

**PROOF**

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**STATE OF IOWA**

**House Journal**

**WEDNESDAY, APRIL 16, 2008**

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# JOURNAL OF THE HOUSE

Ninety-fourth Calendar Day - Sixty-fifth Session Day

Hall of the House of Representatives  
Des Moines, Iowa, Wednesday, April 16, 2008

The House met pursuant to adjournment at 9:12 a.m., Speaker Murphy in the chair.

Prayer was offered by Reverend Lucille King, Parish Associate of Christ Church Presbyterian, Cedar Rapids. She is the mother-in-law and guest of Representative Art Staed of Linn County.

## PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Lindsey Frank, legislative secretary to Representative Doris Kelley of Black Hawk County.

The Journal of Tuesday, April 15, 2008 was approved.

## 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 April 15, 2008, amended and passed the following bill in which the concurrence of the House is asked:

[House File 2662](#), a bill for an act relating to and making appropriations involving state government, by providing for agriculture, natural resources, and environmental protection.

Also: That the Senate has on April 15, 2008, insisted on its amendment to [Senate File 2308](#), a bill for an act relating to identity theft by providing for the notification of a breach in the security of personal information, and providing penalties, and the members of the Conference Committee on the part of the Senate are: The Senator from Woodbury, Senator Warnstadt, Chair; the Senator from Des Moines, Senator Courtney; the Senator from Bremer, Senator Heckroth; the Senator from Boone, Senator Behn; the Senator from Sac, Senator Kettering

Also: That the Senate has on April 15, 2008, concurred in the House amendment and passed the following bill in which the concurrence of the Senate was asked:

[Senate File 2337](#), a bill for an act relating to the purchase of liability insurance by the association of Iowa fairs.

Also: That the Senate has on April 15, 2008, passed the following bill in which the concurrence of the House is asked:

[Senate File 2420](#), a bill for an act relating to the increasing motor vehicle and trailer registration fees and title fees, allocating new revenues from fees to the TIME-21 fund, requiring the department of transportation to conduct an analysis of TIME-21 funding and a study of public transit funding, increasing the motorcycle operator's license fee and allocating the increased revenue to the motorcycle rider education fund, reallocating certain fees collected by the department of transportation, repealing the use tax on vehicles subject to registration and the use tax on certain leased motor vehicles, establishing a fee for new registration of vehicles, providing penalties, and providing effective and applicability dates.

MICHAEL E. MARSHALL, Secretary

The House stood at ease at 9:18 a.m., until the fall of the gavel.

The House resumed session at 11:01 a.m., Speaker Murphy in the chair.

#### SENATE MESSAGE CONSIDERED

[Senate File 2420](#), by committee on ways and means, a bill for an act relating to and increasing motor vehicle and trailer registration fees and title fees, allocating new revenues from fees to the TIME-21 fund, requiring the department of transportation to conduct an analysis of TIME-21 funding and a study of public transit funding, increasing the motorcycle operator's license fee and allocating the increased revenue to the motorcycle rider education fund, reallocating certain fees collected by the department of transportation, repealing the use tax on vehicles subject to registration and the use tax on certain leased motor vehicles, establishing a fee for new registration of vehicles, providing penalties, and providing effective and applicability dates.

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

#### CONSIDERATION OF BILLS Ways and Means Calendar

[House File 2691](#), a bill for an act relating to and increasing motor vehicle and trailer registration fees and title fees, allocating new revenues from fees to the TIME-21 fund, requiring the department of transportation to conduct an analysis of TIME-21 funding and a study of public transit funding, increasing the motorcycle operator's

license fee and allocating the increased revenue to the motorcycle rider education fund, reallocating certain fees collected by the department of transportation, repealing the use tax on vehicles subject to registration and the use tax on certain leased motor vehicles, establishing a fee for new registration of vehicles, providing penalties, and providing effective and applicability dates, was taken up for consideration.

Huser of Polk offered the following amendment [H-8532](#) filed by her and moved its adoption:

[H-8532](#)

1 Amend [House File 2691](#) as follows:

2 1. Page 89, by inserting after line 14 the  
3 following:

4 "PART 5

5 CONTINGENT CONFORMING AMENDMENTS

6 Sec.\_\_\_\_. Section 423.5, subsection 3, Code 2007,  
7 as amended by this division of this Act, is amended to  
8 read as follows:

9 3. ~~The An excise tax at the rate of five percent~~  
10 ~~is imposed on the~~ use of leased vehicles, if the lease  
11 transaction does not require titling or registration  
12 of the vehicle, on the amount subject to tax as  
13 calculated pursuant to section 423.26, subsection 2.

14 Sec.\_\_\_\_. Section 423.43, subsection 1, as enacted  
15 by this division of this Act, is amended to read as  
16 follows:

17 1. a. Except as provided in subsection 2, all  
18 revenue arising under the operation of the use tax  
19 under subchapter III shall be deposited into the  
20 general fund of the state.

21 b. ~~Subsequent to the deposit into the general fund~~  
22 ~~of the state and after the transfer of such revenues~~  
23 ~~collected under chapter 423B, the department shall~~  
24 ~~transfer one-sixth of such remaining revenues to the~~  
25 ~~secure an advanced vision for education fund created~~  
26 ~~in section 423F.2. This paragraph is repealed~~  
27 ~~December 31, 2029.~~

28 Sec.\_\_\_\_. The sections of 2008 Iowa Acts, House  
29 File 2663, amending section 312.1, subsection 4,  
30 section 327I.26, section 423.5, subsection 3, section  
31 455G.3, subsection 1, section 455G.6, subsection 4,  
32 and section 455G.8, subsection 2, Code 2007, are  
33 repealed.

34 Sec.\_\_\_\_. The sections of 2008 Iowa Acts, House  
35 File 2663, amending section 312.2, subsection 14,  
36 section 321.34, subsections 7, 10, 10A, 11, 11A, 11B,

37 13, 16, 17, 18, 19, 20, 20A, 20B, 21, 22, 23, and 24,  
38 section 423.43, and section 423.57, Code Supplement  
39 2007, are repealed.  
40 Sec.\_\_\_\_. The sections of 2008 Iowa Acts, House  
41 File 2663, amending 2007 Iowa Acts, chapter 179,  
42 section 6, and providing for such amendment's  
43 effective date, are repealed.  
44 Sec.\_\_\_\_. CONTINGENT EFFECTIVE DATE. This part 5  
45 of this division of this Act takes effect only upon  
46 the enactment of 2008 Iowa Acts, [House File 2663](#).  
47 PART 6  
48 EFFECT ON PRIOR LAW"  
49 2. By renumbering as necessary.

Amendment [H-8532](#) was adopted.

[SENATE FILE 2420](#) SUBSTITUTED FOR [HOUSE FILE 2691](#)

Huser of Polk asked and received unanimous consent to substitute [Senate File 2420](#) for [House File 2691](#).

[Senate File 2420](#), a bill for an act relating to and increasing motor vehicle and trailer registration fees and title fees, allocating new revenues from fees to the TIME-21 fund, requiring the department of transportation to conduct an analysis of TIME-21 funding and a study of public transit funding, increasing the motorcycle operator's license fee and allocating the increased revenue to the motorcycle rider education fund, reallocating certain fees collected by the department of transportation, repealing the use tax on vehicles subject to registration and the use tax on certain leased motor vehicles, establishing a fee for new registration of vehicles, providing penalties, and providing effective and applicability dates, was taken up for consideration.

Huser 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.

Rule 75 was invoked.

On the question "Shall the bill pass?" ([S.F. 2420](#))

The ayes were, 53:

Abdul-Samad	Anderson	Bell	Boal
Bukta	Clute	Cphoon	De Boef
Dolecheck	Drake	Foege	Forristall
Gipp	Granzow	Heaton	Heddens
Hoffman	Huseman	Huser	Jacobs
Jacoby	Jochum	Kuhn	Lensing
Lukan	Mascher	May	McCarthy
Miller, H.	Miller, L.	Oldson	Olson, D.
Olson, R.	Olson, S.	Olson, T.	Quirk
Raecker	Reasoner	Roberts	Schueller
Shomshor	Taylor, D.	Taylor, T.	Thomas
Tjepkes	Tomenga	Wendt	Wessel-Kroeschell
Winckler	Windschitl	Wise	Worthan
Mr. Speaker Murphy			

The nays were, 47:

Alons	Arnold	Bailey	Baudler
Berry	Chambers	Dandekar	Davitt
Deyoe	Ford	Frevert	Gaskill
Gayman	Grassley	Greiner	Horbach
Hunter	Kaufmann	Kelley	Kressig
Lykam	Mertz	Palmer	Paulsen
Petersen	Pettengill	Rants	Rasmussen
Rayhons	Reichert	Sands	Schickel
Smith	Soderberg	Staed	Struyk
Swaim	Tymeson	Upmeyer	Van Engelenhoven
Van Fossen	Watts	Wenthe	Whitaker
Whitead	Wienczek	Zirkelbach	

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 2691](#) WITHDRAWN

Huser of Polk asked and received unanimous consent to withdraw [House File 2691](#) from further consideration by the House.

### IMMEDIATE MESSAGE

McCarthy of Polk asked and received unanimous consent that [Senate File 2420](#) be immediately messaged to the Senate.

On motion by McCarthy of Polk, the House was recessed at 11:30 a.m., until 1:30 p.m.

#### AFTERNOON SESSION

The House reconvened at 1:44 p.m., Speaker Murphy in the chair.

#### CONFERENCE COMMITTEE APPOINTED ([Senate File 2308](#))

The Speaker announced the appointment of the conference committee to consider the differences between the House and Senate concerning [Senate File 2308](#): Kelley of Black Hawk, Chair; Jacoby of Johnson, Huser of Polk, Jacobs of Polk and Tjepkes of Webster.

The House stood at ease at 2:14 p.m., until the fall of the gavel.

The House resumed session at 3:00 p.m., Speaker Murphy 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 April 16, 2008, amended and passed the following bill in which the concurrence of the House is asked:

[House File 2612](#), a bill for an act relating to natural resources, including by providing for the powers and duties of the department's director and natural resource commission, and the regulation of public lands and outdoor recreation, providing for fees, providing for penalties and making penalties applicable.

Also: That the Senate has on April 16, 2008, amended and passed the following bill in which the concurrence of the House is asked:

[House File 2633](#), a bill for an act relating to business associations, by providing for limited liability companies and conversion involving corporations, providing fees and penalties, and providing an effective date.

Also: That the Senate has on April 16, 2008, passed the following bill in which the concurrence of the Senate was asked:

[House File 2668](#), a bill for an act relating to the disposal and recycling of used oil filters.

Also: That the Senate has on April 16, 2008, adopted the following resolution in which the concurrence of the House is asked:

[Senate Joint Resolution 2003](#), a joint resolution authorizing the temporary use and consumption of alcoholic beverages on the state capitol complex grounds in conjunction with the Hy-Vee BG World Cup Triathlon, and providing an effective date.

Also: That the Senate has on April 16, 2008, adopted the following resolution in which the concurrence of the House is asked:

[Senate Joint Resolution 2005](#), a joint resolution authorizing the temporary use and consumption of wine and beer in the state capitol, and the temporary display of ceremonial banners, in conjunction with the awards ceremony of the World Food Prize Foundation.

Also: That the Senate has on April 16, 2008, concurred in the House amendment and passed the following bill in which the concurrence of the Senate was asked:

[Senate File 2134](#), a bill for an act relating to requirements and duties of members, executive directors, and employees of county commissions of veteran affairs.

Also: That the Senate has on April 16, 2008, passed the following bill in which the concurrence of the House is asked:

[Senate File 2413](#), a bill for an act providing extensions for school districts applying to the school budget review committee concerning school district finances, and providing an effective date.

Also: That the Senate has on April 16, 2008, passed the following bill in which the concurrence of the House is asked:

[Senate File 2423](#), a bill for an act concerning department of administrative services operations.

