



[HF 2641](#) – Department of Revenue, Omnibus Bill (LSB5409HV)
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Fiscal Note Version – New

Description

[House File 2641](#) contains 18 divisions. Please note that for this **Fiscal Note**, the term “Department” refers to the Department of Revenue and the term “sales tax” also refers to the use tax when applicable.

- **Division I** relates to Iowa tax administration and tax penalties. The Division:
 - Allows the Department, through agreements, to collect taxes and fees from sellers making sales at the State fair and at county fairs.
 - Creates monetary penalties for persons who fail to file certain income tax forms.
 - Expands and creates criminal penalties for situations where a person willfully makes false or frivolous applications for tax refunds, rebates, credits, or other tax benefits (perjury).
 - Expands the availability of power of attorney or other authority procedures that will allow others to act and receive information on behalf of a taxpayer.
 - Allows the Department to distribute a website reference (instead of a physical document) specifying the rights of the taxpayer and obligations of the Department during an audit, taxpayer appeal procedures, and the procedures the Department may use in enforcing the tax laws, including notices of assessment and jeopardy assessment and the filing and enforcement of liens (Taxpayer Bill of Rights).
 - Allows a taxpayer to elect to receive correspondence from the Department electronically.
 - Allows the Department to redact information prior to disclosure of a record in a court or contested case.
 - Provides that the period of examination is unlimited in any action by the Department to recover or rescind a tax expenditure.
 - Removes the role of the Department in the application for reinstatement for various forms of corporations.
 - Establishes a due date that is the last day of the fourth month following the end of the taxpayer’s tax year (April 30 for calendar year filers) for the moneys and credits tax (credit unions) and requires that the tax return be on a form prepared by the Department.
- **Division II** relates to sales and use tax. The Division:
 - Requires that, at the time of registration of a snowmobile or all-terrain vehicle, and in situations where there is not satisfactory evidence that the sales tax has already been paid, the county recorder shall collect sales tax. The tax shall be remitted to the Department on a monthly basis.
 - Adds services arising from software sold as tangible personal property to the description of services subject to the State sales tax.
 - Adds the term “specified digital product” to the description of components of a transaction that make that transaction not a bundled transaction.
 - Expands the existing sales tax exemption for preserve whitetail deer to apply the exemption to the commercial service of whitetail deer hunting. Based on existing language, the exemption applies to sales that occurred between July 1, 2005, and December 31, 2015. Specifies that refunds of taxes already paid on these transactions

are not allowed. The tax exemption will only apply to taxpayers who have yet to pay the tax on the exempted service.

