

JAN 19 1978

Place On Calendar

Reprinted 2/78

HOUSE FILE 2074

By COMMITTEE ON STATE GOVERN-
MENT

Passed House, Date 1-20-78 (p. 267) Passed Senate, Date _____

Vote: Ayes 70 Nays 15 Vote: Ayes _____ Nays _____

Approved _____

Motion to reconsider lost (p. 267)

A BILL FOR

1 An Act relating to the holding of meetings by governmental
 2 bodies expressly created by statute or executive order,
 3 local governmental bodies, and other groups created by
 4 such governmental bodies, in open session, unless other-
 5 wise exempted by statute, and providing remedies and
 6 damages.

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

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1 Section 1. Chapter twenty-eight A (28A), Code 1977, is
2 amended by striking the chapter and inserting in lieu thereof
3 sections two (2) through nine (9) of this Act.

4 Sec. 2. NEW SECTION. INTENT--DECLARATION OF POLICY.
5 This Act seeks to assure, through a requirement of open
6 meetings of governmental bodies, that the basis and rationale
7 of governmental decisions, as well as those decisions
8 themselves, are easily accessible to the people. Ambiguity
9 in the construction or application of this Act should be
10 resolved in favor of openness.

11 Sec. 3. NEW SECTION. DEFINITIONS. As used in this
12 chapter:

13 1. "Governmental body" means:

14 a. A board, council, commission or other governing body
15 expressly created by the statutes of this state or by executive
16 order.

17 b. A board, council, commission, or other governing body
18 of a political subdivision or tax-supported district in this
19 state.

20 c. A multimembered body formally and directly created
21 by one or more boards, councils, commissions, or other
22 governing bodies subject to paragraphs "a" and "b" of this
23 subsection.

24 d. Those multimembered bodies to which the state board
25 of regents or a president of a university has delegated the
26 responsibility for the management and control of the intercol-
27 legiate athletic programs at the state universities.

28 2. "Meeting" means a gathering in person or by electronic
29 means, formal or informal, of a majority of the members of
30 a governmental body where there is discussion, deliberation
31 or action upon any matter within the scope of the governmental
32 body's policy-making duties. Meetings shall not include a
33 gathering of members of a governmental body for purely
34 ministerial, social or informational purposes when there is
35 no intent to formulate policy or to avoid the purposes of

1 this Act.

2 3. "Open session" means a meeting;

3 a. To which interested members of the public have access.

4 b. In which members of the public may use cameras and
5 recording devices.

6 Sec. 4. NEW SECTION. MEETINGS OF GOVERNMENTAL BODIES.

7 Meetings of governmental bodies shall be preceded by public
8 notice as provided in section five (5) of this Act and shall
9 be held in open session unless closed sessions are expressly
10 permitted by law. All actions and discussions at meetings
11 of governmental bodies, whether formal or informal, shall
12 be conducted and executed in open session except as provided
13 in section six (6) of this Act.

14 Each governmental body shall keep minutes of all its
15 meetings showing the date, time and place, the members present,
16 and the action taken at each meeting. The minutes shall show
17 the results of each vote taken and the vote of each member
18 present shall be made public at the open session. The minutes
19 shall be public records open to public inspection.

20 Sec. 5. NEW SECTION. PUBLIC NOTICE.

21 1. A governmental body shall give notice of the time,
22 date, and place of each meeting, and its tentative agenda,
23 in a manner reasonably calculated to apprise the public of
24 that information. Reasonable notice shall include
25 communicating with the news media and posting the notice on
26 a bulletin board or other prominent place which is easily
27 accessible to the public and clearly designated for that
28 purpose at the principal office of the body holding the
29 meeting, or if no such office exists, at the building in which
30 the meeting is to be held.

31 2. Notice conforming with all of the requirements of
32 subsection one (1) of this section shall be given at least
33 twenty-four hours prior to the commencement of any meeting
34 of a governmental body unless for good cause such notice is
35 impossible or impractical, in which case as much notice as

1 is reasonably possible shall be given. Each meeting shall
2 be held at a place reasonably accessible to the public, and
3 at a time reasonably convenient to the public, unless for
4 good cause such a place or time is impossible or impractical.
5 Special access to the meeting shall not be granted to special
6 groups other than the handicapped or disabled.

7 When it is necessary to hold a meeting on less than twenty-
8 four hours notice, or at a place that is not reasonably
9 accessible to the public, or at a time that is not reasonably
10 convenient to the public, the nature of the good cause
11 justifying that departure from the normal requirements shall
12 be stated in the minutes.

13 3. A formally constituted subunit of a parent governmental
14 body may conduct a meeting without notice as required by this
15 section during a lawful meeting of the parent governmental
16 body, a recess in that meeting, or immediately following that
17 meeting, if the meeting of the subunit is publicly announced
18 at the parent meeting and the subject of the meeting reasonably
19 coincides with the subjects discussed or acted upon by the
20 parent governmental body.

21 Sec. 6. NEW SECTION. CLOSED SESSION.

22 1. A governmental body may hold a closed session only
23 by affirmative public vote of either two-thirds of the members
24 of the body or all of the members present. A governmental
25 body may hold a closed session only to the extent a closed
26 session is necessary for any of the following reasons:

27 a. To review or discuss records which are required by
28 state or federal law to be kept confidential or to be kept
29 confidential as a condition for the governmental body's
30 possession or continued receipt of federal funds.

31 b. To discuss strategy with counsel in matters that are
32 presently in litigation or where litigation is imminent where
33 its disclosure would be likely to prejudice or disadvantage
34 the position of the governmental body in that litigation.

35 c. To discuss the contents of a licensing examination

1 or whether to initiate licensee disciplinary investigations
2 or proceedings if the governmental body is a licensing or
3 examining board.

4 d. To conduct hearings to suspend or expel a student,
5 unless an open session is requested by the student or a parent
6 or guardian of the student if the student is a minor.

7 e. To discuss the decision to be rendered in a contested
8 case conducted according to the provisions of chapter 17A
9 of the Code.

10 f. To avoid disclosure of law enforcement matters, such
11 as current or proposed investigations, inspection or auditing
12 techniques or schedules, which if disclosed would enable law
13 violators to avoid detection.

14 g. To avoid disclosure of law enforcement matters, such
15 as allowable tolerances or criteria for the selection,
16 prosecution or settlement of cases, which if disclosed would
17 facilitate disregard of requirements imposed by law.

18 h. To discuss the hiring or firing of a person by the
19 governmental body only if a closed session is necessary to
20 prevent irreparable and unnecessary injury to that person's
21 reputation and that person requests a closed session.

22 2. The vote of each member on the question of holding
23 the closed session and the reason for holding the closed
24 session by reference to a specific exemption under this section
25 shall be announced publicly at the open session and entered
26 in the minutes. A governmental body shall not discuss any
27 business during a closed session except that which relates
28 to the announced reason for the closed session.

29 3. Final action on any matter shall be taken in an open
30 session unless some other provision of the Code expressly
31 permits such actions to be taken in closed session.