MICHAEL E. MARSHALL, Secretary

## CONSIDERATION OF BILLS Unfinished Business Calendar

[Senate File 2303](#), a bill for an act relating to workers' compensation provisions for continued medically related benefits in certain settlements of workers' compensation claims and to funding of the second injury fund and providing an effective date, with report of committee recommending passage, was taken up for consideration.

T. Taylor 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?" ([S.F. 2303](#))

The ayes were, 100:

Abdul-Samad	Alons	Anderson	Arnold
Bailey	Baudler	Bell	Berry
Boal	Bukta	Chambers	Clute
Cohoon	Dandekar	Davitt	De Boef
Deyoe	Dolecheck	Drake	Foege
Ford	Forristall	Frevert	Gaskill
Gayman	Gipp	Granzow	Grassley
Greiner	Heaton	Heddens	Hoffman
Horbach	Hunter	Huseman	Huser
Jacobs	Jacoby	Jochum	Kaufmann
Kelley	Kressig	Kuhn	Lensing
Lukan	Lykam	Mascher	May
McCarthy	Mertz	Miller, H.	Miller, L.
Oldson	Olson, D.	Olson, R.	Olson, S.
Olson, T.	Palmer	Paulsen	Petersen
Pettengill	Quirk	Raecker	Rants
Rasmussen	Rayhons	Reasoner	Reichert
Roberts	Sands	Schickel	Schueller
Shomshor	Smith	Soderberg	Staed
Struyk	Swaim	Taylor, D.	Taylor, T.
Thomas	Tjepkes	Tomenga	Tymeson
Upmeyer	Van Engelenhoven	Van Fossen	Watts
Wendt	Wenthe	Wessel-Kroeschell	Whitaker
Whitead	Wiencek	Winckler	Windschitl
Wise	Worthan	Zirkelbach	Mr. Speaker Murphy

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 2543](#), a bill for an act relating to Alzheimer's disease and similar forms of irreversible dementia, was taken up for consideration.

[SENATE FILE 2341](#) SUBSTITUTED FOR [HOUSE FILE 2543](#)

Hunter of Polk asked and received unanimous consent to substitute [Senate File 2341](#) for [House File 2543](#).

[Senate File 2341](#), a bill for an act relating to Alzheimer's disease and similar forms of irreversible dementia, was taken up for consideration.

Hunter 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?" ([S.F. 2341](#))

The ayes were, 100:

Abdul-Samad	Alons	Anderson	Arnold
Bailey	Baudler	Bell	Berry
Boal	Bukta	Chambers	Clute
Cohoon	Dandekar	Davitt	De Boef
Deyoe	Dolecheck	Drake	Foege
Ford	Forristall	Frevert	Gaskill
Gayman	Gipp	Granzow	Grassley
Greiner	Heaton	Heddens	Hoffman
Horbach	Hunter	Huseman	Huser
Jacobs	Jacoby	Jochum	Kaufmann
Kelley	Kressig	Kuhn	Lensing
Lukan	Lykam	Mascher	May
McCarthy	Mertz	Miller, H.	Miller, L.
Oldson	Olson, D.	Olson, R.	Olson, S.
Olson, T.	Palmer	Paulsen	Petersen
Pettengill	Quirk	Raecker	Rants
Rasmussen	Rayhons	Reasoner	Reichert
Roberts	Sands	Schickel	Schueller
Shomshor	Smith	Soderberg	Staed
Struyk	Swaim	Taylor, D.	Taylor, T.
Thomas	Tjepkes	Tomenga	Tymeson
Upmeyer	Van Engelenhoven	Van Fossen	Watts
Wendt	Wenthe	Wessel-Kroeschell	Whitaker
Whitead	Wiencek	Winckler	Windschitl
Wise	Worthan	Zirkelbach	Mr. Speaker
			Murphy

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.

#### SENATE AMENDMENT CONSIDERED

Tjepkes of Webster called up for consideration [House File 2628](#), a bill for an act including a portable device or weapon directing an electric current, impulse, wave, or beam that produces a high-voltage pulse designed to immobilize a person in the definition of a dangerous

weapon and making penalties applicable, amended by the Senate amendment [H-8403](#):

[H-8403](#)

- 1 Amend [House File 2628](#), as amended, passed, and
- 2 reprinted by the House, as follows:
- 3 1. Page 1, by striking lines 19 and 20 and
- 4 inserting the following: "a person."

R. Olson of Polk offered the following amendment [H-8501](#), to the Senate amendment [H-8403](#), filed by him and moved its adoption:

[H-8501](#)

- 1 Amend the Senate amendment, [H-8403](#), to House File
- 2 2628, as amended, passed, and reprinted by the House,
- 3 as follows:
- 4 1. Page 1, by inserting after line 2 the
- 5 following:
- 6 "\_\_\_\_. Page 1, line 8, by inserting after the word
- 7 "designed" the following: ", except a bow and arrow
- 8 when possessed and used for hunting or any other
- 9 lawful purpose".
- 10 2. By renumbering as necessary.

Amendment [H-8501](#) was adopted.

R. Olson of Polk asked and received unanimous consent to withdraw amendment [H-8500](#), to amendment [H-8403](#), filed by him on April 14, 2008.

On motion by Tjepkes of Webster the House concurred in the Senate amendment [H-8403](#), as amended.

Tjepkes of Webster moved that the bill, as amended by the Senate and further amended and concurred in by the House, 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. 2628](#))

The ayes were, 100:

Abdul-Samad  
Bailey

Alons  
Baudler

Anderson  
Bell

Arnold  
Berry

Boal	Bukta	Chambers	Clute
Cohoon	Dandekar	Davitt	De Boef
Deyoe	Dolecheck	Drake	Foege
Ford	Forristall	Frevrt	Gaskill
Gayman	Gipp	Granzow	Grassley
Greiner	Heaton	Heddens	Hoffman
Horbach	Hunter	Huseman	Huser
Jacobs	Jacoby	Jochum	Kaufmann
Kelley	Kressig	Kuhn	Lensing
Lukan	Lykam	Mascher	May
McCarthy	Mertz	Miller, H.	Miller, L.
Oldson	Olson, D.	Olson, R.	Olson, S.
Olson, T.	Palmer	Paulsen	Petersen
Pettengill	Quirk	Raecker	Rants
Rasmussen	Rayhons	Reasoner	Reichert
Roberts	Sands	Schickel	Schueller
Shomshor	Smith	Soderberg	Staed
Struyk	Swaim	Taylor, D.	Taylor, T.
Thomas	Tjepkes	Tomenga	Tymeson
Upmeyer	Van Engelenhoven	Van Fossen	Watts
Wendt	Wenthe	Wessel-Kroeschell	Whitaker
Whitead	Wienczek	Winckler	Windschitl
Wise	Worthan	Zirkelbach	Mr. Speaker Murphy

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.

### Unfinished Business Calendar

[Senate File 2364](#), a bill for an act relating to the emancipation of a minor, with report of committee recommending passage, was taken up for consideration.

Lensing of Johnson moved that the bill be read a last time now and passed upon its passage which motion prevailed and the bill was read a last time.

On the question "Shall the bill pass?" ([S.F. 2364](#))

The ayes were, 100:

Abdul-Samad	Alons	Anderson	Arnold
Bailey	Baudler	Bell	Berry

Boal	Bukta	Chambers	Clute
Cohoon	Dandekar	Davitt	De Boef
Deyoe	Dolecheck	Drake	Foege
Ford	Forristall	Frevrt	Gaskill
Gayman	Gipp	Granzow	Grassley
Greiner	Heaton	Heddens	Hoffman
Horbach	Hunter	Huseman	Huser
Jacobs	Jacoby	Jochum	Kaufmann
Kelley	Kressig	Kuhn	Lensing
Lukan	Lykam	Mascher	May
McCarthy	Mertz	Miller, H.	Miller, L.
Oldson	Olson, D.	Olson, R.	Olson, S.
Olson, T.	Palmer	Paulsen	Petersen
Pettengill	Quirk	Raecker	Rants
Rasmussen	Rayhons	Reasoner	Reichert
Roberts	Sands	Schickel	Schueller
Shomshor	Smith	Soderberg	Staed
Struyk	Swaim	Taylor, D.	Taylor, T.
Thomas	Tjepkes	Tomenga	Tymeson
Upmeyer	Van Engelenhoven	Van Fossen	Watts
Wendt	Wenthe	Wessel-Kroeschell	Whitaker
Whitead	Wienczek	Winckler	Windschitl
Wise	Worthan	Zirkelbach	Mr. Speaker Murphy

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.

#### IMMEDIATE MESSAGES

McCarthy of Polk asked and received unanimous consent that the following bills be immediately messaged to the Senate: [House File 2628](#) and **Senate Files 2303, 2341 and 2364**.

#### [HOUSE FILE 2543](#) WITHDRAWN

Hunter of Polk asked and received unanimous consent to withdraw [House File 2543](#) from further consideration by the House.

#### INTRODUCTION OF BILL

[House File 2694](#), by committee on appropriations, a bill for an act relating to long-term care insurance, and providing for penalties, an

applicability date, repeals, and an appropriation and providing an effective date.

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

#### SENATE MESSAGES CONSIDERED

[Senate Joint Resolution 2003](#), by Gronstal, a joint resolution authorizing the temporary use and consumption of alcoholic beverages on the state capitol complex grounds in conjunction with the Hy-Vee BG World Cup Triathlon, and providing an effective date.

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

[Senate Joint Resolution 2005](#), by Gronstal, a joint resolution authorizing the temporary use and consumption of wine and beer in the state capitol, and the temporary display of ceremonial banners, in conjunction with the awards ceremony of the World Food Prize Foundation.

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

#### Ways and Means Calendar

[House File 2686](#), a bill for an act relating to determination and identity protection and the employer-employee relationship by preventing identity theft in the procurement of employment, providing for the employment classification of individuals, prohibiting employers from knowingly employing unauthorized aliens, and imposing bail restrictions against a person who is an unauthorized alien, and providing penalties and an effective date, was taken up for consideration.

Wise of Lee offered the following amendment [H-8490](#) filed by him and Gayman of Scott and moved its adoption:

#### [H-8490](#)

- 1 Amend [House File 2686](#) as follows:
- 2 1. Page 1, by inserting before line 1 the
- 3 following:
- 4 "DIVISION \_\_\_\_\_
- 5 IDENTITY THEFT – FALSIFYING DOCUMENTS

6 Sec. \_\_\_\_ NEW SECTION. 715A.8A IDENTITY THEFT –  
7 FALSIFYING DOCUMENTS.

8 It is an aggravated misdemeanor for a person to do  
9 any of the following:

10 1. Make a driver's license, a nonoperator's  
11 identification card, a blank driver's license form, or  
12 any other form or document used to establish a  
13 person's identity if the person has no authority or  
14 right to make the license, card, or form in order to  
15 assist an unauthorized alien to obtain employment.

16 2. Obtain, possess, or have in the person's  
17 control or on the person's premises, driver's license  
18 or nonoperator's identification card forms, or any  
19 other forms or documents used to establish a person's  
20 identity in order to assist an unauthorized alien to  
21 obtain employment.

22 3. Obtain, possess, or have in the person's  
23 control or on the person's premises, a driver's  
24 license or a nonoperator's identification card, or  
25 blank driver's license or nonoperator's identification  
26 card form, or any other form or document which could  
27 be used to establish a person's identity, which has  
28 been made by a person having no authority or right to  
29 make the license, card, or form in order to assist an  
30 unauthorized alien to obtain employment.

31 4. Use a false or fictitious name in any  
32 application for a driver's license or nonoperator's  
33 identification card or to knowingly make a false  
34 statement or knowingly conceal a material fact or  
35 otherwise commit fraud on an application in order to  
36 assist an unauthorized alien to obtain employment."

37 2. By renumbering as necessary.

