

PROOF

STATE OF IOWA

House Journal

WEDNESDAY, MARCH 10, 2004

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JOURNAL OF THE HOUSE

Fifty-ninth Calendar Day - Fortieth Session Day

Hall of the House of Representatives
Des Moines, Iowa, Wednesday, March 10, 2004

The House met pursuant to adjournment at 8:45 a.m., Speaker Rants in the chair.

Prayer was offered by Reverend Amy Miracle, senior pastor of the Westminster Presbyterian Church, Des Moines. She was the guest of Representative Jo Oldson from Polk County.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Speaker Rants.

The Journal of Tuesday, March 9, 2004 was approved.

PETITION FILED

The following petition was received and placed on file:

By Thomas of Clayton, from ninety-nine County Auditors favoring legislation that fully meets the necessary requirements for compliance with the Help America Vote Act (HAVA) separate from any other legislation.

INTRODUCTION OF BILLS

[House File 2530](#), by committee on judiciary, a bill for an act relating to the assessment of surcharges in criminal proceedings.

Read first time and placed on the **calendar**.

[House File 2531](#), by committee on agriculture, a bill for an act relating to setback distance requirements that apply to residences which are constructed in proximity to animal feeding operation structures and making penalties applicable.

Read first time and placed on the **calendar**.

[House File 2532](#), by committee on state government, a bill for an act relating to the Iowa public employees' retirement system and the judicial retirement system, and providing an effective date.

Read first time and placed on the **calendar**.

[House File 2533](#), by committee on judiciary, a bill for an act relating to protective orders and court-approved consent agreements under the domestic abuse Act.

Read first time and placed on the **calendar**.

[House File 2534](#), by committee on judiciary, a bill for an act relating to consumer fraud violations, including the creation of a private remedy for consumer fraud violations.

Read first time and placed on the **calendar**.

[House File 2535](#), by committee on human resources, a bill for an act relating to public assistance benefits received by persons who were not entitled or eligible to receive the benefits, providing criminal and civil penalties, and appropriating certain penalties received.

Read first time and referred to committee on **appropriations**.

[House File 2536](#), by committee on commerce, regulation and labor, a bill for an act providing for the sale of Iowa communications network assets, providing for related technical and substantive changes, and providing an effective date.

Read first time and placed on the **calendar**.

[House File 2537](#), by committee on human resources, a bill for an act addressing redesign of the system for services and other support provided for persons with mental illness, mental retardation or other developmental disabilities, or brain injury.

Read first time and placed on the **calendar**.

SENATE MESSAGES CONSIDERED

[Senate File 2167](#), by committee on judiciary, a bill for an act relating to the Iowa probate code, including provisions relating to

estate recovery of medical assistance benefits, the power to disclaim property interests, and trusts.

Read first time and **passed on file**.

[Senate File 2174](#), by committee on education, a bill for an act relating to the appointment of the ninth member of the state board of regents.

Read first time and referred to committee on **education**.

[Senate File 2177](#), by committee on education, a bill for an act relating to the possession and self-administration of asthma or other airway constricting disease medication by public and accredited nonpublic school students.

Read first time and referred to committee on **education**.

[Senate File 2190](#), by committee on human resources, a bill for an act relating to the development of the long-term care system in Iowa.

Read first time and referred to committee on **human resources**.

[Senate File 2193](#), by committee on judiciary, a bill for an act relating to the civil commitment of sexually violent predators.

Read first time and referred to committee on **judiciary**.

[Senate File 2199](#), by committee on judiciary, a bill for an act relating to residential landlord-tenant law, by making certain changes concerning family violence and domestic abuse.

Read first time and **passed on file**.

[Senate File 2217](#), by committee on ways and means, a bill for an act relating to assessments imposed on cattle for purposes of promotion, education, and research, and providing an effective date.

Read first time and referred to committee on **ways and means**.

[Senate File 2239](#), by committee on state government, a bill for an act relating to certain protections for members and families of

members of the Iowa national guard or United States reserve forces during military service.

Read first time and referred to committee on **state government**.

Senate File 2240, by committee on commerce, a bill for an act relating to temporary rate authority and rules of the Iowa utilities board regarding rate regulation proceedings.

Read first time and **passed on file**.

ADOPTION OF [HOUSE RESOLUTION 123](#)

Wilderdyke of Harrison called up for consideration **House Resolution 123**, a resolution to recognize and honor Gary Guge and his work in the Iowa State University Extension Service, and moved its adoption.

The motion prevailed and the resolution was adopted.

ADOPTION OF [HOUSE RESOLUTION 109](#)

Foegen of Linn and Jacoby of Johnson called up for consideration **House Resolution 109**, a resolution honoring Dr. Norm Nielsen, President of Kirkwood Community College, and moved its adoption.

The motion prevailed and the resolution was adopted.

SPECIAL PRESENTATION

Jacoby of Johnson introduced to the House, Dr. Norm Nielsen, whom addressed the House briefly thanking the body for the support of Kirkwood College.

The House rose and expressed its welcome.

The House stood at ease at 8:59 a.m., until the fall of the gavel.

The House resumed session at 11:22 a.m., Klemme of Plymouth in the chair.

MESSAGES FROM THE SENATE

The following messages were received from the Senate:

Mr. Speaker: I am directed to inform your honorable body that the Senate has on March 10, 2004, amended and passed the following bill in which the concurrence of the House is asked:

[Senate File 2173](#), a bill for an act concerning private sector employee drug testing relating to authorized testing substances, confirmed positive test results, and testing procedures, and providing an effective date.

Also: That the Senate has on March 10, 2004, amended and passed the following bill in which the concurrence of the House is asked:

[Senate File 2188](#), a bill for an act providing for the establishment of a commission on the status of Iowans of Asian and Pacific Islander heritage within the department of human rights.

Also: That the Senate has on March 10, 2004, passed the following bill in which the concurrence of the House is asked:

[Senate File 2208](#), a bill for an act relating to the powers and duties of the department of agriculture and land stewardship, and making penalties applicable.

