11 of which must be provided to the employee, a written
12 statement signed by the employer and the employee
13 which provides relevant information regarding the
14 position of employment, including but not limited to
15 the following:"
16 3. Page 2, by striking line 28.
17 4. Page 2, line 30, by striking the word "six"
18 and inserting the following: "four".
19 5. Page 3, line 35, by striking the words
20 "CONFLICTS WITH".
21 6. Page 4, by striking lines 2 through 5 and
22 inserting the following:
23 "Compliance with the minimum standards required in
24 this chapter shall not be subject to or considered in
25 collective bargaining."
26 7. By renumbering as necessary.

By COMMITTEE ON LABOR
AND INDUSTRIAL RELATIONS
SHERZAN of Polk

H-5573 FILED MARCH 8, 1990

Placed o/a 3/15 (p 1113)

SENATE FILE 2169

H-5584

- 1 Amend Senate File 2169, as amended, passed, and
2 reprinted by the Senate, as follows:
3 1. Page 2, line 1, by inserting after the word
4 "which" the following: "more than twenty-five".
By HERMANN of Scott

H-5584 FILED MARCH 8, 1990

Placed o/a (p 1113)

SENATE FILE 2169

H-5607

- 1 Amend Senate File 2169, as amended, passed, and
2 reprinted by the Senate, as follows:
3 1. Page 2, by striking lines 12 through 14 and
4 inserting the following:
5 "1. An employer who actively recruits outside of
6 the United States for employment in this state must
7 have on file in".
8 2. Page 2, by striking lines 33 and 34 and
9 inserting the following: "and the location from which
10 the employee was recruited is outside the United
11 States, the".

By TYRRELL of Iowa
HERMANN of Scott

H-5607 FILED MARCH 12, 1990

Placed o/a 3/15 (p 1113)

SENATE FILE 2169

H-5610

- 1 Amend Senate File 2169, as amended, passed, and
- 2 reprinted by the Senate, as follows:
- 3 1. Page 1, by striking lines 10 and 11.
By DIEMER of Black Hawk

H-5610 FILED MARCH 12, 1990

Place 2 of 3/15 (p. 1118)

SENATE FILE 2169

H-5611

- 1 Amend Senate File 2169, as amended, passed, and
- 2 reprinted by the Senate, as follows:
- 3 1. Page 1, line 8, by striking the word "twenty"
- 4 and inserting the following: "two hundred fifty".
By RENKEN of Grundy

H-5611 FILED MARCH 12, 1990

Place 4 of 3/15 (p. 1118)

HOUSE AMENDMENT TO
SENATE FILE 2169

S-5549

1 Amend Senate File 2169, as amended, passed, and
2 reprinted by the Senate, as follows:

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

5 "Section 1. Section 91A.5, subsection 2, Code
6 1989, is amended by adding the following new
7 paragraphs:

8 NEW PARAGRAPH. e. Costs of personal protective
9 equipment, other than items of clothing or footwear
10 which may be used by an employee during nonworking
11 hours, needed to protect an employee from employment-
12 related hazards, unless provided otherwise in a
13 collective bargaining agreement.

14 NEW PARAGRAPH. f. Costs of more than twenty
15 dollars for an employee's relocation to the place of
16 employment. This paragraph shall apply only to an
17 employer as defined in section 91E.1.

18 Sec. 2. NEW SECTION. 91E.1 DEFINITIONS.

19 As used in this chapter:

20 1. "Commissioner" means the commissioner of the
21 division of labor services of the department of
22 employment services.

23 2. "Employee" means a natural person who is
24 employed in this state for wages paid on an hourly
25 basis by an employer. An employee does not include a
26 person engaged in agriculture as defined in section
27 91A.2 or a person engaged in agriculture on a seasonal
28 basis. However, this exemption shall not apply to
29 farm owners who hire workers to work on cropland other
30 than their own.

31 3. "Employer" means a person, as defined in
32 chapter 4, who in this state employs for wages, paid
33 on an hourly basis, one hundred or more natural
34 persons. An employer does not include a client,
35 patient, customer, or other person who obtains
36 professional services from a licensed person who
37 provides the services on a fee service basis or as an
38 independent contractor, or the state, or an agency
39 or governmental subdivision of the state.

40 4. "Non-English speaking employee" means an
41 employee who does not speak, read, write, or
42 understand English to the degree necessary for
43 comprehension of the terms, conditions, and daily
44 responsibilities of employment.

45 Sec. 3. NEW SECTION. 91E.2 NON-ENGLISH SPEAKING
46 EMPLOYEES -- EMPLOYER OBLIGATIONS.

47 If more than ten percent of an employer's employees
48 are non-English speaking and speak the same non-
49 English language, the employer shall provide all of
50 the following:

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Page 2

1 1. An interpreter available at the work site for
2 each shift during which non-English speaking employees
3 are employed.