Roll call was requested by Wise of Lee and Reasoner of Union.

On the question "Shall amendment [H-8490](#) be adopted?" ([H.F. 2866](#))

The ayes were, 96:

Abdul-Samad	Alons	Anderson	Arnold
Bailey	Baudler	Bell	Berry
Boal	Bukta	Chambers	Clute
Cohoon	Dandekar	Davitt	De Boef
Deyoe	Dolecheck	Drake	Foege
Forristall	Frevert	Gaskill	Gayman
Gipp	Granzow	Grassley	Greiner
Heaton	Heddens	Horbach	Huseman
Huser	Jacobs	Jacoby	Jochum
Kaufmann	Kelley	Kressig	Kuhn
Lensing	Lukan	Lykam	Mascher
May	McCarthy	Mertz	Miller, H.

Miller, L.	Oldson	Olson, D.	Olson, R.
Olson, S.	Olson, T.	Palmer	Paulsen
Petersen	Pettengill	Quirk	Raecker
Rants	Rasmussen	Rayhons	Reasoner
Reichert	Roberts	Sands	Schickel
Schueller	Shomshor	Smith	Soderberg
Staed	Struyk	Swaim	Taylor, D.
Taylor, T.	Thomas	Tjepkes	Tomenga
Tymeson	Upmeyer	Van Engelenhoven	Van Fossen
Watts	Wendt	Wenthe	Whitaker
Whitead	Wiencek	Winckler	Windschitl
Wise	Worthan	Zirkelbach	Mr. Speaker Murphy

The nays were, 2:

Hunter                      Wessel-Kroeschell

Absent or not voting, 2:

Ford                         Hoffman

Amendment [H-8490](#) was adopted.

R. Olson of Polk offered amendment [H-8544](#) filed by him from the floor as follows:

[H-8544](#)

1 Amend [House File 2686](#) as follows:  
2 1. Page 1, line 26, by striking the words  
3 "Iowa-issued".  
4 2. Page 2, line 27, by striking the words  
5 "Iowa-issued".  
6 3. Page 3, line 35, by striking the word  
7 "chapter" and inserting the following: "article".  
8 4. Page 4, line 1, by striking the word "chapter"  
9 and inserting the following: "article".  
10 5. Page 4, line 3, by striking the word "chapter"  
11 and inserting the following: "article".  
12 6. Page 4, by inserting after line 23 the  
13 following:  
14 " \_\_\_\_\_. a. Upon determining that an employee is  
15 using false identity information, all state agencies  
16 shall investigate whether the employee has violated  
17 any laws.  
18 b. The following state agencies shall take the  
19 following action:  
20 (1) The secretary of state's office shall remove  
21 the employee's false identity information from the  
22 voter registration list, as applicable, pursuant to

23 voter qualification requirements in section 48A.5.

24 (2) The department of transportation shall remove  
25 the employee's false identity information from the  
26 agency's driver's license records, as applicable.

27 (3) The department of human services shall  
28 investigate the employee's possible use of the false  
29 identity information to gain access to federal and  
30 state resources."

31 7. Page 4, by inserting after line 32 the  
32 following:

33 "Sec.\_\_\_\_. Section 321.177, Code 2007, is amended  
34 by adding the following new subsection:

35 NEW SUBSECTION. 10. To any person who is an  
36 unauthorized alien. For the purpose of this section,  
37 an "unauthorized alien" means a person who is not a  
38 citizen or legal resident and who has not been  
39 lawfully admitted to the United States pursuant to  
40 federal law."

41 8. Page 5, line 5, by striking the figure "91F.1"  
42 and inserting the following: "10A.902".

43 9. Page 5, by inserting after line 17 the  
44 following:

45 "Sec.\_\_\_\_. Section 321.190, subsection 1, Code  
46 2007, is amended by adding the following new  
47 paragraph:

48 NEW PARAGRAPH. e. The department shall not issue  
49 a card to a person who is an unauthorized alien as  
50 defined in section 321.177."

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1 10. Page 5, by inserting after line 30 the  
2 following:

3 "Sec.\_\_\_\_. NEW SECTION. 715A.8A IDENTITY THEFT  
4 – AIDING AND ABETTING.

5 A person who knowingly assists an unauthorized  
6 alien obtain false identification in order to obtain  
7 employment commits the offense of identity theft under  
8 section 715A.8 by aiding and abetting the commission  
9 of the offense as provided in section 703.1."

10 11. Page 10, line 31, by striking the word  
11 "working" and inserting the following: "employment".

12 12. Page 16, by striking lines 24 through 26 and  
13 inserting the following: "duty of office for the  
14 heads of state agencies or their designees. Failure  
15 to so cooperate".

16 13. Page 16, by inserting after line 32 the  
17 following:

18 "Sec.\_\_\_\_. NEW SECTION. 91G.13 AGRICULTURAL  
19 ACTIVITIES.

20 A person shall not be classified as an employee or  
21 a contractor under this chapter when the person

22 participates in agricultural activities on  
23 agricultural land as defined in section 9H.1.  
24 Agricultural activities include the raising,  
25 harvesting, handling, drying, processing, or storage  
26 of crops used for feed, food, fuel, seed, or fiber;  
27 the production, care, feeding, or keeping of  
28 livestock; fencing; drainage; the handling or  
29 transportation of crops or livestock; the storage,  
30 treatment, land application, or disposal of livestock  
31 manure; the application of fertilizers, soil  
32 conditioners, pesticides, and herbicides on crops;  
33 environmental protection or preservation activities;  
34 and any accessory or related activities."

35 14. Page 16, by inserting before line 33 the  
36 following:

37 "Sec.\_\_\_\_. Section 84A.5, subsection 4, Code  
38 Supplement 2007, is amended to read as follows:

39 4. The division of labor services is responsible  
40 for the administration of the laws of this state under  
41 chapters 88, 88A, 88B, 89, 89A, 89B, 90A, 91, 91A,  
42 91C, 91D, 91E, 91G, 92, and 94A, and section 85.68.  
43 The executive head of the division is the labor  
44 commissioner, appointed pursuant to section 91.2."

45 15. Page 17, by inserting after line 25 the  
46 following:

47 "Sec.\_\_\_\_. Section 91.4, subsection 5, Code  
48 Supplement 2007, is amended to read as follows:

49 5. The director of the department of workforce  
50 development, in consultation with the labor

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1 commissioner, shall, at the time provided by law, make  
2 an annual report to the governor setting forth in  
3 appropriate form the business and expense of the  
4 division of labor services for the preceding year, the  
5 number of disputes or violations processed by the  
6 division and the disposition of the disputes or  
7 violations, and other matters pertaining to the  
8 division which are of public interest, together with  
9 recommendations for change or amendment of the laws in  
10 this chapter and chapters 88, 88A, 88B, 89, 89A, 89B,  
11 90A, 91A, 91C, 91D, 91E, 91G, 92, and 94A, and section  
12 85.68, and the recommendations, if any, shall be  
13 transmitted by the governor to the first general  
14 assembly in session after the report is filed."

15 16. Page 18, by striking lines 10 and 11 and  
16 inserting the following: "duty of office for the  
17 heads of the state agencies or their designees.  
18 Failure to so cooperate".

19 17. By striking page 18, line 19, through page  
20 19, line 9.

21 18. Page 19, by inserting before line 10 the  
22 following:

23 "DIVISION \_\_\_\_\_  
24 UNAUTHORIZED ALIENS  
25 Sec.\_\_\_\_. NEW SECTION. 421.71 STATE AIDE –  
26 EMPLOYER ELIGIBILITY.

27 1. An employer who chooses not to use the federal  
28 employment eligibility program as authorized by the  
29 federal Illegal Immigration Reform and Immigrant Act  
30 of 1996, Pub. L. No. 104-208, shall not be eligible  
31 for any developmental assistance.

32 2. For the purposes of this section,  
33 "developmental assistance" means any form of public  
34 assistance, including tax expenditures, made for the  
35 purpose of stimulating the economic development of a  
36 corporation, industry, geographic jurisdiction, or any  
37 other sector of the state's economy, including but not  
38 limited to public assistance involving industrial  
39 development bonds, training grants, loans, loan  
40 guarantees, enterprise zones, empowerment zones, tax  
41 increment financing, fee waivers, land price  
42 subsidies, infrastructure constructed or improved for  
43 the benefit of a single business or defined group of  
44 businesses at the time it is built or improved,  
45 matching funds, tax abatements, tax credits and tax  
46 discounts of every kind, including corporate,  
47 franchise, personal income, sales and use, raw  
48 materials, real property, job creation, individual  
49 investment, excise, utility, inventory, accelerated  
50 depreciation, and research and development tax credits

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1 and discounts.

2 Sec.\_\_\_\_. NEW SECTION. 644.1 UNFAIR TRADE  
3 PRACTICE.

4 The discharge of a United States citizen or lawful  
5 permanent resident alien employee by an employer of  
6 this state, who, on the date of the discharge employs  
7 an unauthorized alien, shall be an unfair trade  
8 practice. For the purpose of this section, "unfair  
9 trade practice" means any practice which offends  
10 established public policy. The discharged employee  
11 shall have a private cause of action for such unfair  
12 trade practice for damages due to discharge.

13 Sec.\_\_\_\_. NEW SECTION. 710B.1 ASSISTING  
14 UNAUTHORIZED ALIENS.

15 1. An employer, employee, or labor organization,  
16 or official member shall not knowingly assist an  
17 unauthorized alien in avoiding contact with state or  
18 federal officials.

19 2. For purposes of this section, an "unauthorized

20 alien" means a person who is not a citizen or legal  
21 resident and who has not been lawfully admitted to the  
22 United States pursuant to federal law.

23 3. A person who violates this section commits a  
24 class "D" felony.

25 Sec. \_\_\_\_ MEMORANDUM OF UNDERSTANDING –  
26 ENFORCEMENT OF FEDERAL IMMIGRATION LAW.

27 1. The attorney general is authorized and directed  
28 to negotiate the terms of a memorandum of  
29 understanding between the state of Iowa and the United  
30 States department of justice or the United States  
31 department of homeland security concerning the  
32 enforcement of federal immigration and custom laws,  
33 detention removals, and investigations in the state of  
34 Iowa. The agreement shall provide that costs incurred  
35 by the state for the detention and deportation of an  
36 unauthorized alien shall be reimbursed by the federal  
37 government.

38 2. The memorandum of understanding negotiated  
39 pursuant to subsection 1 shall be signed on behalf of  
40 this state by the attorney general and the governor or  
41 as otherwise required by the appropriate federal  
42 agency but shall not be implemented until money is  
43 appropriated for such purpose.

44 3. A local government, whether acting through its  
45 governing body or by an initiative, referendum, or any  
46 other process, shall not enact any ordinance,  
47 resolution, or policy that limits or prohibits a law  
48 enforcement officer, local officer, or local  
49 government employee from communicating or cooperating  
50 with federal officials with regard to the immigration

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1 status of any person within this state.

2 4. Notwithstanding any other provision of law, a  
3 government entity or official within the state of Iowa  
4 shall not prohibit, or in any way restrict, any  
5 government entity or official from sending to, or  
6 receiving from, the United States department of  
7 homeland security information regarding the  
8 citizenship or immigration status, lawful or unlawful,  
9 of any individual.

10 5. Notwithstanding any other provision of law, a  
11 person or agency shall not prohibit, or in any way  
12 restrict, a public employee from doing any of the  
13 following with respect to information regarding the  
14 immigration status, lawful or unlawful, of any  
15 individual:

16 a. Sending such information to, or requesting or  
17 receiving such information from, the United States  
18 department of homeland security.

19 b. Maintaining such information.  
 20 c. Exchanging such information with any other  
 21 federal, state, or local government entity.  
 22 6. Any natural or legal person lawfully domiciled  
 23 in this state may file for a writ of mandamus to  
 24 compel any noncooperating local or state governmental  
 25 agency to comply with this section."