- Exempts the purchase of diapers from the sales tax if the purchase is eligible under medical assistance as defined in Iowa Code section [249A.2](#).
- Clarifies existing sales tax exemptions available for tribal governments, designated exempt entities, and governmental entity construction contracts.
- Removes language that applies the use tax at a rate of 6.0% to the purchase or installed price of manufactured housing. A reference applying the use tax at a rate of 5.0% remains.
- Clarifies the duty to collect and remit sales and use taxes and also clarifies the joint liability of the purchaser and retailer for the payment of the tax until the tax is paid.
- **Division III** modifies required loss carryback provisions for taxpayers who report a net operating loss. Specifies that a taxpayer may elect to waive a carryback period in favor of a loss carryforward period of up to 20 years. The change applies to tax year 2020 and after.
- **Division IV** allows for an increase in the total annual maximum dollar amount of School Tuition Organization Tax Credits that may be issued in a calendar year, beginning after January 1, 2022. Under current law, the annual maximum is \$15.0 million. Under the Bill, the annual amount could reach a maximum of \$20.0 million.
- **Division V** updates federal Internal Revenue Code references related to the Research Activities Tax Credit. The changes are effective upon enactment and apply to tax year 2019 and after.
- **Division VI** relates to partnership and other pass-through entity tax returns and audits.
- **Division VII** amends 2020 Iowa Acts, [SF 2328](#) or [HF 2565](#) (Public Agency Payment Setoff Bill), if either is enacted by making changes to effective dates and requiring the adoption of administrative rules. The changes are effective upon enactment and apply beginning with the enactment date of either SF 2328 or HF 2565.
- **Division VIII** relates to business taxation, the business interest expense deduction, and Global Intangible Low-Taxed Income (GILTI). The Division:
 - Decouples Iowa tax law from recent federal Internal Revenue Code changes that limit the deduction of business interest expenses for income tax purposes, beginning tax year 2020. The change will reduce business taxable income.
 - Allows business taxpayers to deduct GILTI from Iowa business taxable income. The change will reduce business taxable income.
 - Rescinds recent Department rules related to the GILTI deduction.
- **Division IX** expands the existing State sales tax and State hotel and motel tax diversion for the support of reinvestment districts. The Division:
 - Expands the definition of “municipality” to include a joint board or other legal entity established between two or more contiguous municipalities. Under current law, the term only refers to a county or a city.
 - Allows the Economic Development Authority Board to approve additional reinvestment districts for a time period beginning July 1, 2020, through June 30, 2025. The aggregate amount of State sales tax and State hotel and motel tax diversions allowed for all districts approved during the new timeframe may total up to \$100.0 million. The maximum size allowed for a single new district is 75 acres.
 - Allows the Economic Development Authority Board to extend the 20-year maximum number of years a reinvestment district may receive State sales tax and State hotel and motel tax diversions for up to an additional 5 years under specified circumstances.
- **Division X** exempts certain sales of computer peripherals from the sales tax. The new exemption applies to the sale of computer peripherals in the same manner as a similar exemption applies to the sale of computers. The term “computer peripheral” is defined as an ancillary device connected to the computer digitally, by cable, or by other medium, used to put information into or get information out of a computer.

- **Division XI** increases the current restriction limiting corporate taxpayers to no more than 25.0% of the annual maximum amount of School Tuition Organization Tax Credits allowed for a calendar year. The current restriction is 10.0%.
- **Division XII** excludes from Iowa income taxation the amount of any federal, State, or local grant provided to a communications service provider where the proceeds of the grant were used to install broadband infrastructure in targeted service areas. The change takes effect upon enactment and applies to tax year 2019 and after.
- **Division XIII** relates to local assessors. The Division:
 - Requires local assessor appointments to be confirmed by the Department before the appointment is effective.
 - Prohibits a local assessor from personally assessing property the assessor or a member of the assessor's immediate family owns.
 - Requires approval of the relevant city attorney or county attorney when a [Conference Board](#) employs special counsel to assist with litigation involving assessments.
- **Division XIV** excludes the forgiven loan proceeds a business receives through the federal Paycheck Protection Program (PPP) from taxable income for Iowa income tax purposes.
- **Division XV** exempts purchases made by a nonprofit food bank from the sales and use tax.
- **Division XVI** specifies how an Iowa resident's share of a business entity's entity-level tax payments to another state or foreign country on income that is also subject to Iowa income tax is to be determined for Iowa income tax purposes. This change will reduce Iowa taxable income.
- **Division XVII** allows the Racing and Gaming Commission to alter requirements related to the duration of horse racing seasons and purse moneys in the event of the issuance of a proclamation of disaster emergency by the Governor that results in the closure of licensed racetrack facilities in Iowa.
- **Division XVIII** relates to port authorities. Iowa currently has one port authority ([SIREPA — Southeast Iowa Regional Economic & Port Authority](#)). The Division makes the following changes to Iowa Code chapter [28J](#):
 - Expands the definition of "political subdivision" to include all levels of municipalities as defined in Iowa Code section [16.151](#). That section defines "municipality" to include all governmental bodies, including a State agency or a political subdivision of the State, and all combinations of two or more governmental bodies acting jointly.
 - Reduces the number of political subdivisions that are required to create a port authority from two or more to one or more. Specifies that the creation of a port authority must be done by resolution of the political subdivision(s). Specifies that a port authority may be located anywhere in Iowa and is not required to be near a body of water.
 - Authorizes port authorities to enter into lease contracts and loan agreements. Allows a port authority to enter into trust agreements with a trust company or bank for the purpose of securitization of lease contracts and loan agreements.
 - Allows a governmental agency to cooperate in the operation of a port authority. Current law limits the cooperation to acquisition and construction of port authority facilities.
 - Expands the definition of "government agency" to include any city utility, any political subdivision, and special purpose districts and authorities.
 - Adds infrastructure, utility service, and flood control to the authorized purposes of a port authority.
 - Expands the definition of "city" to include a city enterprise as defined in Iowa Code section [384.24](#).
 - Adds architectural services, technical services, preliminary reports, property valuations, consequential damages or costs, provisions for contingencies, supervision, inspection, and testing to the definition of "cost" as that term relates to port authorities. Among the provisions of Iowa Code chapter 28J, the term "cost" applies to the issuance of revenue bonds and other indebtedness, the issuance of pledge orders to contractors, the ability