4 If a Spanish-speaking interpreter is needed, the
5 employer shall select an interpreter from a list of
6 interpreters developed by the department of employment
7 services, drawn from the Spanish-speaking peoples
8 commission's statewide list of interpreters qualified
9 to serve Iowa courts and administrative agencies.

10 2. A person employed by the employer whose primary
11 responsibility is to serve as a referral agent to
12 community services.

13 Sec. 4. NEW SECTION. 91E.3 EMPLOYER RECRUITING
14 PRACTICES.

15 1. An employer or a representative of an employer
16 who actively recruits non-English speaking residents
17 of other states more than five hundred miles from the
18 place of employment, for employment as employees for
19 wages paid on an hourly basis in this state, must have
20 on file, a copy of which must be provided to the
21 employee, a written statement signed by the employer
22 and the employee which provides relevant information
23 regarding the position of employment, including but
24 not limited to the following information:

25 a. The minimum number of hours the employee can
26 expect to work on a weekly basis.

27 b. The hourly wages of the position of employment
28 including the starting hourly wage.

29 c. A description of the responsibilities and tasks
30 of the position of employment.

31 d. The health risks, known to the employer, to the
32 employee involved in the position of employment.

33 2. If an employee who resigns from employment with
34 an employer within four weeks of the employee's
35 initial date of employment requests, within three
36 business days of termination, transportation to return
37 to the location from which the employee was recruited
38 and the location from which the employee was recruited
39 is five hundred or more miles from the place of
40 employment, the employer shall provide the employee
41 with transportation at no cost to the employee.

42 Sec. 5. NEW SECTION. 91E.4 PENALTIES FOR
43 VIOLATION OF RECRUITMENT PRACTICE REQUIREMENTS.

44 1. An employer who violates section 91E.3 is
45 subject to a civil penalty of up to one thousand
46 dollars.

47 2. A corporate officer of an employer who, through
48 repeated violation of section 91E.3, demonstrates a
49 pattern of abusive recruitment practices commits a
50 serious misdemeanor.

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Page.. 3

1 3. An employer who, through repeated violation of
2 section 91E.3, demonstrates a pattern of abusive
3 recruitment practices may be ordered to pay punitive
4 damages.

5 Sec. 6. NEW SECTION. 91E.5 DUTIES AND AUTHORITY
6 OF THE COMMISSIONER.

7 1. The commissioner shall adopt rules to implement
8 and enforce this chapter and shall provide further
9 exemptions from the provisions of this chapter where
10 reasonable.

11 2. In order to carry out the purposes of this
12 chapter, the commissioner or the commissioner's
13 representative, upon presenting appropriate
14 credentials to the owner, operator, or agent in
15 charge, may:

16 a. Inspect employment records relating to the
17 total number of employees and non-English speaking
18 employees, and the services provided to non-English
19 speaking employees.

20 b. Interview an employer, owner, operator, agent,
21 or employee, during working hours or at other
22 reasonable times.

23 Sec. 7. NEW SECTION. 91E.6 COLLECTIVE BARGAINING
24 AGREEMENTS.

25 Compliance with the minimum standards required in
26 this chapter shall not be subject to or considered in
27 collective bargaining."

RECEIVED FROM THE HOUSE

S-5549 FILED MARCH 19, 1990

Senate amended (S-5562), Concurred 2/21 (p. 1216)

SENATE FILE 2169

S-5562

1 Amend the House amendment, S-5549, to Senate File
2 2169, as amended, passed, and reprinted by the Senate,
3 as follows:

4 1. Page 1, by inserting after line 44 the
5 following:

6 "5. "Farm owner" does not include a person who
7 uses cropland for research or experimental purposes,
8 testing, developing, or producing seeds or plants for
9 sale or resale."

By BERL E. FRIEBE
EMIL J. HUSAK

DONALD V. DOYLE
KENNETH D. SCOTT

S-5562 FILED MARCH 19, 1990

Adopted 3/21 (p. 1216)

SENATE AMENDMENT TO HOUSE AMENDMENT TO SENATE FILE 2169
H-5819

1 Amend the House amendment, S-5549, to Senate File
2 2169, as amended, passed, and reprinted by the Senate,
3 as follows:

4 1. Page 1, by inserting after line 44 the
5 following:

6 "5. "Farm owner" does not include a person who
7 uses cropland for research or experimental purposes,
8 testing, developing, or producing seeds or plants for
9 sale or resale."

RECEIVED FROM THE SENATE

H-5819 FILED MARCH 22, 1990

House concurred 5/26 (p. 1424)