26 19. Page 19, by inserting before line 10 the  
 27 following:

28 "Sec. \_\_\_\_ DEPARTMENT OF PUBLIC SAFETY – ILLEGAL  
 29 IMMIGRATION TASK FORCE. There is appropriated from  
 30 the general fund of the state to the department of  
 31 public safety for the fiscal year beginning July 1,  
 32 2008, and ending June 30, 2009, the following amount,  
 33 or so much thereof as is necessary, to be used for the  
 34 purposes designated:

35 For establishing an illegal immigration task force,  
 36 including salaries, support, maintenance,  
 37 miscellaneous purposes, and for not more than the  
 38 following full-time equivalent positions:

39 ..... \$565,000  
 40 ..... FTEs 12.00

41 Of the moneys appropriated in this section, the  
 42 department shall hire twelve state troopers for  
 43 purposes of the task force."

44 20. Page 19, by striking lines 14 and 15.

45 21. Title page, line 1, by inserting after the  
 46 word "to" the following: "unauthorized aliens and".

47 22. Title page, line 3, by striking the word  
 48 "employment," and inserting the following:  
 49 "employment and".

50 23. Title page, line 4, by striking the words

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1 "prohibiting employers from".

2 24. Title page, by striking lines 5 and 6.

3 25. Title page, line 7, by striking the words  
 4 "effective date" and inserting the following:  
 5 "appropriation".

6 26. By renumbering as necessary.

R. Olson of Polk offered the following amendment [H-8545](#), to  
 amendment [H-8544](#), filed by him from the floor and moved its  
 adoption:

[H-8545](#)

1 Amend the amendment, [H-8544](#), to [House File 2686](#) as  
 2 follows:

3 1. Page 2, line 23, by striking the words "as  
 4 defined in section 9H.1".

Amendment [H-8545](#) was adopted.

R. Olson of Polk offered the following amendment [H-8549](#), to amendment [H-8544](#), filed by him from the floor and moved its adoption:

[H-8549](#)

- 1 Amend the amendment, [H-8544](#), to [House File 2686](#), as
- 2 follows:
- 3 1. Page 5, by striking lines 29 through 43 and
- 4 inserting the following: "IMMIGRATION TASK FORCE.
- 5 The department of public safety shall create an
- 6 illegal immigration task force, consisting of twelve
- 7 state troopers, to enforce immigration laws.""
- 8 2. Page 6, by striking lines 4 and 5 and
- 9 inserting the following: ""and an effective date"."

Amendment [H-8549](#) was adopted.

R. Olson of Polk moved the adoption of amendment [H-8544](#), as amended.

Roll call was requested by R. Olson of Polk and Wise of Lee.

On the question "Shall amendment [H-8544](#), as amended, be adopted?" ([H.F. 2686](#))

The ayes were, 86:

Alons	Anderson	Arnold	Bailey
Baudler	Bell	Berry	Boal
Bukta	Chambers	Clute	Cohoon
Dandekar	Davitt	De Boef	Deyoe
Dolecheck	Drake	Forristall	Frevert
Gaskill	Gayman	Gipp	Grassley
Greiner	Heaton	Horbach	Hunter
Huseman	Huser	Jacobs	Jacoby
Kaufmann	Kelley	Kressig	Kuhn
Lukan	Lykam	May	McCarthy
Mertz	Miller, H.	Miller, L.	Olson, D.
Olson, R.	Olson, S.	Olson, T.	Palmer
Paulsen	Pettengill	Quirk	Raecker
Rants	Rasmussen	Rayhons	Reasoner
Reichert	Roberts	Sands	Schickel
Schueller	Shomshor	Smith	Soderberg
Staed	Struyk	Swaim	Taylor, D.
Taylor, T.	Thomas	Tjepkes	Tymeson

Upmeyer	Van Engelenhoven	Van Fossen	Watts
Wendt	Wenthe	Whitaker	Whitead
Wienczek	Windschitl	Wise	Worthan
Zirkelbach	Mr. Speaker		
	Murphy		

The nays were, 12:

Abdul-Samad	Foegen	Ford	Heddens
Jochum	Lensing	Mascher	Oldson
Petersen	Tomenga	Wessel-Kroeschell	Winckler

Absent or not voting, 2:

Granzow	Hoffman
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Amendment [H-8544](#), as amended, was adopted.

Dandekar of Linn offered the following amendment [H-8534](#) filed by her and moved its adoption:

[H-8534](#)

1 Amend [House File 2686](#) as follows:  
 2 1. Page 9, by striking lines 15 through 33.  
 3 2. Page 9, by inserting after line 35 the  
 4 following:  
 5 "\_\_\_\_. "Employer" means any person, as defined in  
 6 section 4.1, engaged in doing business in this state  
 7 and includes the state of Iowa and its officers,  
 8 agencies, and political subdivisions."  
 9 3. Page 10, line 2, by striking the words "a  
 10 contractor", and inserting the following: "an  
 11 employer".  
 12 4. Page 10, by striking lines 5 through 19 and  
 13 inserting the following:  
 14 "\_\_\_\_. "Performing services" means providing any  
 15 service to any employer in this state for a fee."  
 16 5. Page 10, line 25, by striking the word  
 17 "contractor", and inserting the following:  
 18 "employer".  
 19 6. Page 10, line 26, by striking the word  
 20 "contractor", and inserting the following:  
 21 "employer".  
 22 7. Page 10, line 28, by striking the word  
 23 "contractor", and inserting the following:  
 24 "employer".  
 25 8. Page 10, line 30, by striking the word  
 26 "contractor", and inserting the following:  
 27 "employer".

- 28 9. Page 10, line 32, by striking the word  
29 "contractor", and inserting the following:  
30 "employer".
- 31 10. Page 11, line 2, by striking the words "A  
32 contractor", and inserting the following: "An  
33 employer".
- 34 11. Page 11, line 17, by striking the word  
35 "contractors", and inserting the following:  
36 "employers".
- 37 12. Page 11, line 18, by striking the words "a  
38 contractor", and inserting the following: "an  
39 employer".
- 40 13. Page 11, line 20, by striking the word  
41 "contractor", and inserting the following:  
42 "employer".
- 43 14. Page 11, line 24, by striking the word  
44 "contractor", and inserting the following:  
45 "employer".
- 46 15. Page 11, line 34, by striking the words "a  
47 contractor", and inserting the following: "an  
48 employer".
- 49 16. Page 12, lines 5 and 6, by striking the words  
50 "a contractor", and inserting the following: "an

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- 1 employer".
- 2 17. Page 13, line 18, by striking the word  
3 "contractor", and inserting the following:  
4 "employer".
- 5 18. Page 13, line 20, by striking the words "A  
6 contractor", and inserting the following: "An  
7 employer".
- 8 19. Page 13, line 21, by striking the word  
9 "contractor's", and inserting the following:  
10 "employer's".
- 11 20. Page 13, line 28, by striking the words "A  
12 contractor", and inserting the following: "An  
13 employer".
- 14 21. Page 13, line 32, by striking the words "A  
15 contractor", and inserting the following: "An  
16 employer".
- 17 22. Page 13, line 35, by striking the words "A  
18 contractor", and inserting the following: "An  
19 employer".
- 20 23. Page 14, line 5, by striking the words "A  
21 contractor", and inserting the following: "An  
22 employer".
- 23 24. Page 14, line 7, by striking the words "A  
24 contractor", and inserting the following: "An  
25 employer".
- 26 25. Page 14, line 9, by striking the words "A

- 27 contractor", and inserting the following: "An  
28 employer".
- 29 26. Page 14, line 12, by striking the words "A  
30 contractor", and inserting the following: "An  
31 employer".
- 32 27. Page 14, lines 14 and 15, by striking the  
33 words "a contractor", and inserting the following:  
34 "an employer".
- 35 28. Page 14, line 21, by striking the word  
36 "contractor", and inserting the following:  
37 "employer".
- 38 29. Page 14, line 28, by striking the word  
39 "contractor's", and inserting the following:  
40 "employer's".
- 41 30. Page 14, line 29, by striking the word  
42 "contractor", and inserting the following:  
43 "employer".
- 44 31. Page 14, lines 30 and 31, by striking the  
45 words "a contractor", and inserting the following:  
46 "an employer".
- 47 32. Page 14, by striking line 35 and inserting  
48 the following:  
49 "1. An employer or employer's agent shall not  
50 retaliate".

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- 1 33. Page 15, line 8, by striking the words "a  
2 contractor", and inserting the following: "an  
3 employer".
- 4 34. Page 15, line 9, by striking the word  
5 "contractor's", and inserting the following:  
6 "employer's".
- 7 35. Page 15, line 18, by striking the words "a  
8 contractor's", and inserting the following: "an  
9 employer's".
- 10 36. Page 15, line 21, by striking the word  
11 "contractor", and inserting the following:  
12 "employer".
- 13 37. Page 15, lines 28 and 29, by striking the  
14 words "a contractor", and inserting the following:  
15 "an employer".
- 16 38. Page 16, line 3, by striking the word  
17 "contractor", and inserting the following:  
18 "employer".
- 19 39. Page 16, line 10, by striking the word  
20 "contractor", and inserting the following:  
21 "employer".
- 22 40. Page 16, by striking line 14 and inserting  
23 the following: "by an employer of one or more of the  
24 employer's employees".
- 25 41. Page 16, line 16, by striking the words "a

26 contractor", and inserting the following: "an  
27 employer".  
28 42. Page 16, line 21, by striking the word  
29 "contractor's", and inserting the following:  
30 "employer's".  
31 43. By renumbering as necessary.

Amendment [H-8534](#) lost.

Wessel-Kroeschell of Story offered the following amendment [H-8499](#) filed by her and moved its adoption:

[H-8499](#)

1 Amend [House File 2686](#) as follows:  
2 1. Page 19, by inserting after line 9 the  
3 following:  
4 "Sec. \_\_\_. LIVING WAGE IMPACT STUDY.  
5 1. If funding is approved or appropriated to the  
6 state board of regents for such purposes, Iowa state  
7 university shall conduct a study regarding the  
8 economic, fiscal, and social impacts of establishing  
9 the living wage, also known as the self-sufficiency  
10 wage, in Iowa. The living wage in the study shall be  
11 based on a forty-hour work week, and the study shall  
12 provide all of the following:  
13 a. A two-tiered living wage, one tier with  
14 benefits and one without benefits, for family sizes  
15 ranging from two people to six people for all  
16 ninety-nine counties.  
17 b. The impact that a living wage would have on  
18 full-time workers, the multiplier effect of a living  
19 wage on the economy, and whether more jobs would be  
20 created by this multiplier effect.  
21 c. How a living wage would impact public  
22 assistance programs, particularly whether it would  
23 reduce costs.  
24 d. How a living wage would impact state and local  
25 economic development programs.  
26 e. How a living wage would assist or hinder the  
27 housing market.  
28 f. Taking into account paragraphs "b", "c", "d",  
29 and "e", examine whether there would be an overall  
30 positive impact on the economy considering possible  
31 business concerns of inflation and job loss.  
32 g. Evaluate other states or metropolitan areas  
33 that have a living wage to provide examples of how a  
34 living wage could be implemented on a phased-in basis  
35 for all workers in this state, including the private  
36 and public sectors.

37 h. Any other recommendations that the individuals  
 38 assigned to the study believe are relevant to  
 39 establishing a living wage in this state.  
 40 2. An Iowa state university sociology professor,  
 41 an Iowa state university human development and family  
 42 studies professor, and an Iowa state university  
 43 economics professor, all who specialize in this area,  
 44 shall conduct and coordinate the study.  
 45 3. The department of workforce development, the  
 46 department of economic development, the department of  
 47 human services, the university of Iowa, the university  
 48 of northern Iowa, the child and family policy center,  
 49 the Iowa policy project, and representatives of labor  
 50 organizations and associations representing business

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1 and industry shall cooperate in conducting the study.  
 2 4. Iowa state university shall submit a report  
 3 about the findings of the study to the general  
 4 assembly by December 14, 2008."  
 5 2. Title page, line 5, by inserting before the  
 6 word "and" the following: "establishing a living wage  
 7 study."  
 8 3. By renumbering as necessary.