Also: That the Senate has on March 10, 2004, passed the following bill in which the concurrence of the House is asked:

[Senate File 2224](#), a bill for an act relating to grain regulation.

Also: That the Senate has on March 10, 2004, amended and passed the following bill in which the concurrence of the House is asked:

[Senate File 2253](#), a bill for an act relating to disclosure requirements for the transfer of ownership of a motor vehicle and providing penalties.

Also: That the Senate has on March 10, 2004, passed the following bill in which the concurrence of the House is asked:

[Senate File 2266](#), a bill for an act relating to landlord disclosure requirements regarding the environmental status of rental property.

MICHAEL E. MARSHALL, Secretary

On motion by Jacobs of Polk, the House was recessed at 11:23 a.m., until 1:00 p.m.

AFTERNOON SESSION

The House reconvened at 1:00 p.m., Speaker pro tempore Carroll in the chair.

QUORUM CALL

A non-record roll call was requested to determine that a quorum was present. The vote revealed seventy-one members present, twenty-nine absent.

MESSAGES FROM THE SENATE

The following messages were received from the Senate:

Mr. Speaker: I am directed to inform your honorable body that the Senate has on March 10, 2004, amended and passed the following bill in which the concurrence of the House is asked:

[Senate File 2149](#), a bill for an act relating to games of chance by authorizing certain bingo games and prizes for bingo and raffles.

Also: That the Senate has on March 10, 2004, amended and passed the following bill in which the concurrence of the House is asked:

[Senate File 2175](#), a bill for an act relating to the provision of workers' compensation benefits, to the release of information concerning such benefits, and to workers' compensation liability insurance.

Also: That the Senate has on March 10, 2004, amended and passed the following bill in which the concurrence of the House is asked:

[Senate File 2261](#), a bill for an act providing penalties for specified liquor control violations involving a retail liquor control license, wine permit, or beer permit.

MICHAEL E. MARSHALL, Secretary

CONSIDERATION OF BILLS
Regular Calendar

[House File 2460](#), a bill for an act relating to school district enrollment of students listed on the sex offender registry, was taken up for consideration.

Kramer of Polk moved that the bill be read a last time now and placed upon its passage which motion prevailed and the bill was read a last time.

On the question "Shall the bill pass?" ([H.F. 2460](#))

The ayes were, 97:

Alons	Arnold	Baudler	Bell
Berry	Boal	Boddicker	Bogges
Bukta	Chambers	Cohoon	Connors
Dandekar	Davitt	De Boef	Dennis
Dix	Dolecheck	Drake	Eichhorn
Elgin	Fallon	Foege	Ford
Freeman	Frevert	Gaskill	Gipp
Granzow	Greimann	Greiner	Hahn
Hanson	Heaton	Heddens	Hoffman
Hogg	Horbach	Hunter	Huseman
Huser	Hutter	Jacobs	Jacoby
Jenkins	Jochum	Jones	Klemme
Kramer	Kuhn	Kurtenbach	Lalk
Lensing	Lukan	Lykam	Manternach
Mascher	McCarthy	Mertz	Miller
Murphy	Oldson	Olson, D.	Olson, S.
Osterhaus	Paulsen	Petersen	Raecker
Rants, Spkr.	Rasmussen	Rayhons	Reasoner
Roberts	Sands	Schickel	Shomshor
Shoultz	Smith	Stevens	Struyk
Swaim	Taylor, D.	Taylor, T.	Thomas
Tjepkes	Tymeson	Upmeyer	Van Engelenhoven
Van Fossen, J.K.	Van Fossen, J.R.	Watts	Wendt
Whitaker	Whitead	Winckler	Wise
Carroll, Presiding			

The nays were, none.

Absent or not voting, 3:

Maddox	Quirk	Wilderdyke
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The bill having received a constitutional majority was declared to have passed the House and the title was agreed to.

IMMEDIATE MESSAGE

Jacobs of Polk asked and received unanimous consent that [House File 2460](#) be immediately messaged to the Senate.

[House File 2440](#), a bill for an act relating to awards of noneconomic damages against health care providers, was taken up for consideration.

The House stood at ease at 1:15 p.m., until the fall of the gavel.

The House resumed session at 1:55 p.m., Speaker Rants in the chair.

The House resumed consideration of [House File 2440](#).

Hogg of Linn asked and received unanimous consent to withdraw amendment [H-8187](#) filed by him on March 8, 2004.

Jochum of Dubuque offered amendment [H-8188](#) filed by her as follows:

[H-8188](#)

- 1 Amend [House File 2440](#) as follows:
- 2 1. By striking everything after the enacting
- 3 clause and inserting the following:
- 4 "Section 1. ~~NEW SECTION.~~ 507F.1 CONSUMER
- 5 ADVOCATE ON INSURANCE – APPOINTMENT – POLITICAL
- 6 ACTIVITY – REMOVAL.
- 7 1. The attorney general shall appoint a competent
- 8 attorney to the office of consumer advocate on
- 9 insurance. The appointment is subject to senate
- 10 confirmation in accordance with section 2.32. The
- 11 advocate's term of office is for four years. The term
- 12 begins and ends as set forth in section 69.19.
- 13 2. If a vacancy occurs in the office of consumer
- 14 advocate on insurance, the vacancy shall be filled for
- 15 the unexpired term in the same manner as an original
- 16 appointment.
- 17 3. The consumer advocate on insurance shall devote
- 18 the advocate's entire time to the duties of the
- 19 office. During the advocate's term of office the
- 20 advocate shall not be a member of a political
- 21 committee, shall not contribute to a political
- 22 campaign fund other than through the income tax
- 23 checkoff for contributions to the Iowa election
- 24 campaign fund and the presidential election campaign
- 25 fund, and shall not take part in political campaigns
- 26 or be a candidate for a political office.
- 27 4. The attorney general may remove the consumer
- 28 advocate on insurance for malfeasance or nonfeasance

29 in office, or for any cause which renders the advocate
30 ineligible for appointment, or incapable or unfit to
31 discharge the duties of the advocate's office. The
32 advocate's removal, when so made, is final.