of a port authority to enter into contracts, and the contents of an annual report that must be submitted to the Iowa Economic Development Authority.

- Adds interest and costs of issuance on loan agreements, lease contracts, certificates of participation, and other participatory interests to the definition of “cost” as that term applies to port authorities.
- Expands the definitions of “facility” and “port authority facility” to include any project for which tax-exempt financing is authorized by the federal Internal Revenue Code and to include all real and personal property constructed by or for a port authority.

Provisions with No Fiscal Impact

The Department has determined that the following provisions have no fiscal impact on tax revenue:

- Department Administrative Changes (Division I)
- Research Activities Tax Credit Update (Division V)
- Partnership and Pass-Through Entity Audits (Division VI)
- Setoff Procedures Effective Date (Division VII)
- Local Assessor Changes (Division XIII)
- Horse Racing Disaster Emergency Proclamation (Division XVII)
- Port Authority Expansion (Division XVIII)

Fiscal Impact Assumptions

Diapers Purchased Through Medical Assistance (Medicaid). Based on Department estimates, diapers were purchased through Medicaid for the use of 16,120 persons in FY 2018, and the average cost per person was \$960 for the year. This equates to \$15.5 million in purchases during FY 2018. The Legislative Services Agency (LSA) estimates that increases in price and Medicaid eligibility will increase the total dollar amount purchased by 2.9% per year. The State sales tax rate is 5.0%, the school infrastructure sales tax rate is 1.0%, and the local option sales tax (LOST) rate averages 0.8%.

Preserve Whitetail Deer Hunting. The estimated amount of sales tax owed by taxpayers for preserve whitetail deer hunting over the applicable timeframe is estimated from Department records to be \$0.2 million.

Net Operating Loss Carryforward. The estimate for this change was provided by the Department.

School Tuition Organization Tax Credit Increase. The estimate for this change was provided by the Department based on the previous patterns of tax credit award and redemption for this tax credit and further assuming that the tax credit limit will reach the maximum \$20.0 million in annual credits in the shortest timeframe allowed under the change (calendar year 2025). The Department also assumes that the change is first applicable to calendar year 2022.

Business Interest Expense Deduction. The estimate for this change was developed by the Department based on the business interest expense deduction from tax year 2018 corporate income tax filings, projected interest rates provided by Moody’s Analytics, and a projected 25.0%/75.0% spread of the impact between the current fiscal year the succeeding fiscal year.

Global Intangible Low-Taxed Income Exemption. The Department bases the fiscal impact estimate for this provision on the [Joint Committee on Taxation](#) estimated national impact of the provision when the provision was adopted by Congress. The Department warns that the actual impact of the Iowa exemption could differ significantly from this estimate.

Reinvestment District Sales Tax. The Department assumes that the maximum \$100.0 million State sales and State hotel and motel sales tax diversion will occur in 20 equal installments (\$5.0 million per year).