32 4. A governmental body shall keep detailed minutes of
33 all discussion, persons present, and action occurring at a
34 closed session, and shall also tape record all of the closed
35 session. The detailed minutes and tape recording of a closed

1 session shall be sealed and shall not be public records open
2 to public inspection. However, upon order of the court in
3 an action to enforce this Act, the detailed minutes and tape
4 recording shall be unsealed and examined by the court in
5 camera. The court shall then determine what part, if any,
6 of the minutes should be disclosed to the party seeking
7 enforcement of this Act for use in that enforcement proceeding.
8 In determining whether any portion of the minutes or recording
9 shall be disclosed to such a party for this purpose, the court
10 shall weigh the prejudicial effects to the public interest
11 of the disclosure of any portion of the minutes or recording
12 in question, against its probative value as evidence in an
13 enforcement proceeding. After such a determination, the court
14 may permit inspection of those portions of the detailed minutes
15 and tape recording to be disclosed by the party seeking
16 enforcement of this Act. A governmental body shall keep the
17 detailed minutes and tape recording of any closed session
18 for a period of at least one year from the date of that
19 meeting.

20 5. Nothing in this section requires a governmental body
21 to hold a closed session to discuss or act upon any matter.

22 Sec. 7. NEW SECTION. ENFORCEMENT.

23 1. The remedies provided by this section against state
24 governmental bodies shall be in addition to those provided
25 by section seventeen A point nineteen (17A.19) of the Code.

26 Any aggrieved person, taxpayer to or citizen of the state
27 of Iowa, or the attorney general or county attorney, may seek
28 judicial enforcement of the requirements of this Act. Suits
29 to enforce this Act shall be brought in the district court
30 for the county in which the governmental body has its principal
31 place of business.

32 2. Once a party seeking judicial enforcement of this Act
33 demonstrates to the court that the body in question is subject
34 to the requirements of this Act and has held a closed session,
35 the burden of proof shall be on the body and its members to

1 demonstrate compliance with the requirements of this Act.

2 3. Upon a finding by a preponderance of the evidence that
3 a governmental body has violated any provision of this Act,
4 a court:

5 a. Shall assess each member of the governmental body who
6 participated in its violation liquidated damages in the amount
7 of two hundred dollars if the compensation of that member
8 exceeds five hundred dollars per year and in the amount of
9 twenty-five dollars if that member's compensation per year
10 is five hundred dollars or less. These damages shall be paid
11 by the court imposing it to the state of Iowa, if the body
12 in question is a state governmental body, or to the local
13 government involved if the body in question is a local
14 governmental body. A member of a governmental body found
15 to have violated this Act shall not be assessed such damages
16 if that member proves that he or she did any of the following:

17 (1) Voted against the closed session.

18 (2) Had good reason to believe and in good faith believed
19 facts which, if true, would have indicated compliance with
20 all the requirements of this Act.

21 (3) Reasonably relied upon a decision of a court or a
22 formal opinion of the attorney general or an appropriate
23 county or city attorney.

24 b. Shall order the payment of all costs and reasonable
25 attorneys fees to any party successfully establishing a
26 violation of this Act. The costs and fees shall be paid by
27 those members of the governmental body who are assessed damages
28 under paragraph "a" of this subsection. If no such members
29 exist because they have a lawful defense under that paragraph
30 to the imposition of such damages, the costs and fees shall
31 be paid to the successful party from the budget of the
32 offending governmental body or its parent.

33 c. Shall void any action taken in violation of this Act
34 if the suit for enforcement of this Act is brought within
35 ninety days of the violation and the court finds under the

1 facts of the particular case that the public interest in the
2 enforcement of the policy of this Act outweighs the public
3 interest in sustaining the validity of the action taken in
4 the closed session.

5 d. Shall issue an order removing a member of a govern-
6 mental body from office if that member has engaged in two prior
7 violations of this Act for which damages were assessed against
8 the member during his or her term.

9 e. May issue a mandatory injunction punishable by civil
10 contempt ordering the members of the offending governmental
11 body to refrain for one year from any future violations of
12 this Act.

13 f. May award such other legal or equitable relief as may
14 be appropriate under the circumstances.

15 4. Ignorance of the legal requirements of this Act shall
16 be no defense to an enforcement proceeding brought under this
17 section. A governmental body which is in doubt about the
18 legality of closing a particular meeting is authorized to
19 bring suit at the expense of that governmental body in the
20 district court of the county of the governmental body's
21 principal place of business to ascertain the propriety of
22 any such action, or seek a formal opinion of the attorney
23 general or, where appropriate, a county or city attorney.

24 Sec. 8. NEW SECTION. RULES OF CONDUCT AT MEETINGS.

25 Nothing in this Act shall prevent a governmental body from
26 making and enforcing reasonable rules for the conduct of its
27 meetings to assure those meetings are orderly, and free from
28 interference or interruption by spectators.

29 Sec. 9. NEW SECTION. ELECTRONIC MEETINGS.

30 1. A governing body may conduct a meeting by electronic
31 means only under emergency circumstances and only if the
32 governing body complies with all of the following:

33 a. The governing body provides public access to the
34 conversation of the meeting to the extent reasonably possible.

35 b. The governmental body complies with section five (5)

1 of this Act. For the purpose of this paragraph, the place
2 of the meeting is the place from which the communication
3 originates or where public access is provided to the
4 conversation.

5 c. Minutes are kept of the meeting.

6 2. A meeting conducted in compliance with this section
7 shall not be considered in violation of this Act.

8 Sec. 10. This Act is effective January 1, 1979.

9 EXPLANATION

10 This bill rewrites the open meetings law repealing all
11 of the existing statute.

12 Section 2 provides a statement of policy and rule of
13 construction for the bill.

14 Section 3 defines the terms of the bill including the
15 governmental bodies subject to the provisions of the bill.
16 It includes bodies created by statute or by executive order,
17 governing bodies of political subdivisions or tax-supported
18 districts, and multimembered bodies formally created by the
19 bodies in the first two categories. The section defines a
20 meeting as a gathering of a majority of the members of the
21 body where business is discussed or action taken. The section
22 defines an open session as a meeting which is open to the
23 public and which may be photographed and recorded.

24 Section 4 requires meetings to be held in open session
25 unless the law permits a closed session. The section also
26 requires the keeping of minutes and establishes the required
27 contents of minutes.

28 Section 5 provides the requirements for notice of a meet-
29 ing and public access to a meeting.

30 Section 6 provides the exemptions for which a closed meet-
31 ing may be held. Exemptions are provided for the discussion
32 of confidential records, litigation strategy, licensing
33 examinations and investigations, student suspensions and
34 expulsions, deliberations on contested cases, hiring and
35 firings, and certain law enforcement matters. The section

1 provides for public announcement of the exemption claimed
2 and that final action must be taken in open session. The
3 section requires detailed minutes and recordings of closed
4 sessions and provides the procedures for reviewing those
5 records in an enforcement action.

6 Section 7 provides for the enforcement of the bill. Any
7 aggrieved person, taxpayer or resident of the state may bring
8 an action to enforce the bill. If a closed session is shown
9 the burden of proof is shifted to the governmental body.
10 Personal liability in the amount of two hundred or twenty-
11 five dollars is established as liquidated damages. Three
12 legal defenses to the personal liability are established.
13 Provision is made for the award of attorneys fees and costs,
14 voiding the action taken, removing the members from office,
15 enjoining future violations, and other remedies. Ignorance
16 of the law is not allowed as a defense.

17 Section 8 recognizes that a governmental body may establish
18 rules of conduct at meetings.

19 Section 9 provides requirements for holding a meeting by
20 conference call or by other electronic means.

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HOUSE FILE 2074

H-5075

1 Amend House File 2074 as follows:

- 2 1. Page 2, line 30, by inserting after the word
- A 3 "held." the following:
- 4 "A governing body governing a governmental unit of
- 5 less than three hundred fifty (350) persons shall not
- 6 ~~be required to give notice to the news media."~~
- B 7 2. Page 3, by inserting after line 30 the following:
- 8 " . To discuss application for letters patent."
- C 9 3. Page 5, line 26, by striking the words "taxpayer to".
- D 10 4. Page 7, line 6, by striking the word "office" and
- 11 inserting in lieu thereof the word "office".