33 5. The office of consumer advocate on insurance
34 shall be limited to regulating insurance markets in
35 Iowa deemed noncompetitive by the commissioner of
36 insurance.

37 Sec. 2. NEW SECTION. 507F.2 DUTIES.

38 The office of the consumer advocate on insurance
39 shall:

40 1. Adopt rules pursuant to chapter 17A and perform
41 other duties necessary to the administration of this
42 chapter.

43 2. Investigate the legality of all rates, charges,
44 rules, regulations, and practices of all persons
45 within the purview of the office of the consumer
46 advocate on insurance, and institute civil proceedings
47 before the insurance division or any court to correct
48 any illegality on the part of any person. In any
49 investigation, the person acting for the office of the
50 consumer advocate on insurance shall have the power to

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1 ask the commissioner of insurance to issue subpoenas,
2 compel the attendance and testimony of witnesses, and
3 the production of papers, books, and documents.

4 3. Make recommendations to the general assembly
5 regarding insurance regulation.

6 4. Make recommendations to the insurance division
7 or any other governmental agency which has an impact
8 on insurance regulation in the state through
9 rulemaking and review and, if the advocate deems it to
10 be in the public interest, appeal the rulemaking or
11 contested case decisions of the insurance division or
12 any other governmental agency which has an impact on
13 insurance regulation in the state.

14 5. Represent the interests of the public relating
15 to insurance reform, coverage, and rates where action
16 is necessary for the protection of public rights.

17 6. Institute judicial review of final or
18 interlocutory actions of the insurance division if the
19 review is deemed to be in the public interest.

20 7. Act as attorney for and represent all consumers
21 generally and the public generally in all proceedings
22 before the insurance division, federal and state
23 agencies, and related judicial review proceedings and
24 appeals.

25 8. Appear for all consumers generally and the
26 public generally in all actions instituted in any
27 state or federal court which involve the validity of a

28 rule, regulation, or order of the insurance division.
29 9. Appear and participate as a party in the name
30 of the office of consumer advocate on insurance in the
31 performance of the duties of the office.
32 Sec. 3. NEW SECTION. 507F.3 OFFICE – EMPLOYEES
33 – EXPENSES.
34 1. The office of the consumer advocate on
35 insurance shall be located within the office of the
36 attorney general. Administrative support services
37 shall be provided to the consumer advocate by the
38 office of the attorney general.
39 2. The consumer advocate on insurance may employ
40 attorneys, legal assistants, secretaries, clerks, and
41 other employees the consumer advocate on insurance
42 finds necessary for the full and efficient discharge
43 of the duties and responsibilities of the office. The
44 consumer advocate on insurance may employ consultants
45 as expert witnesses or technical advisors pursuant to
46 contract as the advocate finds necessary for the full
47 and efficient discharge of the duties of the office.
48 Employees of the consumer advocate on insurance, other
49 than the advocate, are subject to merit employment,
50 except as provided in section 19A.3.

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1 3. The salary of the consumer advocate on
2 insurance shall be fixed by the attorney general
3 within the salary range set by the general assembly.
4 The salaries of employees of the consumer advocate on
5 insurance is as provided by law. The appropriation
6 for the office of consumer advocate on insurance shall
7 be separate line item contained in the appropriation
8 from the general fund of the state to the department
9 of justice.
10 Sec. 4. NEW SECTION. 507F.4 INSURANCE DIVISION
11 RECORDS.
12 The consumer advocate on insurance has free access
13 to all the files, records, and documents in the office
14 of the insurance division except:
15 1. Personal information in confidential personnel
16 records of the insurance division.
17 2. Records which represent and constitute the work
18 product of the general counsel of the insurance
19 division where the records relate to a proceeding
20 before the division in which the consumer advocate on
21 insurance is a party or a proceeding in any state or
22 federal court in which both the division and the
23 consumer advocate on insurance are parties.
24 3. Insurer information of a confidential nature
25 which could jeopardize an insurer's competitive status
26 and is provided by an insurer to the division.

27 However, such information shall be provided to the
28 consumer advocate on insurance by the insurance
29 division, if the division determines it to be in the
30 public interest.

31 Sec. 5. NEW SECTION. 507F.5 SERVICE.

32 The consumer advocate on insurance is entitled to
33 service of all documents required by statute or rule
34 to be served on parties in proceedings before the
35 insurance division and all notices, petitions,
36 applications, complaints, answers, motions, and other
37 pleadings filed pursuant to statute or rule with the
38 division.

39 Sec. 6. NEW SECTION. 507F.6 CONSUMER ADVOCATE ON
40 INSURANCE ADVISORY COMMITTEE.

41 The attorney general shall appoint seven members to
42 a consumer advocate on insurance advisory committee to
43 meet at the request of the consumer advocate on
44 insurance for consultation regarding the protection of
45 public rights in insurance regulation. A member shall
46 be appointed from each congressional district with the
47 appointee residing within the district at the time of
48 the appointment. The remaining appointees shall be
49 members at large. Members shall be appointed which
50 represent the various sectors or the population and

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1 appointments shall be made in compliance with sections
2 69.16 and 69.16A. The members shall serve four-year
3 terms and their appointments are not subject to
4 confirmation by the senate. A vacancy shall be filled
5 in the same manner as the original appointment for the
6 unexpired portion of the member's term. Members of
7 the committee shall serve without compensation, but
8 shall be reimbursed for actual expenses from funds
9 appropriated to the office of the consumer advocate on
10 insurance.

11 Sec. 7. NEW SECTION. 519A.5A RATE INCREASES –
12 RIGHT OF REVIEW.

13 1. An insurer subject to this chapter as a member
14 of the association shall not make effective a proposed
15 increase of any medical malpractice insurance rate
16 individually underwritten by the insurer until the
17 proposed increase has been reviewed and approved by
18 the commissioner.