Computer Peripherals Sales Tax Exemption. The Department concludes that the addition of items attached to a computer, physically or digitally, will not increase the value of the sales tax exemption to qualified purchasers of the peripherals (no fiscal impact). This would be true if the change simply codifies current practice. The Department response does not provide a reason as to why this change has no fiscal impact.

Corporate School Tuition Tax Credit. The Department reports that corporate donations account for less than the current 10.0% maximum of total credits allocated under current law and therefore the increase to 25.0% will have no fiscal impact. The LSA agrees that under the current maximum School Tuition Tax Credit limit of \$15.0 million per year, this change will have no fiscal impact. However, combined with the annual limit increase provided in Division IV, the corporate income tax percentage increase to 25.0% could result in a fiscal impact until if and when the tax credit cap reaches \$20.0 million. Any additional fiscal impact from the combination of divisions IV and XI will not occur until at least FY 2023 and is not included in the fiscal impact calculation for this Bill.

Broadband Infrastructure Grant Tax Exemption. There is no information available within Iowa income tax records concerning the amount of income individuals or for-profit entities receive through State, federal, and local broadband infrastructure grants. The fiscal impact estimate was developed using award amounts available from published sources. Since the exemption applies beginning tax year 2019, and since taxpayers have until July 31, 2020, to file tax year 2019 returns, the change has a projected impact for FY 2020.

Federal Paycheck Protection Program (PPP). The exemption for business income generated through forgiven PPP loans applies to a subset of Iowa business entities whose forgiven PPP loans are not already tax-exempt under current law. The Department estimates that the total amount of PPP loans forgiven in Iowa will be \$4,959.1 million and that the new exemption will impact \$1,105.0 million of that amount. The Department assumes that the associated exclusion of business expenses paid for with forgiven PPP loans will equal 90.0% of the \$1,105.0 million and this will result in a net statewide decrease in taxable business income of \$110.5 million. The Department estimates that across all types of businesses with projected PPP loans forgiven, the average tax rate will equal 5.2%. The combination of assumptions results in a tax decrease of \$5.8 million as a result of this provision.

Food Bank Sales Tax Exemption. The Department reports that there are six large food bank organizations operating in Iowa and approximately 60 smaller food banks. The [Fiscal Note](#) estimate for [HF 2103](#) (Food Bank Sales Tax Exemption Bill) was used to establish the fiscal estimate for this exemption. The State sales tax rate is 5.0%, the school infrastructure sales tax rate is 1.0%, and the local option sales tax (LOST) rate averages 0.8%.

Entity-Level Exemption for Income Tax Paid to Others. In tax year 2017, Iowa Out-of-State Tax Credit claims totaled \$102.8 million. Of this amount, \$12.6 million was claimed for income earned in 11 states that impose income tax at the entity level for pass-through entities. Of the taxpayers who claimed the Iowa credit who also identified states that taxed pass-through entities at the entity level, approximately 33.3% of claim amounts were identified by taxpayers who reported pass-through income on their Iowa Schedule E tax form. It is therefore assumed that claims for the Out-of-State Tax Credit will increase by 33.3% of \$12.6 million under the proposal (\$4.2 million annually).

Fiscal Impact

Table 1 provides the projected net State General Fund fiscal impact of the various provisions of the Bill.