H-5075 FILED
JANUARY 23, 1978

BY BINA of Scott
JUNKER of Woodbury

A- *Foot 1/24 (195)*
B- *Adpter 1/24 (198)*
C- *Foot 1/30 (246)*
D- *Adpter 1/30 (256)*

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LSB 3688H
dsb/jw/5

HOUSE FILE 2074

H-5165

- 1 Amend House File 2074 as follows:
- 2 1. Page 1, by inserting after line 13 the following:
- 3 "a. The board of directors of any public utility
- 4 as defined in chapter four hundred seventy six (476)
- 5 of the Code."

H-5165 FILED *Motion to suspend rule for consideration* BY SMALL of Johnson
 JANUARY 30, 1978 *Failed 1/30 (265)* JESSE of Polk

HOUSE FILE 2074

H-5169

- 1 Amend House File 2074 as follows:
- 2 1. Page 5, line 35, by striking the word "proof"
- 3 and inserting in lieu thereof the words "going
- 4 forward"

H-5169 FILED *Rule suspended. adopted 1/30* BY JESSE of Polk
 JANUARY 30, 1978 *(p. 266)*

HOUSE FILE 2074

H-5067

- 1 Amend House File 2074 as follows:
- 2 1. Page 3, by inserting after line 21 the
- 3 following:
- 4 "1. Chapter twenty (20) of the Code notwith-
- 5 standing, negotiating sessions, except strategy
- 6 meetings, shall be open to the public upon the
- 7 request of either the public employer or the
- 8 employee organization."

H-5067 FILED BY HALVORSON of Clayton
 JANUARY 23, 1978

Failed not german 1/24 (p. 196)

HOUSE FILE 2074

H-5078

- 1 Amend House File 2074 as follows:
- 2 1. Page 8, by inserting after line 7 the following:
- 3 "Sec. 10. Section twenty point seventeen (20.17),
- 4 subsection three (3), Code 1977, is amended to read
- 5 as follows:
- 6 3. Negotiating sessions, including strategy
- 7 meetings of public employers or employee organizations,
- 8 mediation and the deliberative process of arbitrators
- 9 shall be exempt from the provisions of chapter 28A.
- 10 However, negotiating sessions shall be open to the
- 11 public upon the request of either the public employer
- 12 or the employee organization. Hearings conducted
- 13 by arbitrators shall be open to the public."
- 14 2. By renumbering the sections to conform with
- 15 this amendment.

H-5078 FILED *Failed not german 1/30* BY SPEAR of Lee
 JANUARY 23, 1978 *(p. 257)*

HOUSE FILE 2074

H-5153

- 1 Amend H-5101 to page 4 of House File 2074 as
- 2 follows:
- 3 1. Page 1, by striking lines 6 and 7 and inserting
- 4 in lieu thereof the following "might suffer needless
- 5 or irreparable injury and that person does not request
- 6 an open session."

H-5153 FILED, RULES SUSPENDED BY GRIFFEE of Chickasaw
 ADOPTED (p. 220)
 JANUARY 26, 1978

HOUSE FILE 2074

H-5159

- 1 Amend House File 2074 as follows:
- 2 1. Page 4, by inserting after line 21, the
- 3 following:
- 4 "i. To discuss the purchase of particular real
- 5 estate only where premature disclosure could be
- 6 reasonably expected to increase the price the govern-
- 7 mental body would have to pay for that property. The
- 8 minutes and the tape recording of a session closed
- 9 under this paragraph shall be available for public
- 10 examination when the transaction discussed is completed."

H-5159 FILED, ADOPTED (246) BY PERKINS of Greene
 JANUARY 30, 1978 SPEAR of Lee
 TAUKE of Dubuque
 BAKER of Buena Vista
 SMALL of Johnson
 EVANS of Grundy

HOUSE FILE 2074

H-5171

- 1 Amend amendment H-5095 to page 7 of House File 2074
- 2 as follows:
- 3 1. Page 1, line 15, by striking the word "auction"
- 4 and inserting in lieu thereof the word "sale".

H-5171 FILED, ADOPTED BY BINA of Scott
 JANUARY 30, 1978 (p. 254)

HOUSE FILE 2074

H-5167

- 1 Amend House File 2074 as follows:
- 2 1. Page 8, by inserting after line 7 the
- 3 following:
- 4 "Sec. _____. Section eight hundred thirteen point
- 5 two (813.2), Rule 3, subsection 4, paragraph j, Code
- 6 1977 Supplement, is amended by adding the following
- 7 new subparagraph:
- 8 (4) The detailed minutes and tape recordings
- 9 sealed pursuant to section six (6) of this Act."

H-5167 FILED - Adopted 1/30 BY MILLER of Buchanan
 JANUARY 30, 1978 (p. 264) WYCKOFF of Benton

HOUSE FILE 2074

H-5170

- 1 Amend House File 2074 as follows:
- 2 1. Page 6, line 6, by striking the word
- 3 "liquidated".

H-5170 FILED, ADOPTED (265) BY CONLON of Muscatine
 JANUARY 30, 1978

HOUSE FILE 2074

H-5136

- 1 Amend amendment H- 5125, to page 6 of House File
- 2 2074 as follows:
- 3 1. Page 1, by inserting after line 1 the
- 4 following:
- 5 "1. Page 6, line 4, by inserting after the word
- 6 "court" the words "in its discretion".

H-5136 FILED - *Withdraw 1/30* BY THOMPSON of Polk
JANUARY 24, 1978 *(p. 250)*

HOUSE FILE 2074

H-5135

- 1 Amend House File 2074 as follows:
- 2 1. Page 4, line 21, by inserting after the
- 3 word "reputation" the words ", the governmental
- 4 body has given that person adequate notice of
- 5 the discussion,".

H-5135 FILED - *Ruled out of order with adoption of 5101 1/27 (222)* BY AVENSON of Fayette
JANUARY 24, 1978

HOUSE FILE 2074

H-5134

- 1 Amend House File 2074 as follows:
- 2 1. Page 1, by striking lines 15 and 16 and in-
- 3 serting in lieu thereof the words "of this state.".

H-5134 FILED - *Last 1/30* BY BENNETT of Ida
JANUARY 24, 1978 *(p. 262)*

HOUSE FILE 2074

H-5094

- 1 Amend House File 2074 as follows:
- 2 1. Page 2, line 24, by inserting after the
- 3 word "information." the following: "The tentative
- 4 agenda shall include any proposed ratification of
- 5 ministerial matters conducted by mail."

H-5094 FILED - *Adopted 1/24* BY MONROE of Des Moines
JANUARY 24, 1978 *(194)*

HOUSE FILE 2074

H-5141

- 1 Amend amendment H-5119 to page 1 of House File
- 2 2074 as follows:
- 3 1. Page 1, line 4, by striking the word "leasing"
- 4 and inserting in lieu thereof the word "lease".
- 5 2. Page 1, line 5, by striking the word "renting"
- 6 and inserting in lieu thereof the word "rental".

H-5141 FILED, ADOPTED BY BY JUNKER of Woodbury
UNANIMOUS CONSENT *(p. 200)*
JANUARY 24, 1978

HOUSE FILE 2074

H-5137

- 1 Amend amendment H-5067, found on page 3 of House
 2 File 2074 as follows:
 3 1. Page 1, line 6, by striking the words "upon
 4 the".
 5 2. Page 1, by striking lines 7 and 8 and inserting a
 6 ".."