19 2. An insurer under subsection 1 shall give
20 written notice of a proposed increase of any rate to
21 an affected person sixty days prior to the time the
22 application for the increase is filed with the
23 commissioner. The notice to the insured shall state
24 that the insured has a right to file a written
25 objection to the rate increase and that the insured

26 may appeal to the commissioner within thirty days
27 after the commissioner has approved a rate increase.
28 3. After the filing of an application for an
29 increase of any rate by an insurer under subsection 1,
30 the commissioner, prior to the expiration of thirty
31 days after the filing date, shall docket the case as a
32 formal proceeding and set the case for hearing.
33 4. If, after the hearing, the commissioner finds
34 the proposed rate increase to be unlawful, the
35 commissioner shall by order authorize and direct the
36 insurer to file a new or changed rate which, when
37 approved by the commissioner and placed in effect,
38 will satisfy the requirements of this chapter and this
39 title.
40 5. An order of the commissioner made pursuant to
41 this section shall be subject to judicial review as
42 provided in chapter 17A.
43 6. The commissioner shall adopt rules pursuant to
44 chapter 17A to administer this section.
45 Sec. 8. NEW SECTION. 519A.14 INSURANCE RATE –
46 ROLLBACK.
47 1. For any medical malpractice insurance policy
48 underwritten by an insurer subject to this chapter
49 issued or renewed on or after July 1, 2004, the
50 insurer shall reduce its charges to levels which are

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1 twenty percent less than the charges for the same
2 coverage which were in effect on July 1, 2003.
3 2. This section shall not apply to an affected
4 insurer under this chapter who demonstrates on an
5 actuarially sound basis that a reduction pursuant to
6 subsection 1 would deny the affected insurer a fair
7 return.
8 Sec. 9. NEW SECTION. 519A.15 NOTICE OF
9 CANCELLATION AND NONRENEWAL – REASONS.
10 An insurer subject to this chapter shall not cancel
11 or refuse to renew a policy of medical malpractice
12 insurance issued individually underwritten by the
13 insurer except by notice to the insured. Notice of
14 cancellation or nonrenewal of a policy is not
15 effective unless it is based on one or more of the
16 following reasons:
17 1. Nonpayment of premium.
18 2. Fraud or misrepresentation affecting the policy
19 or the presentation of a claim.
20 3. A determination by the commissioner that a
21 continuation of a policy under this chapter would
22 substantially increase the hazard insured against."
23 2. Title page, line 1, by striking the words
24 "noneconomic damages against" and inserting the

25 following: "damages against and medical malpractice
26 insurance policies issued to".

Horbach of Tama rose on a point of order that amendment [H-8188](#) was not germane.

The Speaker ruled the point well taken and amendment [H-8188](#) not germane.

Jochum of Dubuque asked for unanimous consent to suspend the rules to consider amendment [H-8188](#).

Objection was raised.

Jochum of Dubuque moved to suspend the rules to consider amendment [H-8188](#).

Roll call was requested by Jochum of Dubuque and T. Taylor of Linn.

On the question "Shall the rules be suspended to consider amendment [H-8188](#)?" ([H.F. 2440](#))

The ayes were, 47:

Bell	Berry	Bukta	Cohoon
Connors	Dandekar	Davitt	Fallon
Foege	Ford	Frevert	Gaskill
Greimann	Heddens	Hogg	Hunter
Huser	Jacoby	Jochum	Kuhn
Lensing	Lykam	Mascher	McCarthy
Mertz	Miller	Murphy	Oldson
Olson, D.	Osterhaus	Petersen	Quirk
Reasoner	Shomshor	Shoultz	Smith
Stevens	Struyk	Swaim	Taylor, D.
Taylor, T.	Thomas	Wendt	Whitaker
Whitead	Winckler	Wise	

The nays were, 53:

Alons	Arnold	Baudler	Boal
Boddicker	Boggess	Chambers	De Boef
Dennis	Dix	Dolecheck	Drake
Eichhorn	Elgin	Freeman	Gipp
Granzow	Greiner	Hahn	Hanson
Heaton	Hoffman	Horbach	Huseman
Hutter	Jacobs	Jenkins	Jones

Klemme	Kramer	Kurtenbach	Lalk
Lukan	Maddox	Manternach	Olson, S.
Paulsen	Raecker	Rants, Spkr.	Rasmussen
Rayhons	Roberts	Sands	Schickel
Tjepkes	Tymeson	Upmeyer	Van Engelenhoven
Van Fossen, J.K.	Van Fossen, J.R.	Watts	Wilderdyke
Carroll, Presiding			

Absent or not voting, none:

The motion to suspend the rules lost.

Hogg of Linn offered the amendment [H-8196](#) filed by him as follows:

[H-8196](#)

1 Amend [House File 2440](#) as follows:
2 1. By striking everything after the enacting
3 clause and inserting the following:
4 "Section 1. NEW SECTION. 519A.5A RATE INCREASES
5 – RIGHT OF REVIEW.
6 An insurer subject to this chapter shall not make
7 effective a proposed increase of any medical
8 malpractice insurance rate individually underwritten
9 by the insurer until the proposed increase has been
10 reviewed and approved by the commissioner.
11 Sec. 2. STUDY.
12 1. The commissioner of insurance shall conduct a
13 study of medical malpractice insurance premiums
14 charged to a licensed health care provider as defined
15 in section 519A.2 to determine whether such premiums
16 are based upon an identified risk assessment and Iowa
17 tort law. The study shall include a report specifying
18 the total amount of premiums charged to a licensed
19 health care provider as well as the total amount of
20 claims paid, including settlements and judgments,
21 during the previous ten-year period. The amount of
22 paid claims reported shall exclude the costs of
23 administration, which shall be reported separately.
24 The study shall also specify the investment income of
25 companies underwriting such coverage during the
26 previous ten-year period and shall identify the
27 factors involved in any increase, decrease, or
28 fluctuation in premiums charged to a licensed health
29 care provider.
30 2. The commissioner of insurance shall provide a
31 statistical report from information gathered from all
32 applicable licensing boards to verify the total amount
33 of moneys paid by settlement or judgment by a licensed

34 health care provider.
 35 3. The commissioner of insurance shall include a
 36 determination of the effect of the collateral source
 37 rule on the reduction of premiums charged to licensed
 38 health care providers and the total estimated savings.
 39 4. The commissioner of insurance shall include an
 40 analysis of the effect of damage award limits,
 41 including limits on noneconomic and punitive damages,
 42 on premiums charged to licensed health care providers
 43 in Iowa."
 44 2. Title page, by striking lines 1 and 2 and
 45 inserting the following: "An Act relating to health
 46 care providers, and providing for a study."
 47 3. By renumbering as necessary.