Table 1

General Fund Estimated Fiscal Impact by Provision							
In Millions							
<u>Division</u>	<u>Provision</u>	<u>FY 2020</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>	<u>FY 2025</u>
II	Diapers Through Medicaid Sales Tax	\$ 0.0	\$ -0.8	\$ -0.8	\$ -0.8	\$ -0.9	\$ -0.9
II	Preserve Whitetail Deer Sales Tax	0.0	-0.2	0.0	0.0	0.0	0.0
III	Net Operating Loss	0.0	-1.0	-1.0	-1.1	-1.1	-1.1
IV	School Tuition Tax Credit	0.0	0.0	0.0	-1.0	-2.5	-4.1
VIII	Business Interest Expense	0.0	-6.0	-4.1	-8.8	-14.4	-16.7
VIII	Global Intangible Low-Taxed Income	0.0	-13.8	-5.1	-5.1	-5.2	-5.3
IX	Reinvestment Districts Sales Tax Diversion	0.0	-5.0	-5.0	-5.0	-5.0	-5.0
X	Computer Peripherals Sales Tax Exemption	0.0	0.0	0.0	0.0	0.0	0.0
XI	Corporate School Tuition Tax Credit	0.0	0.0	0.0	0.0	0.0	0.0
XII	Broadband Infrastructure Grants Exemption	-0.9	-2.3	-1.5	-1.5	-1.6	-1.6
XIV	Paycheck Protection Program Loans	0.0	-5.8	0.0	0.0	0.0	0.0
XV	Food Banks Sales Tax Exemption	0.0	-0.1	-0.1	-0.1	-0.2	-0.2
XVI	Entity-Level Income Tax Paid	0.0	-4.2	-4.2	-4.3	-4.3	-4.4
	Total	\$ -0.9	\$ -39.2	\$ -21.8	\$ -27.7	\$ -35.2	\$ -39.3

In addition to the reductions in State General Fund revenue, the sales tax exemptions are projected to reduce school infrastructure tax collections by \$0.2 million per year and local option sales tax collections by \$0.2 million per year, with both impacts beginning FY 2021. A minor reduction in the yield from the income tax surtax for schools is also projected.

Correctional Impact

Assumptions

- The following will not change over the projection period: charge, conviction, and sentencing patterns and trends; prisoner length of stay; revocation rates; plea bargaining; and other criminal justice system policies and practices.
- A lag effect of six months is assumed from the effective date of this Bill to the date of first entry of affected offenders into the correctional system.
- Marginal costs for county jails cannot be estimated due to a lack of data. For purposes of this analysis, the marginal cost for county jails is assumed to be \$50 per day.

Fraudulent Practice

The amendment to Iowa Code section [421.27\(6\)](#) makes numerous changes to and expands the criminal offense of fraudulent practice. The penalty for fraudulent practice is defined in Iowa Code sections [714.9](#) through [714.13](#). The penalty for fraudulent practice ranges from a simple misdemeanor to a Class C felony depending on the amount of money or value of property involved. In addition to the criminal penalties, a person who commits a fraudulent practice is liable for a penalty of \$1,500 or an amount equal to 75.0% of the tax benefit fraudulently claimed.

Correctional Impact

The Bill expands the current offense of fraudulent practice, and the correctional impact cannot be determined due to a lack of data. Refer to the Legislative Services Agency (LSA) memo addressed to the General Assembly, [Cost Estimates Used for Correctional Impact Statements](#), dated January 16, 2020, for information related to the correctional system.

Minority Impact

The Bill expands the definition of an existing offense, and the minority impact cannot be determined due to a lack of data. Refer to the LSA memo addressed to the General Assembly, [Minority Impact Statement](#), dated January 15, 2020, for information related to minorities in the criminal justice system.

Fiscal Impact

The fiscal impact of this section cannot be estimated due to the unknown correctional impact. The State cost for a fraudulent practice conviction ranges from \$40 to \$350 for a simple misdemeanor and \$11,600 to \$19,400 for a Class C felony. The estimates include operating costs incurred by the Judicial Branch, the State Public Defender, and the Department of Corrections (DOC). The cost would be incurred across multiple fiscal years for prison and parole supervision.

Perjury

The Bill enacts new Iowa Code section 421.27A by creating a criminal offense for perjury and defines the circumstances in which a person commits perjury. A person who commits the criminal offense of perjury under this new language commits a Class D felony. A Class D felony is punishable by confinement for no more than five years and fine of at least \$750 but not more than \$7,500.