H-5137 FILED - *Out of order* BY MILLER of Buchanan
 JANUARY 24, 1978 *1/24 (p. 197)*

HOUSE FILE 2074

H-5138

- 1 Amend House File 2074 as follows:
 2 1. Page 1, line 34, by striking the following
 3 ", social or informational" and inserting the words
 4 "or social".

H-5138 FILED - *Loss 1/30* BY JESSE of Polk
 JANUARY 24, 1978 *(p. 263)*

HOUSE FILE 2074

H-5139

- 1 Amend House File 2074 as follows:
 2 1. Page 6, line 5, by striking the word "Shall"
 3 and inserting in lieu thereof the word "May".
 4 2. Page 6, line 24 by striking the word "Shall"
 5 and inserting in lieu thereof the word "May".
 6 3. Page 6, line 33, by striking the word "Shall"
 7 and inserting in lieu thereof the word "May".
 8 4. Page 7, line 5 by striking the word "Shall"
 9 and inserting in lieu thereof the word "May".

H-5139 FILED - *Out of order* BY HARBOR of Mills
 JANUARY 24, 1978 *1/30 (253)*

HOUSE FILE 2074

H-5140

- 1 Amend House File 2074 as follows:
 2 1. Page 7, line 31, by striking the words "under
 3 emergency circumstances" and inserting in lieu thereof
 4 the words "in circumstances where such a meeting in
 5 person is impossible or impractical".
 6 2. Page 8, by inserting after line 5 the words
 7 "The minutes shall include a statement explaining why
 8 a meeting in person was impossible or impractical."
 9 3. Page 8, by inserting after line 7 the following
 10 subsection:
 11 "3. A meeting by electronic means may be conducted
 12 without complying with paragraph 'a' of subsection one
 13 (1) if conducted in accordance with all of the
 14 requirements for a closed session contained in section
 15 six (6) of this Act."

H-5140 FILED - *Adopted 1/30* BY RINAS of Linn
 JANUARY 24, 1978 *(p. 256)* JUNKER of Woodbury

HOUSE FILE 2074

H-5123

- 1 Amend House File 2074 as follows:
- 2 1. Page 7, line 23, by striking the words
- 3 ", where appropriate, a county or city attorney"
- 4 and inserting in lieu thereof the words "the attorney
- 5 of that governmental body".

H-5123 FILED *Out of order* BY AVENSON of Fayette
JANUARY 24, 1978 *1/30 (p. 256)*

HOUSE FILE 2074

H-5122

- 1 Amend House File 2074 as follows:
- 2 1. Page 7, by striking lines 13 and 14.

H-5122 FILED *adopted* BY AVENSON of Fayette
JANUARY 24, 1978 *1/30 (p. 256)*

HOUSE FILE 2074

H-5117

- 1 Amend House File 2074 as follows:
- 2 1. Page 3, by striking lines 25 and 26 and
- 3 inserting in lieu thereof the words "body may hold
- 4 a closed session for any of the following reasons:".

H-5117 FILED - *Withdrawn* BY GRIFFEE of Chickasaw
JANUARY 24, 1978 *1/24 (p. 197)*

HOUSE FILE 2074

H-5121

- 1 Amend House File 2074 as follows:
- 2 1. Page 2, by inserting after line 5 the
- 3 following:
- 4 "4. "Closed session" means a meeting which does not
- 5 qualify as an open session."

H-5121 FILED - *adopted* BY AVENSON of Fayette
JANUARY 24, 1978 *1/24 (p. 194)*

HOUSE FILE 2074

H-5124

- 1 Amend House File 2074 as follows:
- 2 1. Page 3, line 28 by inserting after the
- 3 word "confidential" the words "or exempted from any
- 4 disclosure requirements of the Code".

H-5124 FILED - *adopted* BY AVENSON of Fayette
JANUARY 24, 1978 *1/24 (p. 197)*

H-5126

1 Amend House File 2074 as follows:

2 1. Page 4, by striking lines 32 through 35
3 and inserting in lieu thereof the following:4 "4. A governmental body shall keep detailed
5 minutes of all discussion, persons present, and
6 action occurring at a closed session. The detailed
7 minutes of a closed".8 2. Page 5, lines 3 and 4, by striking the words
9 "and tape recording".10 3. Page 5, line 8, by striking the words
11 "or recording".12 4. Page 5, line 11, by striking the words
13 "or recording".14 5. Page 5, line 15, by striking the words
15 "and tape recording".16 6. Page 5, line 17, by striking the words
17 "and tape recording".H-5126 FILED *Sept 1/26(223)* BY SCHROEDER of Pottawattamie
JANUARY 24, 1978

HOUSE FILE 2074

H-5125

1 Amend House File 2074 as follows:

2 1. Page 6, line 5, by striking the word "Shall"
3 and inserting in lieu thereof the word "May".4 2. Page 6, line 7, by striking the words "of two"
5 and inserting in lieu thereof the words "of not more
6 than two".7 3. Page 6, line 8, by inserting after the word
8 "of" the words "not more than".9 4. Page 6, lines 22 and 23, by striking the words
10 "an appropriate county or city attorney" and inserting
11 in lieu thereof the words "the attorney for the
12 governmental body".13 5. Page 6, line 24, by striking the word "Shall"
14 and inserting in lieu thereof the word "May".15 6. Page 6, line 33, by striking the word "Shall"
16 and inserting in lieu thereof the word "May".17 7. Page 7, line 5, by striking the word "Shall"
18 and inserting in lieu thereof the word "May".19 8. Page 7, line 6, by striking the word "two"
20 and inserting in lieu thereof the word "three".21 9. Page 7, by striking line 23 and inserting in
22 lieu thereof the following: "general or an attorney
23 for the governmental body."H-5125 FILED
JANUARY 24, 1978BY GRIFFEE of Chickasaw
EVANS of Grundy
HARVEY of ScottA, B, C - *Adopted 1/30 (p. 251)*
E, D - *Lost 1/30 (251)*
A - *Reconsidered & lost 1/30 (252)*
J - *Lost 1/30 (253)*
G - *W/D 1/30 (253)*

HOUSE FILE 2074

H-5110

1 Amend House File 2074 as follows:

2 1. Page 4, by inserting after line 21 the
3 following:

4 "1. To discuss proprietary research data, in-
5 cluding patents or trade secrets, in which the
6 governmental body has a financial interest."

H-5110 FILED - *4/10/27 (222)* BY CRAWFORD of Story
JANUARY 24, 1978

HOUSE FILE 2074

H-5111

1 Amend House File 2074 as follows:

2 1. Page 1, by inserting after line 27 the
3 following:

4 "e. Both houses of the general assembly and their
5 committees, subcommittees, joint committees and interim
6 committees."

7 2. Page 1, line 32, by inserting after the word
8 "include" the words "legislative caucuses or".

9 3. Page 3, by inserting after line 20 the
10 following:

11 "4. The governmental bodies defined by section
12 three (3), subsection one (1), paragraph e of this
13 Act shall be exempt from the requirements of this
14 section."

15 4. Amend the title, line 2, by striking the words
16 "expressly created by" and inserting in lieu thereof
17 the words "created by the Constitution of the state
18 of Iowa,".