Wise of Lee asked and received unanimous consent to withdraw amendment [H-8217](#), to amendment [H-8196](#), filed by him from the floor.

Horbach of Tama rose on a point of order that amendment [H-8196](#) was not germane.

The Speaker ruled the point well taken and amendment [H-8196](#) not germane.

Hogg of Linn asked for unanimous consent to suspend the rules to consider amendment [H-8196](#).

Objection was raised.

Hogg of Linn moved to suspend the rules to consider amendment [H-8196](#).

Roll call was requested by Hogg of Linn and Mascher of Johnson.

On the question "Shall the rules be suspended to consider amendment [H-8196](#)?" ([H.F. 2440](#))

The ayes were, 47:

Bell	Berry	Bukta	Cohoon
Connors	Dandekar	Davitt	Fallon
Foege	Ford	Frevert	Gaskill
Greimann	Heddens	Hogg	Hunter
Huser	Jacoby	Jochum	Kuhn
Lensing	Lykam	Mascher	McCarthy
Mertz	Miller	Murphy	Oldson
Olson, D.	Osterhaus	Petersen	Quirk

Reasoner	Shomshor	Shultz	Smith
Stevens	Struyk	Swaim	Taylor, D.
Taylor, T.	Thomas	Wendt	Whitaker
Whitead	Winckler	Wise	

The nays were, 53:

Alons	Arnold	Baudler	Boal
Boddicker	Boggess	Carroll	Chambers
De Boef	Dennis	Dix	Dolecheck
Drake	Eichhorn	Elgin	Freeman
Gipp	Granzow	Greiner	Hahn
Hanson	Heaton	Hoffman	Horbach
Huseman	Hutter	Jacobs	Jenkins
Jones	Klemme	Kramer	Kurtenbach
Lalk	Lukan	Maddox	Manternach
Olson, S.	Paulsen	Raecker	Rasmussen
Rayhons	Roberts	Sands	Schickel
Tjepkes	Tymeson	Upmeyer	Van Engelenhoven
Van Fossen, J.K.	Van Fossen, J.R.	Watts	Wilderdike
Mr. Speaker			
Rants			

Absent or not voting, none.

The motion to suspend the rules lost.

Hogg of Linn asked and received unanimous consent to withdraw the following amendments:

Amendment [H-8189](#) filed by Hogg of Linn on March 8, 2004.

Amendment [H-8194](#) filed by Hogg of Linn on March 8, 2004.

Amendment [H-8197](#) filed by Hogg of Linn on March 9, 2004.

Amendment [H-8199](#) filed by Hogg of Linn on March 9, 2004.

Upmeyer of Hancock offered amendment [H-8213](#) filed by her as follows:

[H-8213](#)

- 1 Amend [House File 2440](#) as follows:
- 2 1. Page 1, line 8, by inserting after the figure
- 3 "135.1," the following: "an advanced registered nurse
- 4 practitioner licensed pursuant to chapter 152,".
- 5 2. By renumbering as necessary.

Mascher of Johnson rose on a point of order that amendment [H-8213](#) was not germane.

The Speaker ruled the point not well taken and amendment [H-8213](#) germane.

On motion by Upmeyer of Hancock, amendment [H-8213](#) was adopted.

Swaim of Davis asked and received unanimous consent to withdraw amendment [H-8182](#) filed by him on March 8, 2004.

SPECIAL PRESENTATION

Connors of Polk introduced to the House the Honorable Clifford Branstad, former state representative from Winnebago County.

The House rose and expressed its welcome.

Horbach of Tama moved that the bill be read a last time now and placed upon its passage which motion prevailed and the bill was read a last time.

On the question "Shall the bill pass?" ([H.F. 2440](#))

The ayes were, 53:

Alons	Arnold	Baudler	Boal
Boddicker	Boggess	Carroll	Chambers
De Boef	Dennis	Dix	Dolecheck
Drake	Eichhorn	Elgin	Freeman
Gipp	Granzow	Greiner	Hahn
Hanson	Heaton	Hoffman	Horbach
Huseman	Hutter	Jacobs	Jenkins
Jones	Klemme	Kramer	Kurtenbach
Lalk	Lukan	Maddox	Manternach
Olson, S.	Raecker	Rasmussen	Rayhons
Roberts	Sands	Schickel	Thomas
Tjepkes	Tymeson	Upmeyer	Van Engelenhoven
Van Fossen, J.K.	Van Fossen, J.R.	Watts	Wilderdyke
Mr. Speaker			
Rants			

The nays were, 47:

Bell	Berry	Bukta	Cohoon
Connors	Dandekar	Davitt	Fallon
Foege	Ford	Frevert	Gaskill
Greimann	Heddens	Hogg	Hunter

Huser	Jacoby	Jochum	Kuhn
Lensing	Lykam	Mascher	McCarthy
Mertz	Miller	Murphy	Oldson
Olson, D.	Osterhaus	Paulsen	Petersen
Quirk	Reasoner	Shomshor	Shoultz
Smith	Stevens	Struyk	Swaim
Taylor, D.	Taylor, T.	Wendt	Whitaker
Whitead	Winckler	Wise	

Absent or not voting none.