Roll call was requested by McCarthy of Polk and R. Olson of Polk.

On the question "Shall amendment [H-8499](#) be adopted?" ([H.F. 2686](#))

The ayes were, 99:

Abdul-Samad	Alons	Anderson	Arnold
Bailey	Baudler	Bell	Berry
Boal	Bukta	Chambers	Clute
Cohoon	Dandekar	Davitt	De Boef
Deyoe	Dolecheck	Drake	Foege
Ford	Forristall	Frevert	Gaskill
Gayman	Gipp	Granzow	Grassley
Greiner	Heaton	Heddens	Horbach
Hunter	Huseman	Huser	Jacobs
Jacoby	Jochum	Kaufmann	Kelley
Kressig	Kuhn	Lensing	Lukan
Lykam	Mascher	May	McCarthy
Mertz	Miller, H.	Miller, L.	Oldson
Olson, D.	Olson, R.	Olson, S.	Olson, T.
Palmer	Paulsen	Petersen	Pettengill
Quirk	Raecker	Rants	Rasmussen
Rayhons	Reasoner	Reichert	Roberts

Sands	Schickel	Schueller	Shomshor
Smith	Soderberg	Staed	Struyk
Swaim	Taylor, D.	Taylor, T.	Thomas
Tjepkes	Tomenga	Tymeson	Upmeyer
Van Engelenhoven	Van Fossen	Watts	Wendt
Wenthe	Wessel-Kroeschell	Whitaker	Whitead
Wienczek	Winckler	Windschitl	Wise
Worthan	Zirkelbach	Mr. Speaker Murphy	

The nays were, none.

Absent or not voting, 1:

Hoffman

Amendment [H-8499](#) was adopted.

R. Olson of Polk asked and received unanimous consent to withdraw amendment [H-8537](#) filed by him on April 15, 2008.

Jochum of Dubuque offered the following amendment [H-8553](#) filed by her, Mascher of Johnson, Wessel-Kroeschell of Story, Lensing of Johnson, Smith of Marshall and Winckler of Scott, from the floor and moved its adoption:

[H-8553](#)

- 1 Amend [House File 2686](#) as follows:
- 2 1. By striking everything after the enacting
- 3 clause and inserting the following:
- 4 "DIVISION I
- 5 WAGE PAYMENT COLLECTION
- 6 Section 1. Section 91A.2, subsection 3, Code 2007,
- 7 is amended to read as follows:
- 8 3. "Employee" means a natural person who is
- 9 employed in this state for wages by an employer.
- 10 Employee also includes a commission salesperson who
- 11 takes orders or performs services on behalf of a
- 12 principal and who is paid on the basis of commissions
- 13 but does not include persons who purchase for their
- 14 own account for resale.
- 15 a. For the purposes of this chapter, the following
- 16 persons engaged in agriculture are not employees:
- 17 a. (1) The spouse of the employer and relatives
- 18 of either the employer or spouse residing on the
- 19 premises of the employer.
- 20 b. (2) A person engaged in agriculture as an

21 owner-operator or tenant-operator and the spouse or  
 22 relatives of either who reside on the premises while  
 23 exchanging labor with the operator or for other mutual  
 24 benefit of any and all such persons.

25 e. (3) Neighboring persons engaged in agriculture  
 26 who are exchanging labor or other services.

27 (4) For the purposes of this chapter, persons  
 28 licensed under chapter 543B are not employees.

29 b. In order to establish the absence of an  
 30 employment relationship, a putative employer has the  
 31 burden to establish all of the following:

32 (1) The putative employer and putative employee  
 33 share the intention to create an independent  
 34 contractor relationship.

35 (2) The putative employer does not control or  
 36 direct the performance of services by the putative  
 37 employee.

38 (3) The putative employer is not responsible for  
 39 payment of wages to the putative employee.

40 (4) The putative employer does not have the right  
 41 to discharge the putative employee or terminate the  
 42 working relationship with the putative employee.

43 (5) The putative employer is not the authority in  
 44 charge of the work or for whose benefit the putative  
 45 employee is providing services.

46 Sec. 2. Section 91A.2, subsection 6, Code 2007, is  
 47 amended to read as follows:

48 6. "Liquidated damages" means the sum of five  
 49 percent multiplied by the amount of any wages that  
 50 were not paid or of any authorized expenses that were

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1 not reimbursed on a regular payday or on another day  
 2 pursuant to section 91A.3 multiplied by the total  
 3 number of days, excluding Sundays, legal holidays, and  
 4 the first seven days after the regular payday on which  
 5 wages were not paid or expenses were not reimbursed.  
 6 However, such sum shall not exceed twice the amount of  
 7 the unpaid wages and shall not accumulate ~~when an~~  
 8 ~~employer is subject to a petition filed in bankruptcy.~~

9 Sec. 3. Section 91A.6, subsections 1 and 2, Code  
 10 2007, are amended to read as follows:

11 1. An employer shall ~~after being notified by the~~  
 12 ~~commissioner pursuant to subsection 2~~ do the  
 13 following:

14 a. Notify its employees in writing at the time of  
 15 hiring what wages and regular paydays are designated  
 16 by the employer.

17 b. Notify, at least one pay period prior to the  
 18 initiation of any changes, its employees of any  
 19 changes in the arrangements specified in this

20 subsection 4 that reduce wages or alter the regular  
 21 paydays. The notice shall either be in writing or  
 22 posted at a place where employee notices are routinely  
 23 posted.

24 c. Make available to its employees upon written  
 25 request, a written statement enumerating employment  
 26 agreements and policies with regard to vacation pay,  
 27 sick leave, reimbursement for expenses, retirement  
 28 benefits, severance pay, or other comparable matters  
 29 with respect to wages. Notice of such availability  
 30 shall be given to each employee in writing or by a  
 31 notice posted at a place where employee notices are  
 32 routinely posted.

33 d. Establish, maintain, and preserve for three  
 34 calendar years the payroll records showing the hours  
 35 worked, wages earned, and deductions made for each  
 36 employee and any employment agreements entered into  
 37 between an employer and employee. Failure to do so  
 38 shall raise a rebuttable presumption that the employer  
 39 did not pay the required minimum wage under section  
 40 91D.1.

41 ~~2. The commissioner shall notify an employer to~~  
 42 ~~comply with subsection 1 if the employer has paid a~~  
 43 ~~claim for unpaid wages or nonreimbursed authorized~~  
 44 ~~expenses and liquidated damages under section 91A.10~~  
 45 ~~or if the employer has been assessed a civil money~~  
 46 ~~penalty under section 91A.12. However, a court may,~~  
 47 ~~when rendering a judgment for wages or nonreimbursed~~  
 48 ~~authorized expenses and liquidated damages or~~  
 49 ~~upholding a civil money penalty assessment, order that~~  
 50 ~~an employer shall not be required to comply with the~~

Page 3

1 ~~provisions of subsection 1 or that an employer shall~~  
 2 ~~be required to comply with the provisions of~~  
 3 ~~subsection 1 for a particular period of time.~~

4 Sec. 4. Section 91A.8, Code 2007, is amended to  
 5 read as follows:

6 91A.8 VIOLATIONS BY EMPLOYER, DAMAGES RECOVERABLE  
 7 BY AN EMPLOYEE UNDER THIS CHAPTER.

8 1. A violation of this chapter shall occur any  
 9 week when an individual employee was not paid the  
 10 legally required wages under this chapter, state taxes  
 11 were not withheld, or in the case of improper  
 12 discharge, discrimination, or retaliation against an  
 13 employee, every week after the improper discharge,  
 14 discrimination, or retaliation has occurred until  
 15 compensation is finally made.

16 2. When it has been shown that an employer has  
 17 ~~intentionally~~ failed to pay an employee wages or  
 18 reimburse expenses pursuant to section 91A.3, whether

19 as the result of a wage dispute or otherwise, the  
 20 employer shall be liable to the employee for ~~any the~~  
 21 unpaid wages or expenses ~~that are so intentionally~~  
 22 ~~failed to be paid or reimbursed~~, plus liquidated  
 23 damages, court costs, and any ~~attorney's~~ attorney fees  
 24 incurred in recovering the unpaid wages and determined  
 25 to have been usual and necessary. ~~In other instances~~  
 26 ~~the employer shall be liable only for unpaid wages or~~  
 27 ~~expenses, court costs and usual and necessary~~  
 28 ~~attorney's fees incurred in recovering the unpaid~~  
 29 ~~wages or expenses.~~

30 Sec. 5. Section 91A.9, subsection 2, Code 2007, is  
 31 amended to read as follows:

32 2. a. The commissioner may, consistent with due  
 33 process of law, enter any place of employment to  
 34 inspect records concerning wages and payrolls, to  
 35 question the employer and employees, and to  
 36 investigate such facts, conditions, or matters as are  
 37 deemed appropriate in determining whether any person  
 38 has violated the provisions of this chapter. ~~However,~~  
 39 ~~such entry by the commissioner shall only be in~~  
 40 ~~response to a written complaint.~~

41 b. A complaining employee may submit a written  
 42 request for confidentiality of identifying  
 43 information. Upon such request, the commissioner  
 44 shall determine if the commissioner can effectively  
 45 pursue the matter while keeping the identity of the  
 46 complaining employee confidential. If the  
 47 commissioner determines that an employee's identity  
 48 must be disclosed in order to effectively pursue the  
 49 matter, the commissioner may do so only with the  
 50 employee's consent. Otherwise, the commissioner shall

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1 keep the complaining employee's identity confidential  
 2 notwithstanding chapter 22.

3 Sec. 6. Section 91A.10, subsection 1, Code 2007,  
 4 is amended to read as follows:

5 1. a. Upon the written complaint of the employee  
 6 involved, the commissioner may determine whether wages  
 7 have not been paid and may constitute an enforceable  
 8 claim. If for any reason the commissioner decides not  
 9 to make such determination, the commissioner shall so  
 10 notify the complaining employee within fourteen days  
 11 of receipt of the complaint. The commissioner shall  
 12 otherwise notify the employee of such determination  
 13 within a reasonable time ~~and if it is determined.~~

14 b. Without regard to whether the commissioner  
 15 received a written complaint from an employee or  
 16 initiated an investigation, if the commissioner  
 17 determines that there is an enforceable claim, the

18 commissioner shall, with the consent of the  
19 complaining employee, take an assignment in trust for  
20 the wages and for any claim for liquidated damages  
21 ~~without being bound by any of the. The technical~~  
22 rules respecting the validity of the assignment shall  
23 not apply. However, the commissioner shall not accept  
24 any complaint for unpaid wages and liquidated damages  
25 after one year from the date the wages became due and  
26 payable.