H-5111 FILED - BY TAUKE of Dubuque
JANUARY 24, 1978 WALTER of Pottawattamie
Referred into germane 1/24 (p. 190) SMALLEY of Polk
GENTLEMAN of Polk
CRAWFORD of Story

HOUSE FILE 2074

H-5127

1 Amend House File 2074 as follows:

2 1. Page 5, by inserting after line 21, the
3 following:

4 "6. Notwithstanding the provisions of section
5 twenty point seventeen (20.17), subsection three (3),
6 of the Code, negotiating sessions of a governmental
7 body, their representatives or designees and an em-
8 ployee organization, except strategy meetings, media-
9 tion and the deliberative process of arbitrators,
10 shall be subject to the provisions of this chapter."

H-5127 FILED - *Referred into germane 1/26* BY WELDEN of Hardin
JANUARY 24, 1978 *(224)*

HOUSE FILE 2074

H-5119

- 1 Amend H-5099 amending House File 2074 as follows:
- 2 1. Page 1, by striking lines 4 and 5 and inserting
- 3 in lieu thereof the following:
- 4 "i. To discuss the purchase, sale, leasing or
- 5 renting of real estate by the governmental body."

H-5119 FILED - *Adopted as amended* BY SPEAR of Lee
JANUARY 24, 1978 *by 5141 1/24 (201) Motion to reconsider 1/25 (207) Lost 1/26 (220)*

HOUSE FILE 2074

H-5118

- 1 Amend House File 2074 as follows:
- 2 1. Page 4, by striking lines 18 through 21 and
- 3 inserting in lieu thereof the following:
- 4 "h. To consider the employment, evaluation,
- 5 appointment or discharge of an individual whose
- 6 reputation might suffer needless or irreparable
- 7 injury."

H-5118 FILED - *Rule 1 and 2 of order will adopt* BY GRIFFEE of Chickasaw
JANUARY 24, 1978 *of 5101 1/26 (222)* CONNORS of Polk

HOUSE FILE 2074

H-5114

- 1 Amend House File 2074 as follows:
- 2 1. Page 3, line 32, by striking the words "is
- 3 imminent where" and inserting in lieu thereof the
- 4 words "is possible when".

H-5114 FILED - *Lost* 1/24 (192) BY GRIFFEE of Chickasaw
JANUARY 24, 1978

HOUSE FILE 2074

H-5115

- 1 Amend House File 2074 as follows:
- 2 1. Page 7, by striking lines 15 through 23.

H-5115 FILED - *#10 (p. 254)* BY GRIFFEE of Chickasaw
JANUARY 24, 1978 *1/30*

HOUSE FILE 2074

H-5113

- 1 Amend House File 2074 as follows:
- 2 1. Page 2, by striking lines 16 through 18 and
- 3 inserting in lieu thereof the following: "and the
- 4 action taken at each meeting. The minutes".

H-5113 FILED - *Lost* 1/24 (193) BY GRIFFEE of Chickasaw
JANUARY 24, 1978

H-5105

- 1 Amend House File 2074 as follows:
 2 1. Page 8, by inserting after line 7 the following:
 3 "Sec. _____. Section twenty point seventeen (20.17),
 4 subsection three (3), is amended by striking the
 5 subsection and inserting in lieu thereof the following:
 6 3. Negotiating sessions, fact finding sessions,
 7 hearings conducted by arbitrators, mediation, and
 8 the deliberative process of arbitrators shall be
 9 conducted in compliance with chapter twenty-eight
 10 A (28A) of the Code. Strategy meetings of public
 11 employers shall be exempt from the provisions of
 12 chapter twenty-eight A (28A) of the Code."
 13 2. By renumbering the sections to conform with
 14 this amendment.
 15 3. Amend the title, lines 4 and 5, by striking
 16 the words "unless otherwise exempted by statute,".

H-5105 FILED *Filed and* BY BRANSTAD of Winnebago
 JANUARY 24, 1978 *german*
1/30 (254)

HOUSE FILE 2074

H-5107

- 1 Amend House File 2074 as follows:
 2 1. Page 6, line 28, by inserting after the
 3 word "subsection." the following: "Such damages
 4 shall not exceed the limits imposed by that
 5 paragraph. Costs and fees exceeding the limits
 6 imposed by paragraph a of this subsection shall
 7 be paid from the budget of the offending govern-
 8 mental body or its parent."
 9 2. Page 7, by inserting after line 29 the
 10 following:
 11 "1. A governing body may conduct a meeting by
 12 electronic means in non-emergency circumstances if
 13 the broadcast or telecast is covered live and in
 14 its entirety and if the broadcast or telecast is
 15 otherwise in compliance with this Act."

H-5107 FILED - *Lost* 1/30 (254) BY JUNKER of Woodbury
 JANUARY 24, 1978

HOUSE FILE 2074

H-5109

- 1 Amend House File 2074 as follows:
 2 1. Page 5, by striking lines 32 through 35,
 3 and page 6, by striking line 1.

H-5109 FILED - *Lost* 1/30 (240) BY HANSEN of O'Brien
 JANUARY 24, 1978

HOUSE FILE 2074

H-5106

- 1 Amend House File 2074 as follows:
- 2 1. Amend the title, lines 4 and 5, by striking
- 3 the words "unless otherwise exempted by statute,".

H-5106 FILED - *Struck out* BY HARVEY of Scott
 JANUARY 24, 1978 *German* 1/30 (p. 264)

HOUSE FILE 2074

H-5103

- 1 Amend House File 2074 as follows:
- 2 1. Page 4, by inserting after line 21 the
- 3 following:
- 4 "i. To discuss the proposed purchase, rental
- 5 or sale of real estate."

H-5103 FILED - *Struck out* BY PERKINS of Greene
 JANUARY 24, 1978 *order by* THOMPSON of Polk
adoption of BAKER of Buena Vista
5/29 1/30 EVANS of Grundy
 SPEAR of Lee

HOUSE FILE 2074

H-5104

- 1 Amend House File 2074 as follows:
- 2 1. Page 1, by inserting before line 1 the
- 3 following:
- 4 "Section 1. Section twenty point seventeen (20.17),
- 5 subsection three (3), Code 1977, is amended by striking
- 6 the subsection and inserting in lieu thereof the
- 7 following:
- 8 3. Negotiating sessions, fact finding sessions,
- 9 and hearings conducted by arbitrators shall be
- 10 conducted in compliance with chapter twenty-eight
- 11 A (28A) of the Code. Strategy meetings of public
- 12 employers or employee organizations, mediation, and
- 13 the deliberative process of arbitrators shall be
- 14 exempt from the provisions of chapter twenty-eight
- 15 A (28A) of the Code."
- 16 2. By renumbering the sections to conform with
- 17 this amendment.
- 18 3. Amend the title, lines 4 and 5, by striking
- 19 the words "unless otherwise exempted by statute,".

H-5104 FILED - *Struck out* BY CRAWFORD of Story
 JANUARY 24, 1978 *1/24 (p. 187)* TAUKE of Dubuque

HOUSE FILE 2074

H-5108

- 1 Amend House File 2074 as follows:
- 2 1. Page 7, line 5, by inserting after the
- 3 words "removing a" the words "non-elected".

H-5108 FILED - *Lost* 1/30 (255) BY KRAUSE of Kossuth
 JANUARY 24, 1978

-5098

- 1 Amend amendment H-5078, found on page 8 of House
- 2 File 2074, as follows:
- 3 1. Page 1, by striking lines 11 and 12 and
- 4 inserting in lieu thereof the words "public. Hearings
- 5 conducted".

H-5098 FILED *5078 ruled* BY MILLER of Buchanan
 JANUARY 24, 1978 *not germane* *1/20*

HOUSE FILE 2074

H-5100

- 1 Amend House File 2074 as follows:
- 2 1. Amend the title, line 2, by inserting after
- 3 the word "by" the words "the Constitution of the State
- 4 of Iowa,".