The bill having received a constitutional majority was declared to have passed the House and the title was agreed to.

IMMEDIATE MESSAGE

Gipp of Winneshiek asked and received unanimous consent that [House File 2440](#) be immediately messaged to the Senate.

[HOUSE FILE 2202](#) WITHDRAWN

Horbach of Tama asked and received unanimous consent to withdraw [House File 2202](#) from further consideration by the House.

Roberts of Carroll in the chair at 3:25 p.m.

[House File 2431](#), a bill for an act relating to educational institutions under the university-based research utilization program, was taken up for consideration.

Wilderdyke of Harrison moved that the bill be read a last time now and placed upon its passage which motion prevailed and the bill was read a last time.

On the question "Shall the bill pass?" ([H.F. 2431](#))

The ayes were, 100:

Alons	Arnold	Baudler	Bell
Berry	Boal	Boddicker	Boggess
Bukta	Carroll	Chambers	Cohoon
Connors	Dandekar	Davitt	De Boef
Dennis	Dix	Dolecheck	Drake
Eichhorn	Elgin	Fallon	Foege
Ford	Freeman	Frevert	Gaskill
Gipp	Granzow	Greimann	Greiner

Hahn	Hanson	Heaton	Heddens
Hoffman	Hogg	Horbach	Hunter
Huseman	Huser	Hutter	Jacobs
Jacoby	Jenkins	Jochum	Jones
Klemme	Kramer	Kuhn	Kurtenbach
Lalk	Lensing	Lukan	Lykam
Maddox	Manternach	Mascher	McCarthy
Mertz	Miller	Murphy	Oldson
Olson, D.	Olson, S.	Osterhaus	Paulsen
Petersen	Quirk	Raecker	Rants, Spkr.
Rasmussen	Rayhons	Reasoner	Sands
Schickel	Shomshor	Shultz	Smith
Stevens	Struyk	Swaim	Taylor, D.
Taylor, T.	Thomas	Tjepkes	Tymeson
Upmeyer	Van Engelenhoven	Van Fossen, J.K.	Van Fossen, J.R.
Watts	Wendt	Whitaker	Whitead
Wildurdyke	Winckler	Wise	Roberts, Presiding

The nays were, none.

Absent or not voting, none.

The bill having received a constitutional majority was declared to have passed the House and the title was agreed to.

House File 2404, a bill for an act relating to certain alternative forms of county and city government by providing for county redistricting and representation, charter commission administration, application of various statutory requirements, the manner in which a charter may be proposed and adopted, amendment of a charter, the organization of the governing body, and inclusions in a charter, making technical changes relating to the administration and authority of a city-county consolidated government and a community commonwealth, making changes related to multicounty consolidation, and including effective and retroactive applicability date provisions, was taken up for consideration.

Van Engelenhoven of Marion offered the following amendment **H-8209** filed by Van Engelenhoven, et al., and moved its adoption:

H-8209

- 1 Amend **House File 2404** as follows:
- 2 1. Page 2, by striking lines 11 through 13 and
- 3 inserting the following: "established by resolution
- 4 of the".

Amendment [H-8209](#) was adopted.

Elgin of Linn moved that the bill be read a last time now and placed upon its passage which motion prevailed and the bill was read a last time.

On the question "Shall the bill pass?" ([H.F. 2404](#))

The ayes were, 95:

Alons	Arnold	Baudler	Bell
Berry	Boal	Boddicker	Bogges
Bukta	Carroll	Chambers	Cohoon
Connors	Davitt	De Boef	Dennis
Dix	Dolecheck	Drake	Eichhorn
Elgin	Fallon	Foege	Freeman
Frevert	Gaskill	Gipp	Granzow
Greimann	Greiner	Hahn	Hanson
Heaton	Heddens	Hoffman	Hogg
Horbach	Hunter	Huseman	Huser
Hutter	Jacobs	Jacoby	Jenkins
Jochum	Jones	Klemme	Kramer
Kuhn	Kurtenbach	Lalk	Lensing
Lukan	Lykam	Manternach	Mascher
McCarthy	Mertz	Miller	Murphy
Oldson	Olson, D.	Olson, S.	Osterhaus
Petersen	Quirk	Raecker	Rants, Spkr.
Rasmussen	Rayhons	Reasoner	Sands
Schickel	Shomshor	Shoultz	Smith
Stevens	Struyk	Taylor, D.	Taylor, T.
Thomas	Tjepkes	Tymeson	Upmeyer
Van Engelenhoven	Van Fossen, J.K.	Van Fossen, J.R.	Watts
Wendt	Whitaker	Whitead	Wilderdyke
Winckler	Wise	Roberts, Presiding	

The nays were, 5:

Dandekar	Ford	Maddox	Paulsen
Swaim			

Absent or not voting, none.

The bill having received a constitutional majority was declared to have passed the House and the title was agreed to.

[House File 2459](#), a bill for an act relating to residency qualifications for purposes of postsecondary tuition and fees paid at

public institutions of higher education in this state, was taken up for consideration.

Tymeson of Madison moved that the bill be read a last time now and placed upon its passage which motion prevailed and the bill was read a last time.

On the question "Shall the bill pass?" ([H.F. 2459](#))

The ayes were, 99:

Alons	Arnold	Baudler	Bell
Berry	Boal	Boddicker	Bogges
Bukta	Carroll	Chambers	Cohoon
Connors	Dandekar	Davitt	Dennis
Dix	Dolecheck	Drake	Eichhorn
Elgin	Fallon	Foege	Ford
Freeman	Frevort	Gaskill	Gipp
Granzow	Greimann	Greiner	Hahn
Hanson	Heaton	Heddens	Hoffman
Hogg	Horbach	Hunter	Huseman
Huser	Hutter	Jacobs	Jacoby
Jenkins	Jochum	Jones	Klemme
Kramer	Kuhn	Kurtenbach	Lalk
Lensing	Lukan	Lykam	Maddox
Manternach	Mascher	McCarthy	Mertz
Miller	Murphy	Oldson	Olson, D.
Olson, S.	Osterhaus	Paulsen	Petersen
Quirk	Raecker	Rants, Spkr.	Rasmussen
Rayhons	Reasoner	Sands	Schickel
Shomshor	Shoultz	Smith	Stevens
Struyk	Swaim	Taylor, D.	Taylor, T.
Thomas	Tjepkes	Tymeson	Upmeyer
Van Engelenhoven	Van Fossen, J.K.	Van Fossen, J.R.	Watts
Wendt	Whitaker	Whitead	Wilderdyke
Winckler	Wise	Roberts,	
		Presiding	

The nays were, none.