27 Sec. 7. Section 91A.10, subsection 5, Code 2007,  
28 is amended to read as follows:

29 ~~5. An employer shall not discharge or in any other~~  
30 ~~manner discriminate against any employee because the~~  
31 ~~employee has filed a complaint, assigned a claim, or~~  
32 ~~brought an action under this section or has cooperated~~  
33 ~~in bringing any action against an employer. An~~  
34 ~~employer or other person shall not discharge or in any~~  
35 ~~other manner discriminate or retaliate against an~~  
36 ~~employee or other person for exercising any right~~  
37 ~~provided under this chapter or any rules adopted~~  
38 ~~pursuant to this chapter, or against another employee~~  
39 ~~or person for providing assistance to an employee or~~  
40 ~~providing information regarding the employee or~~  
41 ~~person, or for testifying or planning to testify in~~  
42 ~~any investigation or proceeding regarding the employee~~  
43 ~~or person. Taking adverse action against an employee~~  
44 ~~or other person within ninety days of an employee's or~~  
45 ~~other person's engaging in the foregoing activities~~  
46 ~~raises a presumption that such action was retaliation,~~  
47 ~~which may be rebutted by clear and convincing evidence~~  
48 ~~that such action was taken for other permissible~~  
49 ~~reasons.~~ Any employee may file a complaint with the  
50 commissioner alleging discharge, ~~or~~ discrimination, or

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1 retaliation within thirty days after such violation  
2 occurs. Upon receipt of the complaint, the  
3 commissioner shall cause an investigation to be made  
4 to the extent deemed appropriate. If the commissioner  
5 determines from the investigation that the provisions  
6 of this subsection have been violated, the  
7 commissioner shall bring an action in the appropriate  
8 district court against such person. The district  
9 court shall have jurisdiction, for cause shown, to  
10 restrain violations of this subsection and order all  
11 appropriate relief including rehiring or reinstatement  
12 of the employee to the former position with back pay.

13 Sec. 8. Section 91A.10, Code 2007, is amended by  
14 adding the following new subsection:

15 NEW SUBSECTION. 6. A civil action to enforce this  
16 section may also be maintained in any court of

17 competent jurisdiction by the commissioner or by any  
 18 party injured by a violation of this section. An  
 19 employer or other person who retaliates against an  
 20 employee or other person in violation of this section  
 21 shall be required to pay the person an amount set by  
 22 the commissioner or a court sufficient to compensate  
 23 the employee or other person and deter future  
 24 violations, but not less than one hundred fifty  
 25 dollars for each day that the violation continued.

26 Sec. 9. Section 91A.12, subsection 1, Code 2007,  
 27 is amended to read as follows:

28 1. Any employer who violates the provisions of  
 29 this chapter or the rules ~~promulgated under it~~ adopted  
 30 pursuant to this chapter shall be subject to a civil  
 31 money penalty of not more than ~~one~~ five hundred  
 32 dollars for each violation. The commissioner may  
 33 recover such civil money penalty according to the  
 34 provisions of subsections 2 ~~to~~ through 5. Any civil  
 35 money penalty recovered shall be deposited in the  
 36 general fund of the state.

#### 37 DIVISION II

#### 38 EMPLOYEE CLASSIFICATION

39 Sec. 10. NEW SECTION. 91G.1 PURPOSE.

40 The purpose of this chapter is to address the  
 41 practice of misclassifying employees as independent  
 42 contractors.

43 Sec. 11. NEW SECTION. 91G.2 DEFINITIONS.

44 1. "Commissioner" means the labor commissioner  
 45 appointed pursuant to section 91.2 or the labor  
 46 commissioner's designee.

47 2. "Construction" means any constructing,  
 48 altering, reconstructing, repairing, rehabilitating,  
 49 refinishing, refurbishing, remodeling, remediating,  
 50 renovating, custom fabricating, maintenance,

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1 landscaping, improving, wrecking, painting,  
 2 decorating, demolishing, and adding to or subtracting  
 3 from any building, structure, airport facility,  
 4 highway, roadway, street, alley, bridge, sewer, drain,  
 5 ditch, sewage disposal plant, water works, parking  
 6 facility, railroad, excavation or other project,  
 7 development, real property, or improvement, or to do  
 8 any part thereof, whether or not the performance of  
 9 the work described in this subsection involves an  
 10 addition to, or fabrication into, any structure,  
 11 project, development, real property, or improvement  
 12 described in this subsection of any material or  
 13 article of merchandise.

14 3. "Contractor" means any person, as defined in  
 15 section 4.1, engaged in construction. "Contractor"

16 includes general contractors, subcontractors, and the  
17 state of Iowa and its officers, agencies, and  
18 political subdivisions.

19 4. "Division" means the division of labor services  
20 of the department of workforce development.

21 5. "Interested party" means an individual  
22 performing services for a contractor who alleges a  
23 violation of this chapter or a person with an interest  
24 in compliance with this chapter.

25 6. "Performing services" means any constructing,  
26 altering, reconstructing, repairing, rehabilitating,  
27 refinishing, refurbishing, remodeling, remediating,  
28 renovating, custom fabricating, maintenance,  
29 landscaping, improving, wrecking, painting,  
30 decorating, demolishing, and adding to or subtracting  
31 from any building, structure, airport facility,  
32 highway, roadway, street, alley, bridge, sewer, drain,  
33 ditch, sewage disposal plant, water works, parking  
34 facility, railroad, excavation or other project,  
35 development, real property, or improvement, or to do  
36 any part thereof, whether or not the performance of  
37 the work described in this subsection involves an  
38 addition to, or fabrication into, any structure,  
39 project, development, real property, or improvement  
40 described in this subsection of any material or  
41 article of merchandise.

42 Sec. 12. NEW SECTION. 91G.3 STATUS OF  
43 INDIVIDUALS PERFORMING SERVICES.

44 1. An individual performing services shall be  
45 classified as an employee unless all of the following  
46 conditions are present and the contractor and the  
47 individual both intend to create an independent  
48 contractor relationship between the contractor and the  
49 individual:

50 a. The contractor does not control or direct the

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1 performance of services by the individual.

2 b. The contractor is not responsible for the  
3 payment of the individual's wages.

4 c. The contractor does not have the right to  
5 discharge the individual or terminate the employment  
6 relationship with the individual.

7 d. The contractor is not the authority in charge  
8 of the work or for whose benefit the individual is  
9 providing services.

10 2. An individual classified as an employee under  
11 this section shall also be classified as an employee  
12 pursuant to chapters 85, 85A, 85B, 88, 91A, and 96. A  
13 contractor commits a violation of this chapter by not  
14 treating the individual so classified under this

15 chapter as an employee pursuant to chapters 85, 85A,  
16 85B, 88, 91A, and 96.

17 3. An individual who is an owner-operator as  
18 described in section 85.61, subsection 11, and not  
19 deemed an employee under that subsection shall not be  
20 classified as an employee under this section.

21 Sec. 13. NEW SECTION. 91G.4 NOTICE OF LAW.

22 1. The commissioner shall create posters in both  
23 English and Spanish summarizing the requirements of  
24 this chapter. The English and Spanish versions of the  
25 poster shall be posted on the division's internet site  
26 and on bulletin boards in the workforce centers.

27 2. The commissioner shall provide the posters  
28 without charge to contractors upon request.

29 3. If a contractor violates section 91G.3 or 91G.8  
30 or rules adopted pursuant to any of those sections,  
31 the contractor shall post the English and Spanish  
32 versions of the poster created by the commissioner.  
33 The posters shall be posted in conspicuous locations  
34 at the places where notices to employees are normally  
35 posted at each job site and office of the contractor.

36 Sec. 14. NEW SECTION. 91G.5 ENFORCEMENT.

37 1. An interested party may file a complaint with  
38 the commissioner alleging a violation of section  
39 91G.3, 91G.4, or 91G.8 or rules adopted pursuant to  
40 any of those sections. An interested party who makes  
41 a complaint when the interested party knows such  
42 representation to be false commits a simple  
43 misdemeanor.

44 2. The commissioner shall adopt rules pursuant to  
45 and consistent with chapter 17A regarding  
46 investigations to determine whether a contractor has  
47 violated any provisions of this chapter or any rules  
48 adopted pursuant to this chapter.

49 3. A person acting in an official capacity related  
50 to services provided by the commissioner for the

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1 purposes of workplace safety training and education,  
2 pursuant to section 88.16, shall not file or  
3 investigate a complaint pursuant to this chapter if  
4 the information leading to the complaint was received  
5 due to services provided pursuant to section 88.16.

6 4. The commissioner shall enforce the provisions  
7 of this chapter. The commissioner may conduct  
8 investigations in connection with the administration  
9 and enforcement of this chapter and may visit and  
10 inspect, at all reasonable times, any places where  
11 individuals are performing services for a contractor  
12 and may inspect, at all reasonable times, documents  
13 related to the determination of whether an individual

14 is an employee under section 91G.3.

15 5. The commissioner and an employee of the  
16 commissioner shall be indemnified for any damages and  
17 legal expenses incurred as a result of the good-faith  
18 performance of the employee's official duties under  
19 this chapter, in regard to any claim for civil damages  
20 not specifically covered by the Iowa tort claims Act,  
21 chapter 669.

22 6. The commissioner may compel by subpoena the  
23 attendance and testimony of witnesses and the  
24 production of books, payrolls, records, papers, and  
25 other evidence in an investigation and may administer  
26 oaths to witnesses.

27 7. Upon the failure or refusal of any person to  
28 obey a subpoena, the commissioner may petition a  
29 district court of competent jurisdiction, and upon  
30 proper showing, the court may enter an order  
31 compelling the witness to appear and testify or  
32 produce documentary evidence. Failure to obey the  
33 court order is punishable as contempt of court.

34 8. A determination by the commissioner as to  
35 whether a violation of section 91G.3, 91G.4, or 91G.8  
36 or rules adopted pursuant to any of those sections has  
37 occurred shall be considered final agency action under  
38 chapter 17A.

39 9. If the commissioner determines upon  
40 investigation that a violation of section 91G.3,  
41 91G.4, or 91G.8 or rules adopted pursuant to any of  
42 those sections has occurred, the commissioner may do  
43 any of the following:

44 a. Issue and cause to be served on any party an  
45 order to cease and desist from any further violation.

46 b. Take affirmative or other action as deemed  
47 reasonable to eliminate the effect of any violation.

48 c. Collect the amount of any wages, salary,  
49 employment benefits, or other compensation denied or  
50 lost to an individual.

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1 d. Assess any civil penalty allowed by this  
2 chapter.

3 e. Refer matters to the county attorney upon  
4 determining that a criminal violation may have  
5 occurred.

6 10. Judicial review of any final agency action of  
7 the commissioner taken pursuant to this section may be  
8 sought in accordance with the terms of chapter 17A.

9 If a petition for judicial review is not filed within  
10 thirty days after service of the determination of the  
11 commissioner, the commissioner's determination shall  
12 be conclusive in connection with any petition for

13 enforcement filed by the commissioner and in such  
14 case, the clerk of court, unless otherwise ordered by  
15 the court, shall forthwith enter a decree enforcing  
16 the commissioner's determination and shall transmit a  
17 copy of the decree to the commissioner and the  
18 contractor named in the petition.

19 11. A contractor shall not be liable under this  
20 chapter for any other contractor's failure to properly  
21 classify individuals.

22 12. In any civil action to enforce the provisions  
23 of this chapter, the commissioner may be represented  
24 by an attorney employed by the division or, at the  
25 commissioner's request, by the attorney general.

26 Sec. 15. NEW SECTION. 91G.6 PENALTIES.

27 1. A contractor who violates section 91G.3, 91G.4,  
28 or 91G.8 or rules adopted pursuant to one of those  
29 sections is subject to a civil penalty not to exceed  
30 one thousand two hundred fifty dollars for a first  
31 violation as determined by the commissioner. A  
32 contractor is subject to a civil penalty not to exceed  
33 one thousand eight hundred seventy-five dollars for a  
34 second violation occurring within six years of a first  
35 violation as determined by the commissioner. A  
36 contractor shall be subject to a civil penalty not to  
37 exceed three thousand one hundred twenty-five dollars  
38 for a third or successive violation occurring within  
39 six years of a first violation as determined by the  
40 commissioner.

41 2. A contractor who violates any provision of  
42 section 91G.3, 91G.4, or 91G.8 or rules adopted  
43 pursuant to one of those sections commits a simple  
44 misdemeanor. A contractor who commits such a second  
45 violation within six years of a first violation  
46 commits a serious misdemeanor. A contractor who  
47 commits such a third or subsequent violation within  
48 six years of a first violation commits an aggravated  
49 misdemeanor.