H-5100 FILED *Halted* BY HARVEY of Scott
 JANUARY 24, 1978 *1/20 (263)*

HOUSE FILE 2074

H-5101

- 1 Amend House File 2074 as follows:
- 2 1. Page 4, by striking lines 18 through 21 and
- 3 inserting in lieu thereof the following:
- 4 "h. To consider the employment, evaluation,
- 5 appointment or discharge of a person whose reputation
- 6 might suffer needless or irreparable injury unless
- 7 that person requests an open session."

H-5101 FILED *Adopted as amended* BY GRIFFEE of Chickasaw
 JANUARY 24, 1978 *by 5153* *1/27* HARVEY of Scott
(221)

HOUSE FILE 2074

H-5099

- 1 Amend House File 2074 as follows:
- 2 1. Page 4, by inserting after line 21 the
- 3 following:
- 4 "i. To prevent premature disclosure of a proposed
- 5 purchase of real estate by the governmental body."

H-5099 FILED *Out of order* BY SPEAR of Lee
 JANUARY 24, 1978 *with adoption*
of 5159 *1/30*

HOUSE FILE 2074

H-5102

- 1 Amend House File 2074 as follows:
- 2 1. Page 4, by striking lines 4, 5 and 6 and
- 3 inserting in lieu thereof the following:
- 4 "d. To conduct hearings to suspend or expel a
- 5 student."

H-5102 FILED *Lat 1/24 (197)* BY MENKE of O'Brien
 JANUARY 24, 1978

H-5095

1 Amend House File 2074 as follows:

2 1. Page 3, by striking lines 5 and 6 and inserting
A 3 in lieu thereof the following:

4 "Special access to the meeting may only be granted
5 to handicapped or disabled individuals."

6 2. Page 6, line 33, by inserting after the word
B 7 "act" the words ", except with respect to the issuance
8 of bonds under paragraph d of this subsection."

9 3. Page 7, by inserting after line 4 the following
10 new paragraph:

11 "d. Shall void any action taken in violation of
12 this Act with respect to the issuance of bonds when
13 a public hearing has been held concerning the issuance
14 of the bonds or the bonds have been sold at public
5171-15 auction if the suit for enforcement is brought within
16 forty-five days of the violation and the court finds
17 under the facts of the particular case that the public
18 interest in the enforcement of the policy of this
19 Act outweighs the public interest in sustaining the
20 validity of the action taken in the closed session."

H-5095 FILED BY BINA of Scott

JANUARY 24, 1978

A. Adopted 1/24 (p. 196)

B. Adopted as amended HOUSE FILE 2074

H-5096 *By 5171 1/20 (254)*

1 Amend House File 2074 as follows:

2 1. Page 1, by inserting after line 27 the
3 following:

4 "e. The political party caucuses of the members
5 of the general assembly when assembled in caucus."

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

8 "4. The requirements of this section shall not
9 apply to the political party caucuses of the members
10 of the general assembly."

11 3. Amend the title, lines 3 and 4, by striking
12 the words "created by such governmental bodies".

H-5096 FILED *Revised no german* BY HARVEY of Scott
JANUARY 24, 1978 *1/24 (100)*

HOUSE FILE 2074

H-5097

1 Amend amendment H-5067, found on page 3 of
2 House File 2074, as follows:

3 1. Page 1, line 6, by striking the words
4 "upon the". *Out of order*

H-5097 FILED *Out of order* BY MILLER of Buchanan
JANUARY 24, 1978 *(p. 191)*

2/3 Amend per 5798 • Do Pass 2/16 (p. 353)

State Government
Kelly, Chairperson
Junkins
Doderer

HOUSE FILE 2074

By COMMITTEE ON STATE GOVERN-
MENT

(As Amended and Passed by the House)

*per Senate
amendment 5914
as amended*

Passed House, Date 4-13-78 (p. 1542) Passed Senate, Date 2-7-78 (p. 469)

Vote: Ayes 91 Nays 6 Vote: Ayes 44 Nays 2

Approved 6-5-78

Motion to reconsider (p. 469) #10 4/4(719)

A BILL FOR

1 An Act relating to the holding of meetings by governmental
2 bodies expressly created by statute or executive order,
3 local governmental bodies, and other groups created by
4 such governmental bodies, in open session, unless other-
5 wise exempted by statute, and providing remedies and
6 damages.

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

8 *Conference Committee appointed*
9 *Copr. Ammon, chair; Anderson, Johnson, J. Linnard, Evans, Bruffe 4/21 (p. 1773)*
10 *Senators Robinson, chair; Callaway, Busch, Kelly, Huelstman 4/24 (p. 995)*

House Amendments _____

Passed per Conference Committee Report

House 4-27-78 (p. 1970)

Senate 4-28-78 (p. 1120)

88 - 4

80 - 9

1 Section 1. Chapter twenty-eight A (28A), Code 1977, is
2 amended by striking the chapter and inserting in lieu thereof
3 sections two (2) through nine (9) of this Act.

4 5315 Sec. 2. NEW SECTION. INTENT--DECLARATION OF POLICY.

5 This Act seeks to assure, through a requirement of open
6 meetings of governmental bodies, that the basis and rationale
7 of governmental decisions, as well as those decisions
8 themselves, are easily accessible to the people. Ambiguity
9 in the construction or application of this Act should be
10 resolved in favor of openness.

11 Sec. 3. NEW SECTION. DEFINITIONS. As used in this
12 chapter:

13 1. "Governmental body" means:

14 a. A board, council, commission or other governing body
15 expressly created by the statutes of this state or by executive
16 order.

17 b. A board, council, commission, or other governing body
18 of a political subdivision or tax-supported district in this
19 state.

20 c. A multimembered body formally and directly created
21 by one or more boards, councils, commissions, or other
22 governing bodies subject to paragraphs "a" and "b" of this
23 subsection.

24 d. Those multimembered bodies to which the state board
25 of regents or a president of a university has delegated the
26 responsibility for the management and control of the intercol-
27 legiate athletic programs at the state universities.

28 2. "Meeting" means a gathering in person or by electronic
29 5307 means, formal or informal, of a majority of the members of
30 5198 a governmental body where there is discussion, deliberation
31 or action upon any matter within the scope of the governmental
32 body's policy-making duties. Meetings shall not include a
33 gathering of members of a governmental body for purely
34 5311 ministerial, social or informational purposes when there is
35 no intent to formulate policy or to avoid the purposes of

5198-1 this Act.

521 2 3. "Open session" means a meeting:

3 a. To which interested members of the public have access.

5305 5318 4 b. In which members of the public may use cameras and
5 recording devices.

5198 6 4. "Closed session" means a meeting which does not qualify
7 as an open session.

8 Sec. 4. NEW SECTION. MEETINGS OF GOVERNMENTAL BODIES.

9 Meetings of governmental bodies shall be preceded by public
10 notice as provided in section five (5) of this Act and shall
11 be held in open session unless closed sessions are expressly
12 permitted by law. All actions and discussions at meetings
5194 13 of governmental bodies, whether formal or informal, shall
14 be conducted and executed in open session except as provided
15 in section six (6) of this Act.

16 Each governmental body shall keep minutes of all its
17 meetings showing the date, time and place, the members present,
18 and the action taken at each meeting. The minutes shall show
19 the results of each vote taken and the vote of each member
20 present shall be made public at the open session. The minutes
21 shall be public records open to public inspection.