Absent or not voting, 1:

De Boef

The bill having received a constitutional majority was declared to have passed the House and the title was agreed to.

IMMEDIATE MESSAGES

Gipp of Winneshiek asked and received unanimous consent that the following bills be immediately messaged to the Senate: **House Files 2431, 2404 and 2459.**

House File 2390, a bill for an act making technical changes to programs under the purview of the department of human services, was taken up for consideration.

Jenkins of Black Hawk asked and received unanimous consent to withdraw amendment [H-8212](#) filed by Jenkins of Black Hawk, et al., on March 9, 2004.

Huser of Polk offered the following amendment [H-8163](#) filed by her and moved its adoption:

[H-8163](#)

- 1 Amend [House File 2390](#) as follows:
- 2 1. Page 3, by inserting after line 26, the
- 3 following:
- 4 "Sec. __. ADOPTION SUBSIDY PROGRAM – ACTIVITY –
- 5 INTERIM STUDY COMMITTEE.
- 6 1. Unless the general assembly enacts legislation
- 7 to allow changes in the adoption subsidy program
- 8 during the 2004 session of the general assembly,
- 9 effective January 1, 2004, and ending June 30, 2005,
- 10 the department of human services shall not adopt rules
- 11 or implement policies that reduce the overall subsidy
- 12 outlays or other financial assistance provided to a
- 13 recipient of an adoption subsidy, but shall continue
- 14 to apply the adoption subsidy program rules and
- 15 policies in effect on December 31, 2003.
- 16 2. The legislative council is requested to
- 17 establish an interim study committee to review the
- 18 adoption subsidy program, which includes a review of
- 19 current practices regarding the determination of
- 20 subsidy levels, disparities in subsidy levels among
- 21 regions of the state, program costs and benefits, the
- 22 fiscal and programmatic impact of projected future
- 23 program growth, and quantification of savings in other
- 24 programs and services resulting from the utilization
- 25 of the adoption subsidy program. The committee shall
- 26 seek input from the department of human services,
- 27 adoptive parents and others with experience or
- 28 expertise with the adoption subsidy program and
- 29 related services and supports. The interim committee

30 shall submit a report of its findings and
 31 recommendations to the general assembly no later than
 32 December 1, 2004.
 33 Sec. __. EFFECTIVE DATE – RETROACTIVE
 34 APPLICABILITY. The section of this Act relating to
 35 application of adoption subsidy program rules and
 36 policies effective on December 31, 2003, and a
 37 legislative study, being deemed of immediate
 38 importance, takes effect upon enactment and is
 39 retroactively applicable to January 1, 2004."
 40 2. Title page, line 2, by inserting after the
 41 word "services" the following: ", providing an
 42 effective date, and providing for retroactive
 43 applicability".
 44 3. By renumbering as necessary.

Amendment [H-8163](#) was adopted.

Heaton of Henry moved that the bill be read a last time now and placed upon its passage which motion prevailed and the bill was read a last time.

On the question "Shall the bill pass?" ([H.F. 2390](#))

The ayes were, 100:

Alons	Arnold	Baudler	Bell
Berry	Boal	Boddicker	Bogges
Bukta	Carroll	Chambers	Cohoon
Connors	Dandekar	Davitt	De Boef
Dennis	Dix	Dolecheck	Drake
Eichhorn	Elgin	Fallon	Foege
Ford	Freeman	Frevert	Gaskill
Gipp	Granzow	Greimann	Greiner
Hahn	Hanson	Heaton	Heddens
Hoffman	Hogg	Horbach	Hunter
Huseman	Huser	Hutter	Jacobs
Jacoby	Jenkins	Jochum	Jones
Klemme	Kramer	Kuhn	Kurtenbach
Lalk	Lensing	Lukan	Lykam
Maddox	Manternach	Mascher	McCarthy
Mertz	Miller	Murphy	Oldson
Olson, D.	Olson, S.	Osterhaus	Paulsen
Petersen	Quirk	Raecker	Rants, Spkr.
Rasmussen	Rayhons	Reasoner	Sands
Schickel	Shomshor	Shoultz	Smith
Stevens	Struyk	Swaim	Taylor, D.
Taylor, T.	Thomas	Tjepkes	Tymeson
Upmeyer	Van Engelenhoven	Van Fossen, J.K.	Van Fossen, J.R.

Watts
Wilderdyke

Wendt
Winckler

Whitaker
Wise

Whitead
Roberts,
Presiding

The nays were, none.

Absent or not voting, none.

The bill having received a constitutional majority was declared to have passed the House and the title, as amended, was agreed to.

IMMEDIATE MESSAGE

Gipp of Winneshiek asked and received unanimous consent that [House File 2390](#) be immediately messaged to the Senate.

INTRODUCTION OF BILL

[House File 2538](#), by committee on appropriations, a bill for a act providing a transfer from the cash reserve fund to the rebuild Iowa infrastructure fund for purposes of the standing appropriation to the environment first fund and providing an effective date.

Read first time and placed on the **appropriations calendar**.

SENATE MESSAGES CONSIDERED

[Senate File 2149](#), by committee on state government, a bill for an act relating to games of chance by authorizing certain bingo games and prizes for bingo and raffles and providing an effective date.

Read first time and referred to committee on **state government**.