Correctional Impact

The Bill creates a new offense, and the correctional impact cannot be estimated. **Table 2** provides estimates for sentencing to State prison, parole, probation, or community-based corrections (CBC) residential facilities; length of stay (LOS) under those supervisions; and supervision marginal costs per day for all convictions of aggravated misdemeanors and Class D felonies.

Table 2 — Sentencing Estimates and LOS

Conviction Offense Class	Percent to Prison	FY 19 Avg Length of Stay Prison (months)	FY 19 Marginal Cost/Day Prison	FY 19 Avg Length of Stay Parole (months)	FY 19 Marginal Cost/Day Parole	Percent to Probation	FY 19 Avg Length of Stay Probation (months)	FY 19 Avg Cost/Day Probation	Percent to CBC Residential Facility	FY 19 CBC Marginal Cost/Day	Percent to County Jail	Avg Length of Stay in County Jail	Marginal Cost/Day
Class D Felony Non-Persons	76.0%	12.2	\$20.38	13.0	\$6.12	64.0%	31.8	\$6.12	12.0%	\$12.58	29.0%	N/A	\$50.00

Please refer to the LSA memo addressed to the General Assembly, [Cost Estimates Used for Correctional Impact Statements](#), dated January 16, 2020, for information related to the correctional system.

Minority Impact

The Bill creates a new offense, and the minority impact cannot be determined. Refer to the LSA memo addressed to the General Assembly, [Minority Impact Statement](#), dated January 15, 2020, for information related to minorities in the criminal justice system.

Fiscal Impact

The fiscal impact of this new offense cannot be estimated due to the unknown correctional impact. The State cost for one Class D felony conviction ranges from \$10,000 to \$14,700. The estimates include operating costs incurred by the Judicial Branch, the State Public Defender, and the DOC. The cost would be incurred across multiple fiscal years for prison and parole supervision.

Unlawful Disclosure of Tax Return Information and Tax Investigation Information

The amendment to Iowa Code section [422.20](#)(1) adds an intent element, “willfully or recklessly,” to the criminal offense related to the unlawful disclosure of tax return information by State personnel or former State personnel. A person who commits a violation under Iowa Code section 422.20(1) commits a serious misdemeanor.

The amendment to Iowa Code section [422.72](#)(1)(a) adds the intent element of “willfully or recklessly” to the criminal offense related to the unlawful disclosure by State personnel or former State personnel of the business affairs, operations, or information obtained through a tax-related investigation. A person who unlawfully discloses such information commits a serious misdemeanor under Iowa Code section 422.72(4).

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

Correctional Impact

The Bill adds an intent element to the current offenses under Iowa Code sections 422.20(1) and 422.72(1)(a), and the correctional impact cannot be determined due to a lack of data. Refer to the LSA memo addressed to the General Assembly, [Cost Estimates Used for Correctional Impact Statements](#), dated January 16, 2020, for information related to the correctional system.

Minority Impact

The Bill modifies the definition of existing offenses, and the minority impact cannot be determined due to a lack of data. Refer to the LSA memo addressed to the General Assembly, [Minority Impact Statement](#), dated January 15, 2020, for information related to minorities in the criminal justice system.

Fiscal Impact

The fiscal impact of the modified offenses cannot be estimated due to the unknown correctional impact. The State cost for one serious misdemeanor conviction ranges from \$410 to \$4,900. The estimates include operating costs incurred by the Judicial Branch, the State Public Defender, and the DOC. The cost would be incurred across multiple fiscal years for prison and parole supervision.

Sources

Iowa Department of Revenue

Moody's Analytics

[House File 2103 Fiscal Note](#)

[Cost Estimates Used for Correctional Impact Statements](#)

[Minority Impact Statement](#)

Legislative Services Agency calculations

/s/ Holly M. Lyons

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The fiscal note for this Bill was prepared pursuant to [Joint Rule 17](#) and the Iowa Code. Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.

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