22 Sec. 5. NEW SECTION. PUBLIC NOTICE.

5304-23 1. A governmental body shall give notice of the time,
24 date, and place of each meeting, and its tentative agenda,
25 in a manner reasonably calculated to apprise the public of
26 that information. The tentative agenda shall include any
5198 27 proposed ratification of ministerial matters conducted by
5203 28 mail. Reasonable notice shall include communicating with the
5301 5312 29 news media and posting the notice on a bulletin board or other
30 prominent place which is easily accessible to the public and
31 clearly designated for that purpose at the principal office
32 of the body holding the meeting, or if no such office exists,
33 at the building in which the meeting is to be held.

34 2. Notice conforming with all of the requirements of
35 subsection one (1) of this section shall be given at least

5214 - 1 the governmental body.

2 b. Shall order the payment of all costs and reasonable
3 attorneys fees to any party successfully establishing a
4 violation of this Act. The costs and fees shall be paid by
5 those members of the governmental body who are assessed damages
6 under paragraph "a" of this subsection. If no such members
7 exist because they have a lawful defense under that paragraph
8 to the imposition of such damages, the costs and fees shall
9 be paid to the successful party from the budget of the
10 offending governmental body or its parent.

11 c. Shall void any action taken in violation of this Act,
12 except with respect to the issuance of bonds under paragraph
13 d of this subsection, if the suit for enforcement of this

14 Act is brought within ninety days of the violation and the
15 court finds under the facts of the particular case that the
16 public interest in the enforcement of the policy of this Act
17 outweighs the public interest in sustaining the validity of
18 the action taken in the closed session.

19 d. Shall void any action taken in violation of this Act
20 with respect to the issuance of bonds when a public hearing
21 has been held concerning the issuance of the bonds or the
22 bonds have been sold at public sale if the suit for enforcement
23 is brought within forty-five days of the violation and the
24 court finds under the facts of the particular case that the
25 public interest in the enforcement of the policy of this Act
26 outweighs the public interest in sustaining the validity of
27 the action taken in the closed session.

28 e. Shall issue an order removing a member of a govern-
29 mental body from office if that member has engaged in two
30 prior violations of this Act for which damages were assessed
31 against the member during his or her term.

32 f. May issue a mandatory injunction punishable by civil
33 contempt ordering the members of the offending governmental
34 body to refrain for one year from any future violations of
35 this Act.

1 this Act.

2 3. "Open session" means a meeting:

3 a. To which interested members of the public have access.

4 b. In which members of the public may use cameras and
5 recording devices.

6 4. "Closed session" means a meeting which does not qualify
7 as an open session.

8 Sec. 4. NEW SECTION. MEETINGS OF GOVERNMENTAL BODIES.

9 Meetings of governmental bodies shall be preceded by public
10 notice as provided in section five (5) of this Act and shall
11 be held in open session unless closed sessions are expressly
12 permitted by law. All actions and discussions at meetings
13 of governmental bodies, whether formal or informal, shall
14 be conducted and executed in open session except as provided
15 in section six (6) of this Act.

16 Each governmental body shall keep minutes of all its
17 meetings showing the date, time and place, the members present,
18 and the action taken at each meeting. The minutes shall show
19 the results of each vote taken and the vote of each member
20 present shall be made public at the open session. The minutes
21 shall be public records open to public inspection.

22 Sec. 5. NEW SECTION. PUBLIC NOTICE.

23 1. A governmental body shall give notice of the time,
24 date, and place of each meeting, and its tentative agenda,
25 in a manner reasonably calculated to apprise the public of
26 that information. The tentative agenda shall include any
27 proposed ratification of ministerial matters conducted by
28 mail. Reasonable notice shall include communicating with the
29 news media and posting the notice on a bulletin board or other
30 prominent place which is easily accessible to the public and
31 clearly designated for that purpose at the principal office
32 of the body holding the meeting, or if no such office exists,
33 at the building in which the meeting is to be held.

34 2. Notice conforming with all of the requirements of
35 subsection one (1) of this section shall be given at least

1 twenty-four hours prior to the commencement of any meeting
2 of a governmental body unless for good cause such notice is
3 impossible or impractical, in which case as much notice as
4 is reasonably possible shall be given. Each meeting shall
5 be held at a place reasonably accessible to the public, and
6 at a time reasonably convenient to the public, unless for
7 good cause such a place or time is impossible or impractical.
8 Special access to the meeting may only be granted to
9 handicapped or disabled individuals.

10 When it is necessary to hold a meeting on less than twenty-
11 four hours notice, or at a place that is not reasonably
12 accessible to the public, or at a time that is not reasonably
13 convenient to the public, the nature of the good cause
14 justifying that departure from the normal requirements shall
15 be stated in the minutes.

16 3. A formally constituted subunit of a parent governmental
17 body may conduct a meeting without notice as required by this
18 section during a lawful meeting of the parent governmental
19 body, a recess in that meeting, or immediately following that
20 meeting, if the meeting of the subunit is publicly announced
21 at the parent meeting and the subject of the meeting reasonably
22 coincides with the subjects discussed or acted upon by the
23 parent governmental body.

24 Sec. 6. NEW SECTION. CLOSED SESSION.

25 1. A governmental body may hold a closed session only
26 by affirmative public vote of either two-thirds of the members
27 of the body or all of the members present. A governmental
28 body may hold a closed session only to the extent a closed
29 session is necessary for any of the following reasons:

30 a. To review or discuss records which are required by
31 state or federal law to be kept confidential or exempted from
32 any disclosure requirements of the Code or to be kept
33 confidential as a condition for the governmental body's
34 possession or continued receipt of federal funds.

35 b. To discuss application for letters patent.

1 c. To discuss strategy with counsel in matters that are
2 presently in litigation or where litigation is imminent where
3 its disclosure would be likely to prejudice or disadvantage
4 the position of the governmental body in that litigation.

5 d. To discuss the contents of a licensing examination
6 or whether to initiate licensee disciplinary investigations
7 or proceedings if the governmental body is a licensing or
8 examining board.

9 e. To conduct hearings to suspend or expel a student,
10 unless an open session is requested by the student or a parent
11 or guardian of the student if the student is a minor.

12 f. To discuss the decision to be rendered in a contested
13 case conducted according to the provisions of chapter 17A
14 of the Code.

15 g. To avoid disclosure of law enforcement matters, such
16 as current or proposed investigations, inspection or auditing
17 techniques or schedules, which if disclosed would enable law
18 violators to avoid detection.

19 h. To avoid disclosure of law enforcement matters, such
20 as allowable tolerances or criteria for the selection,
21 prosecution or settlement of cases, which if disclosed would
22 facilitate disregard of requirements imposed by law.

23 i. To consider the employment, evaluation, appointment
24 or discharge of a person whose reputation might suffer needless
25 or irreparable injury and that person does not request an
26 open session.

27 j. To discuss the purchase of particular real estate only
28 where premature disclosure could be reasonably expected to
29 increase the price the governmental body would have to pay
30 for that property. The minutes and the tape recording of
31 a session closed under this paragraph shall be available for
32 public examination when the transaction discussed is completed.

33 2. The vote of each member on the question of holding
34 the closed session and the reason for holding the closed
35 session by reference to a specific exemption under this section

1 shall be announced publicly at the open session and entered
2 in the minutes. A governmental body shall not discuss any
3 business during a closed session except that which relates
4 to the announced reason for the closed session.

5 3. Final action on any matter shall be taken in an open
6 session unless some other provision of the Code expressly
7 permits such actions to be taken in closed session.