50 3. A contractor who obstructs the commissioner,

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1 the employee of the commissioner, or another person  
2 authorized to inspect places where individuals are  
3 performing services for a contractor is subject to a  
4 civil penalty not to exceed one thousand eight hundred  
5 seventy-five dollars.

6 4. Each violation described in this section for  
7 each individual and for each day the violation  
8 continues constitutes a separate and distinct  
9 violation. In determining the amount of a civil  
10 penalty, the commissioner shall consider the  
11 appropriateness of the civil penalty to the contractor

12 and the gravity of the violation.

13 Sec. 16. NEW SECTION. 91G.7 STATE CONTRACT  
14 PROHIBITION.

15 For a second or subsequent violation of section  
16 91G.3 or 91G.4 determined by the commissioner to have  
17 occurred within six years of an earlier violation or  
18 for a first or subsequent violation of section 91G.8,  
19 the commissioner shall add the contractor's name to a  
20 list to be posted on the division's internet site and  
21 notify the violating contractor of the posting. A  
22 state contract shall not be awarded to a contractor  
23 whose name appears on the list until three years have  
24 elapsed from the date of the determination of the last  
25 violation.

26 Sec. 17. NEW SECTION. 91G.8 RETALIATION.

27 1. A contractor or contractor's agent shall not  
28 retaliate through discharge or in any other manner  
29 against an individual for any of the following:

30 a. Making a good-faith complaint to the  
31 commissioner or to a state or federal agency regarding  
32 a violation of section 91G.3 or 91G.4.

33 b. Testifying or otherwise cooperating in an  
34 investigation or proceeding under this chapter.

35 2. Such retaliation shall subject a contractor or  
36 contractor's agent to civil penalties and a  
37 prohibition on being awarded state contracts pursuant  
38 to this chapter and may give rise to a private right  
39 of action.

40 Sec. 18. NEW SECTION. 91G.9 DISPOSITION OF  
41 PENALTIES.

42 Any penalties assessed and collected by the  
43 commissioner pursuant to this chapter shall be  
44 deposited in the general fund of the state.

45 Sec. 19. NEW SECTION. 91G.10 PRIVATE RIGHT OF  
46 ACTION.

47 1. An individual, who has not received  
48 compensatory damages under section 91G.5, alleging a  
49 contractor's violation of this chapter or a rule  
50 adopted pursuant to this chapter and damages may file

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1 suit in district court against the contractor, in the  
2 county where the alleged violation occurred, or where  
3 any person who is party to the action resides, without  
4 regard to exhaustion of any alternative administrative  
5 remedies provided in this chapter. Actions may be  
6 brought by one or more aggrieved individuals for and  
7 on behalf of themselves and other individuals  
8 similarly situated.

9 2. If it is established that an individual has  
10 been damaged through a proceeding under subsection 1

11 by a contractor who has willfully violated a provision  
 12 of this chapter or a rule adopted pursuant to this  
 13 chapter, the individual shall be entitled to collect  
 14 the following:

15 a. The amount of any wages, salary, employment  
 16 benefits, or other compensation denied or lost to the  
 17 individual due to the violation or a retaliatory  
 18 action, and court costs and interest at the statutory  
 19 rate from the date of filing.

20 b. Punitive damages, not to exceed five times the  
 21 amount awarded in paragraph "a".

22 c. Reasonable attorney fees, if the contractor who  
 23 has damaged the individual has committed a second or  
 24 subsequent violation of section 91G.3, 91G.4, or  
 25 91G.8, or rules adopted pursuant to this chapter,  
 26 occurring within six years of a first violation.

27 3. The right of a damaged individual to bring an  
 28 action under this section terminates five years from  
 29 the date of the alleged violation by the contractor.

30 Sec. 20. NEW SECTION. 91G.11 COOPERATION.

31 1. All state agencies shall cooperate under this  
 32 chapter by sharing information concerning possible  
 33 misclassification by a contractor of one or more of  
 34 the contractor's employees as independent contractors.

35 2. Upon determining that a contractor  
 36 misclassified one or more employees as independent  
 37 contractors in violation of this chapter, the  
 38 commissioner shall notify the division administering  
 39 unemployment insurance services, the division of  
 40 workers' compensation, and the department of revenue,  
 41 each of which shall investigate the contractor's  
 42 compliance with applicable laws.

43 3. Cooperation under this chapter shall be  
 44 considered a duty of office for the heads of state  
 45 agencies or their designees. Failure to so cooperate  
 46 constitutes a violation of section 721.2, subsection  
 47 6.

48 Sec. 21. NEW SECTION. 91G.12 AGRICULTURAL  
 49 ACTIVITIES.

50 A person shall not be classified as an employee or

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1 a contractor under this chapter when the person  
 2 participates in agricultural activities on  
 3 agricultural land. Agricultural activities include  
 4 the raising, harvesting, handling, drying, processing,  
 5 or storage of crops used for feed, food, fuel, seed,  
 6 or fiber; the production, care, feeding, or keeping of  
 7 livestock; fencing; drainage; the handling or  
 8 transportation of crops or livestock; the storage,  
 9 treatment, land application, or disposal of livestock

10 manure; the application of fertilizers, soil  
11 conditioners, pesticides, and herbicides on crops;  
12 environmental protection or preservation activities;  
13 and any accessory or related activities.

14 Sec. 22. Section 84A.5, subsection 4, Code  
15 Supplement 2007, is amended to read as follows:

16 4. The division of labor services is responsible  
17 for the administration of the laws of this state under  
18 chapters 88, 88A, 88B, 89, 89A, 89B, 90A, 91, 91A,  
19 91C, 91D, 91E, 91G, 92, and 94A, and section 85.68.

20 The executive head of the division is the labor  
21 commissioner, appointed pursuant to section 91.2.

22 Sec. 23. Section 85.61, subsection 11, paragraph  
23 b, Code Supplement 2007, is amended to read as  
24 follows:

25 b. (1) "Worker" or "employee" includes an inmate  
26 as defined in section 85.59 and a person described in  
27 section 85.60.

28 (2) "Worker" or "employee" includes an individual  
29 who is classified as an employee pursuant to section  
30 91G.3.

31 Sec. 24. Section 86.45, subsection 2, Code 2007,  
32 is amended by adding the following new paragraph:  
33 NEW PARAGRAPH. j. To cooperate with the division  
34 of labor services, the division of the department of  
35 workforce development that administers unemployment  
36 insurance services, and the department of revenue  
37 pursuant to chapter 91G by sharing information  
38 concerning possible misclassification of one or more  
39 employees as independent contractors.

40 Sec. 25. Section 88.3, subsection 4, Code 2007, is  
41 amended to read as follows:

42 4. "Employee" means an employee of an employer who  
43 is employed in a business of the employer. "Employee"  
44 also means an inmate as defined in section 85.59, when  
45 the inmate works in connection with the maintenance of  
46 the institution, in an industry maintained in the  
47 institution, or while otherwise on detail to perform  
48 services for pay. "Employee" also means a volunteer  
49 involved in responses to hazardous waste incidences.  
50 The employer of a volunteer is that entity which

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1 provides or which is required to provide workers'  
2 compensation coverage for the volunteer. "Employee"  
3 includes an individual who is classified as an  
4 employee pursuant to section 91G.3.

5 Sec. 26. Section 91.4, subsection 5, Code  
6 Supplement 2007, is amended to read as follows:

7 5. The director of the department of workforce  
8 development, in consultation with the labor

9 commissioner, shall, at the time provided by law, make  
 10 an annual report to the governor setting forth in  
 11 appropriate form the business and expense of the  
 12 division of labor services for the preceding year, the  
 13 number of disputes or violations processed by the  
 14 division and the disposition of the disputes or  
 15 violations, and other matters pertaining to the  
 16 division which are of public interest, together with  
 17 recommendations for change or amendment of the laws in  
 18 this chapter and chapters 88, 88A, 88B, 89, 89A, 89B,  
 19 90A, 91A, 91C, 91D, 91E, 91G, 92, and 94A, and section  
 20 85.68, and the recommendations, if any, shall be  
 21 transmitted by the governor to the first general  
 22 assembly in session after the report is filed.

23 Sec. 27. Section 91A.2, subsection 3, unnumbered  
 24 paragraph 1, Code 2007, is amended to read as follows:

25 "Employee" means a natural person who is employed  
 26 in this state for wages by an employer. Employee also  
 27 includes a commission salesperson who takes orders or  
 28 performs services on behalf of a principal and who is  
 29 paid on the basis of commissions but does not include  
 30 persons who purchase for their own account for resale.

31 "Employee" includes an individual who is classified as  
 32 an employee pursuant to section 91G.3. For the  
 33 purposes of this chapter, the following persons  
 34 engaged in agriculture are not employees:

35 Sec. 28. Section 96.11, Code Supplement 2007, is  
 36 amended by adding the following new subsection:

37 NEW SUBSECTION. 17. INTERAGENCY COOPERATION.

38 a. All state agencies shall cooperate with the  
 39 director and the department pursuant to chapter 91G by  
 40 sharing information concerning possible  
 41 misclassification of employees as independent  
 42 contractors.

43 b. Cooperation under this chapter shall be  
 44 considered a duty of office for the heads of the state  
 45 agencies or their designees. Failure to so cooperate  
 46 constitutes a violation of section 721.2, subsection  
 47 6.

48 Sec. 29. Section 96.19, subsection 18, paragraph  
 49 a, subparagraph (2), Code 2007, is amended to read as  
 50 follows:

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1 (2) Any individual who, under the usual common law  
 2 rules applicable in determining the employer-employee  
 3 relationship, has the status of an employee, or any  
 4 individual who is classified as an employee pursuant  
 5 to section 91G.3, or

6 DIVISION III

7 SEVERABILITY AND EFFECTIVE DATE

8 Sec. 30. SEVERABILITY. The provisions of this Act  
 9 are severable in the manner provided by section 4.12.  
 10 Sec. 31. EFFECTIVE DATE. This Act takes effect  
 11 January 1, 2009."  
 12 2. Title page, by striking lines 1 through 7 and  
 13 inserting the following: "An Act relating to wage  
 14 payment collection and employment classification  
 15 issues arising between employers and individuals who  
 16 provide services to employers and including an  
 17 effective date."

Roll call was requested by Jochum of Dubuque and Hunter of Polk.

On the question "Shall amendment [H-8553](#) be adopted?" ([H.F. 2686](#))

The ayes were, 23:

Abdul-Samad	Foegen	Ford	Frevort
Heddens	Hunter	Huser	Jacoby
Jochum	Lensing	Mascher	Oldson
Olson, D.	Olson, T.	Petersen	Schueller
Smith	Taylor, D.	Taylor, T.	Wendt
Wessel-Kroeschell	Whitead	Winckler	

The nays were, 75:

Alons	Anderson	Arnold	Bailey
Baudler	Bell	Berry	Boal
Bukta	Chambers	Clute	Cohoon
Dandekar	Davitt	De Boef	Deyoe
Dolecheck	Drake	Forristall	Gaskill
Gayman	Gipp	Grassley	Greiner
Heaton	Horbach	Huseman	Jacobs
Kaufmann	Kelley	Kressig	Kuhn
Lukan	Lykam	May	McCarthy
Mertz	Miller, H.	Miller, L.	Olson, R.
Olson, S.	Palmer	Paulsen	Pettengill
Quirk	Raecker	Rants	Rasmussen
Rayhons	Reasoner	Reichert	Roberts
Sands	Schickel	Shomshor	Soderberg
Staed	Struyk	Swaim	Thomas
Tjepkes	Tomenga	Tymeson	Upmeyer
Van Engelenhoven	Van Fossen	Watts	Wenthe
Whitaker	Wiencek	Windschitl	Wise
Worthan	Zirkelbach	Mr. Speaker	
		Murphy	

Absent or not voting, 2:

Granzow                      Hoffman

Amendment [H-8553](#) lost.