[Senate File 2173](#), by committee on business and labor relations, a bill for an act concerning private sector employee drug testing relating to authorized testing substances, confirmed positive test results, and testing procedures, and providing an effective date.

Read first time and referred to committee on **commerce, regulation and labor**.

[Senate File 2188](#), by committee on state government, a bill for an act providing for the establishment of a commission on the status of

Iowans of Asian and Pacific Islander heritage within the department of human rights.

Read first time and **passed on file**.

[Senate File 2208](#), by committee on agriculture, a bill for an act relating to the powers and duties of the department of agriculture and land stewardship, and making penalties applicable.

Read first time and referred to committee on **agriculture**.

[Senate File 2224](#), by committee on agriculture, a bill for an act relating to grain regulation.

Read first time and referred to committee on **agriculture**.

[Senate File 2253](#), by committee on transportation, a bill for an act relating to disclosure requirements for the transfer of ownership of a motor vehicle and providing penalties.

Read first time and **passed on file**.

[Senate File 2261](#), by committee on judiciary, a bill for an act providing penalties for specified liquor control violations involving a retail liquor control license, wine permit, or beer permit.

Read first time and **passed on file**.

[Senate File 2266](#), by committee on judiciary, a bill for an act relating to landlord disclosure requirements regarding the environmental status of rental property.

Read first time and referred to committee on **judiciary**.

EXPLANATIONS OF VOTE

I was necessarily absent from the House chamber on March 10, 2004. Had I been present, I would have voted "aye" on [House File 2460](#).

QUIRK of Chickasaw

I was necessarily absent from the House chamber on March 8 and 9, 2004. Had I been present, I would have voted "aye" on [House Joint Resolution 2005](#) and House Files 2170, 2201, 2230, 2243, 2262, 2270, 2306, 2319, 2325, 2327, 2328, 2340, 2343, 2347, 2350, 2351, 2358, 2366, 2367, 2373, 2378, 2397, 2398, 2399, 2401, 2403, 2418, 2419, 2447 and 2451, and "nay" on House Files 2304, 2341, 2392, 2393, 2394, 2396, 2402 and 2427.

T. TAYLOR of Linn

I was necessarily absent from the House chamber on March 10, 2004. Had I been present, I would have voted "aye" on House File 2460.

WILDERDYKE of Harrison

PRESENTATION OF VISITORS

The Speaker announced that the following visitors were present in the House chamber:

Four S.A.T.O. students from Melcher-Dallas High School. Students Against Tobacco Use. By Van Engelenhoven of Marion.

CERTIFICATES OF RECOGNITION

MR. SPEAKER: The Chief Clerk of the House respectfully reports that certificates of recognition have been issued as follows.

MARGARET A. THOMSON
Chief Clerk of the House

- | | |
|----------|--|
| 2004\688 | C.J. Gauger, Ames – For celebrating his 90 th birthday. |
| 2004\689 | Nick Weber, Clear Lake – For winning the Class 2-A, 160 lb. Championship of the 2004 State High School Wrestling Tournament. |
| 2004\690 | James Krabbe, Latimer – For celebrating his 95 th birthday. |
| 2004\691 | Olive "Mickey" Duggan, Cedar Falls – For celebrating her 90 th birthday. |

- 2004\692 Donald and LaVonne Neese, Cedar Falls – For celebrating their 50th wedding anniversary.
- 2004\693 Wayne and Ardith Heins, Cedar Falls – For celebrating their 50th wedding anniversary.
- 2004\694 The Family of Velma Rich, Mt. Pleasant – Celebrated her 100th birthday on August 5, 2003, and that with her recent passing, the family has lost their mother, mother-in-law, grandmother and great-grandmother. The House of Representatives does hereby extend its deepest sympathy.

SUBCOMMITTEE ASSIGNMENTS

[Senate File 2119](#)

Commerce, Regulation and Labor: Sands, Chair; Manternach and Wise.

[Senate File 2191](#)

Judiciary: Maddox, Chair; Jochum and Paulsen.

[Senate File 2235](#)

Judiciary: Maddox, Chair; Boal and Reasoner.

COMMITTEE RECOMMENDATION

MR. SPEAKER: The Chief Clerk of the House respectfully reports that the following committee recommendation has been received and is on file in the office of the Chief Clerk.

MARGARET A. THOMSON
Chief Clerk of the House

COMMITTEE ON APPROPRIATIONS

Committee Bill (Formerly [House Study Bill 717](#)), providing a transfer from the cash reserve fund to the rebuild Iowa infrastructure fund for purposes of the standing appropriation to the environment first fund and providing an effective date.

Fiscal Note is not required.

Recommended **Amend and Do Pass** March 10, 2004.

RESOLUTIONS FILED

[HR 129](#), by Mascher, a resolution honoring 4-H clubs.

Laid over under **Rule 25**.

[SCR 110](#), by Committee on Education, a concurrent resolution providing for the formation of a committee by the Legislative Council to conduct a review of the school finance formula.

Laid over under **Rule 25**.

[SCR 111](#), by Committee on Education, a concurrent resolution requesting the Legislative Council to establish an interim study committee to examine the costs and benefits of Iowa joining the Midwestern Higher Education Compact.

Passed on file.

AMENDMENTS FILED

H-8214	H.F. 2508	Heaton of Henry
H-8215	H.F. 2380	Freeman of Buena Vista
H-8216	H.F. 2488	Kurtenbach of Story
H-8218	H.F. 2055	Jacobs of Polk
H-8219	H.F. 2534	Eichhorn of Hamilton
H-8220	H.F. 2497	Elgin of Linn
H-8221	H.F. 2505	Jenkins of Black Hawk
H-8222	H.F. 2476	Baudler of Adair
		Swaim of Davis
H-8223	H.F. 2538	Kuhn of Floyd
H-8224	H.F. 2497	Elgin of Linn

On motion by Gipp of Winneshiek the House adjourned at 4:04 p.m., until 8:45 a.m., Thursday, March 11, 2004.