R. Olson 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. 2686](#))

The ayes were, 84:

Alons	Anderson	Arnold	Bailey
Baudler	Bell	Berry	Boal
Bukta	Chambers	Clute	Cohoon
Dandekar	Davitt	De Boef	Deyoe
Dolecheck	Drake	Forristall	Frevert
Gaskill	Gayman	Gipp	Granzow
Grassley	Greiner	Heaton	Hoffman
Horbach	Huseman	Huser	Jacobs
Kaufmann	Kelley	Kressig	Kuhn
Lukan	Lykam	May	McCarthy
Mertz	Miller, H.	Miller, L.	Olson, D.
Olson, R.	Olson, S.	Palmer	Paulsen
Pettengill	Quirk	Raecker	Rants
Rasmussen	Rayhons	Reasoner	Reichert
Roberts	Sands	Schickel	Schueller
Shomshor	Soderberg	Staed	Struyk
Swaim	Taylor, D.	Taylor, T.	Thomas
Tjepkes	Tymeson	Upmeyer	Van Engelenhoven
Van Fossen	Watts	Wendt	Wenthe
Whitaker	Whitead	Wiencsek	Windschitl
Wise	Worthan	Zirkelbach	Mr. Speaker
			Murphy

The nays were, 16:

Abdul-Samad	Foege	Ford	Heddens
Hunter	Jacoby	Jochum	Lensing
Mascher	Oldson	Olson, T.	Petersen
Smith	Tomenga	Wessel-Kroeschell	Winckler

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

McCarthy of Polk asked and received unanimous consent that [House File 2686](#) be immediately messaged to the Senate.

## BILLS ENROLLED, SIGNED AND SENT TO GOVERNOR

The Chief Clerk of the House submitted the following report:

Mr. Speaker: The Chief Clerk of the House respectfully reports that the following bills have been examined and found correctly enrolled, signed by the Speaker of the House and the President of the Senate, and presented to the Governor for his approval on this 16<sup>th</sup> day of April, 2008: House Files 2103, 2145, 2393 and 2570.

MARK W. BRANDSGARD  
Chief Clerk of the House

Report adopted.

## CERTIFICATES OF RECOGNITION

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

MARK W. BRANDSGARD  
Chief Clerk of the House

- |           |  |
|-----------|--|
| 2008\2851 | Evelyn Murguia, Burlington – For celebrating her 80 <sup>th</sup> birthday.                              |
| 2008\2852 | Ted and Charlotte Schwenker, Burlington – For celebrating their 50 <sup>th</sup> wedding anniversary.    |
| 2008\2853 | Richard and Virginia Goughnour, Burlington – For celebrating their 55 <sup>th</sup> wedding anniversary. |
| 2008\2854 | Emmet and Karleen O’Toole, Letts – For celebrating their 50 <sup>th</sup> wedding anniversary.           |
| 2008\2855 | Marion and Donna Stark, Kellerton – For celebrating their 50 <sup>th</sup> wedding anniversary.          |
| 2008\2856 | Maurine Krebill, Donnellson – For celebrating her 90 <sup>th</sup> birthday.                             |
| 2008\2857 | Allen and Shirley Stevens, Delta – For celebrating their 50 <sup>th</sup> wedding anniversary.           |

- 2008\2858 Roger and Sandy Frakes, Ollie – For celebrating their 50<sup>th</sup> wedding anniversary.
- 2008\2859 Ed and Janet Maschmann, Victor – For celebrating their 50<sup>th</sup> wedding anniversary.
- 2008\2860 Bob and Dorothy Dow, Oskaloosa – For celebrating their 50<sup>th</sup> wedding anniversary.
- 2008\2861 Lloyd and Frances Pilkington, North English – For celebrating their 50<sup>th</sup> wedding anniversary.
- 2008\2862 Annabell Allen, North English – For celebrating her 75<sup>th</sup> birthday.
- 2008\2863 Rex W. McFall, Oskaloosa – For his 47 years of dedicated service at McGregor’s Furniture.
- 2008\2864 Carroll Kienol, Waterloo – For his 35 years of dedicated service to the Waterloo Police Department.
- 2008\2865 Jerry and Patricia Jaramillo, Kellerton – For celebrating their 50<sup>th</sup> wedding anniversary.
- 2008\2866 Wanda Freeberg, Truro – For celebrating her 90<sup>th</sup> birthday.
- 2008\2867 Charles and Charlotte Krogh, Exira – For celebrating their 60<sup>th</sup> wedding anniversary.
- 2008\2868 Drew Flickinger, Dubuque – For attaining the rank of Eagle Scout, the highest rank in the Boy Scouts of America.
- 2008\2869 Bradley Hauptmann, Garner – For attaining the rank of Eagle Scout, the highest rank in the Boy Scouts of America.
- 2008\2870 Vern and Geneva Van Zanten, Pella – For celebrating their 50<sup>th</sup> wedding anniversary.
- 2008\2871 Roger Squier, Mason City – For celebrating his 93<sup>rd</sup> birthday.
- 2008\2872 Margaret Squier, Mason City – For celebrating her 90<sup>th</sup> birthday.
- 2008\2873 Joseph and Rose Schlueter, Mason City – For celebrating their 60<sup>th</sup> wedding anniversary.
- 2008\2874 Pete Faust, Clear Lake – For being the Iowa winner of the ANCOR National Association Award for Outstanding Direct Support Professional.
- 2008\2875 Wayne Crawford, Independence – For celebrating his 90<sup>th</sup> birthday.
- 2008\2876 South O’Brien Jazz Band – For winning the 2008 Class 2A Iowa Jazz Championship.

- 2008\2877 George and Darlene Konicek, Clutier – For celebrating their 60<sup>th</sup> wedding anniversary.
- 2008\2878 Bessie Gary, Toledo – For celebrating her 90<sup>th</sup> birthday.
- 2008\2879 Rodney and Inez Deters, Wellsburg – For celebrating their 58<sup>th</sup> wedding anniversary.
- 2008\2880 Aurelia Jazz Band, Aurelia – For receiving 2<sup>nd</sup> place in the 2008 Class 1A Iowa Jazz Championship.

## HOUSE STUDY BILL COMMITTEE ASSIGNMENT

### [H.S.B. 793](#) Appropriations

Relating to long-term care insurance, and providing for penalties, an applicability date, repeals, and an appropriation and providing an effective date.

### COMMITTEE RECOMMENDATIONS

MR. SPEAKER: The Chief Clerk of the House respectfully reports that the following committee recommendations have been received and are on file in the office of the Chief Clerk.

MARK W. BRANDSGARD  
Chief Clerk of the House

### COMMITTEE ON APPROPRIATIONS

**Committee Bill** (Formerly [House Study Bill 793](#)), relating to long-term care insurance, and providing for penalties, an applicability date, repeals, and an appropriation and providing an effective date.

Fiscal Note is not required.

Recommended **Do Pass** April 16, 2008.

### COMMITTEE ON STATE GOVERNMENT

[Senate File 2411](#), a bill for an act relating to open records and public meetings and providing an effective date and making an appropriation.

Fiscal Note is not required.

Recommended **Amend and Do Pass with Amendment** [H-8546](#) April 15, 2008.

**Pursuant to Rule 31.7, [Senate File 2411](#) was referred to the committee on appropriations.**

## COMMITTEE ON WAYS AND MEANS

[Senate File 2415](#), a bill for an act allowing certain counties to participate in a pilot project for emergency response districts and providing for a district tax levy.

Fiscal Note is not required.

Recommended **Do Pass** April 16, 2008.

[Senate File 2418](#), a bill for an act relating to notice provided to certain households about the availability of volunteer or free income tax assistance programs and the federal and state earned income tax credits.

Fiscal Note is not required.

Recommended **Do Pass** April 16, 2008.

[Senate File 2419](#), a bill for an act relating to the property tax exemption for speculative shell buildings and including effective and retroactive applicability date provisions.

Fiscal Note is not required.

Recommended **Do Pass** April 16, 2008.

**Committee Bill** (Formerly [House File 2444](#)), relating to targeted jobs withholding credit agreements for certain pilot project cities located in border counties.

Fiscal Note is not required.

Recommended **Amend and Do Pass** April 16, 2008.

**Committee Bill** (Formerly [House File 2573](#)), concerning bingo conducted during county fairs and community festivals and providing an effective date.

Fiscal Note is not required.

Recommended **Do Pass** April 16, 2008.

## RESOLUTIONS FILED

[HR 153](#), by Wessel-Kroeschell, Heddens, D. Olson, Winckler, Staed, Mertz, Dandekar, Ford, T. Olson, Swaim, R. Olson, Lensing, Hunter, Reasoner, Shomshor, Quirk, D. Taylor, Palmer, Wenthe, Huser, Gayman, Murphy, Abdul-Samad, Petersen, Wise, Reichert, Smith, Jacoby, Wendt, Thomas, Bailey, Kuhn, Zirkelbach, H. Miller, Berry, Cohoon, Bell, Jochum, Gaskill, Kressig, Mascher, Davitt, Kelley, Whitaker, Bukta, Whitead, Lykam and Frevert, a resolution honoring the 2007 Iowa State University Cyclones women's volleyball team for

a phenomenal 2007 season that culminated in the team's appearance in the NCAA Women's Volleyball Tournament Regional semifinal.

Laid over under **Rule 25**.

[HR 154](#), by Wessel-Kroeschell, Gaskill, Heddens, D. Olson, Winckler, Staed, Mertz, Dandekar, Ford, T. Olson, Swaim, R. Olson, Lensing, Hunter, Reasoner, Shomshor, Quirk, D. Taylor, Palmer, Windschitl, Huser, Abdul-Samad, Petersen, Wise, Reichert, Gayman, Smith, Jacoby, Wendt, Thomas, Bailey, Kuhn, H. Miller, Berry, Cohoon, Bell, Jochum, Kressig, Mascher, Davitt, Murphy, Kelley, Whitaker, Bukta, Whitead, Lykam and Frevert, a resolution honoring the Iowa State University Cyclone wrestling team and head coach Cael Sanderson for their second consecutive Big 12 Conference team championship.

Laid over under **Rule 25**.

[HR 155](#), by Wessel-Kroeschell and Heddens, a resolution honoring Iowa State University track student-athlete and Fort Dodge native Lisa Koll.

Laid over under **Rule 25**.

#### AMENDMENTS FILED

<a href="#"><u>H-8541</u></a>	<a href="#"><u>H.F. 2662</u></a>	Senate Amendment
<a href="#"><u>H-8542</u></a>	<a href="#"><u>H.F. 2687</u></a>	Wise of Lee
<a href="#"><u>H-8543</u></a>	<a href="#"><u>H.F. 2381</u></a>	R. Olson of Polk
<a href="#"><u>H-8546</u></a>	<a href="#"><u>S.F. 2411</u></a>	Committee on State Government
<a href="#"><u>H-8547</u></a>	<a href="#"><u>S.F. 2402</u></a>	Watts of Dallas
<a href="#"><u>H-8548</u></a>	<a href="#"><u>S.F. 2406</u></a>	Ford of Polk
<a href="#"><u>H-8550</u></a>	<a href="#"><u>H.F. 2688</u></a>	Reichert of Muscatine
<a href="#"><u>H-8551</u></a>	<a href="#"><u>H.F. 2633</u></a>	Senate Amendment
<a href="#"><u>H-8552</u></a>	<a href="#"><u>H.F. 2612</u></a>	Senate Amendment
<a href="#"><u>H-8554</u></a>	<a href="#"><u>H.F. 2662</u></a>	Winckler of Scott
Wessel-Kroeschell of Story		Lensing of Johnson
Mascher of Johnson		Jochum of Dubuque
Frevert of Palo Alto		Petersen of Polk
Kelley of Black Hawk		

On motion by McCarthy of Polk the House adjourned at 5:32 p.m., until 9:00 a.m., Thursday, April 17, 2008