8 4. A governmental body shall keep detailed minutes of
9 all discussion, persons present, and action occurring at a
10 closed session, and shall also tape record all of the closed
11 session. The detailed minutes and tape recording of a closed
12 session shall be sealed and shall not be public records open
13 to public inspection. However, upon order of the court in
14 an action to enforce this Act, the detailed minutes and tape
15 recording shall be unsealed and examined by the court in
16 camera. The court shall then determine what part, if any,
17 of the minutes should be disclosed to the party seeking
18 enforcement of this Act for use in that enforcement proceeding.
19 In determining whether any portion of the minutes or recording
20 shall be disclosed to such a party for this purpose, the court
21 shall weigh the prejudicial effects to the public interest
22 of the disclosure of any portion of the minutes or recording
23 in question, against its probative value as evidence in an
24 enforcement proceeding. After such a determination, the court
25 may permit inspection of those portions of the detailed minutes
26 and tape recording to be disclosed by the party seeking
27 enforcement of this Act. A governmental body shall keep the
28 detailed minutes and tape recording of any closed session
29 for a period of at least one year from the date of that
30 meeting.

31 5. Nothing in this section requires a governmental body
32 to hold a closed session to discuss or act upon any matter.

33 Sec. 7. NEW SECTION. ENFORCEMENT.

34 1. The remedies provided by this section against state
35 governmental bodies shall be in addition to those provided

1 by section seventeen A point nineteen (17A.19) of the Code.
2 Any aggrieved person, taxpayer or citizen of the state
3 of Iowa, or the attorney general or county attorney, may seek
4 judicial enforcement of the requirements of this Act. Suits
5 to enforce this Act shall be brought in the district court
6 for the county in which the governmental body has its principal
7 place of business.

8 2. Once a party seeking judicial enforcement of this Act
9 demonstrates to the court that the body in question is subject
10 to the requirements of this Act and has held a closed session,
11 the burden of going forward shall be on the body and its
12 members to demonstrate compliance with the requirements of
13 this Act.

14 3. Upon a finding by a preponderance of the evidence that
15 a governmental body has violated any provision of this Act,
16 a court:

17 a. Shall assess each member of the governmental body who
18 participated in its violation damages in the amount of not
19 more than two hundred dollars if the compensation of that
20 member exceeds five hundred dollars per year and in the amount
21 of not more than twenty-five dollars if that member's
22 compensation per year is five hundred dollars or less. These
23 damages shall be paid by the court imposing it to the state
24 of Iowa, if the body in question is a state governmental body,
25 or to the local government involved if the body in question
26 is a local governmental body. A member of a governmental
27 body found to have violated this Act shall not be assessed
28 such damages if that member proves that he or she did any
29 of the following:

30 (1) Voted against the closed session.

31 (2) Had good reason to believe and in good faith believed
32 facts which, if true, would have indicated compliance with
33 all the requirements of this Act.

34 (3) Reasonably relied upon a decision of a court or a
35 formal opinion of the attorney general or the attorney for

1 the governmental body.

2 b. Shall order the payment of all costs and reasonable
3 attorneys fees to any party successfully establishing a
4 violation of this Act. The costs and fees shall be paid by
5 those members of the governmental body who are assessed damages
6 under paragraph "a" of this subsection. If no such members
7 exist because they have a lawful defense under that paragraph
8 to the imposition of such damages, the costs and fees shall
9 be paid to the successful party from the budget of the
10 offending governmental body or its parent.

11 c. Shall void any action taken in violation of this Act,
12 except with respect to the issuance of bonds under paragraph
13 d of this subsection, if the suit for enforcement of this
14 Act is brought within ninety days of the violation and the
15 court finds under the facts of the particular case that the
16 public interest in the enforcement of the policy of this Act
17 outweighs the public interest in sustaining the validity of
18 the action taken in the closed session.

19 d. Shall void any action taken in violation of this Act
20 with respect to the issuance of bonds when a public hearing
21 has been held concerning the issuance of the bonds or the
22 bonds have been sold at public sale if the suit for enforcement
23 is brought within forty-five days of the violation and the
24 court finds under the facts of the particular case that the
25 public interest in the enforcement of the policy of this Act
26 outweighs the public interest in sustaining the validity of
27 the action taken in the closed session.

28 e. Shall issue an order removing a member of a govern-
29 mental body from office if that member has engaged in two
30 prior violations of this Act for which damages were assessed
31 against the member during his or her term.

32 f. May issue a mandatory injunction punishable by civil
33 contempt ordering the members of the offending governmental
34 body to refrain for one year from any future violations of
35 this Act.

1 4. Ignorance of the legal requirements of this Act shall
2 be no defense to an enforcement proceeding brought under this
3 section. A governmental body which is in doubt about the
4 legality of closing a particular meeting is authorized to
5 bring suit at the expense of that governmental body in the
6 district court of the county of the governmental body's
7 principal place of business to ascertain the propriety of
8 any such action, or seek a formal opinion of the attorney
9 general or an attorney for the governmental body.

10 Sec. 8. NEW SECTION. RULES OF CONDUCT AT MEETINGS.

11 Nothing in this Act shall prevent a governmental body from
12 making and enforcing reasonable rules for the conduct of its
13 meetings to assure those meetings are orderly, and free from
14 interference or interruption by spectators.

15 Sec. 9. NEW SECTION. ELECTRONIC MEETINGS.

16 1. A governing body may conduct a meeting by electronic
17 means only in circumstances where such a meeting in person
18 is impossible or impractical and only if the governing body
19 complies with all of the following:

20 a. The governing body provides public access to the
21 conversation of the meeting to the extent reasonably possible.

22 b. The governmental body complies with section five (5)
23 of this Act. For the purpose of this paragraph, the place
24 of the meeting is the place from which the communication
25 originates or where public access is provided to the
26 conversation.

27 c. Minutes are kept of the meeting.

28 The minutes shall include a statement explaining why a
29 meeting in person was impossible or impractical.

30 2. A meeting conducted in compliance with this section
31 shall not be considered in violation of this Act.

32 3. A meeting by electronic means may be conducted without
33 complying with paragraph 'a' of subsection one (1) if conducted
34 in accordance with all of the requirements for a closed session
35 contained in section six (6) of this Act.

1 Sec. 10. Section eight hundred thirteen point two (813.2),
2 Rule 3, subsection 4, paragraph j, Code 1977 Supplement, is
3 amended by adding the following new subparagraph:

4 (4) The detailed minutes and tape recordings sealed
5 pursuant to section six (6) of this Act.

6 Sec. 11. This Act is effective January 1, 1979.

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HOUSE FILE 2074

H-6031

- 1 Amend the Senate amendment, H-5914, to House File
- 2 2074 as amended, passed and reprinted by the House
- 3 as follows:
- 4 1. Page 2, by striking lines 10 through 12 and
- 5 inserting in lieu thereof the following:
- 6 "____. Page 4, lines 23 and 24, by striking the
- 7 words "employment, evaluation, appointment or" and
- 8 inserting in lieu thereof the words "evaluation
- 9 for".

H-6031 FILED, ADOPTED BY AVENSON of Fayette
 APRIL 13, 1978 *Adopted 4/13 (p. 1535)*

HOUSE FILE 2074

H-6030

- 1 Amend the Senate amendment, H-5914, to House File
- 2 2074 as amended, passed and reprinted by the House
- 3 as follows:
- 4 1. Page 2, by striking lines 1 and 2.

H-6030 FILED, ADOPTED BY AVENSON of Fayette
 APRIL 13, 1978 *(p. 1535)*

HOUSE FILE 2074

H-6033

- 1 Amend Senate Amendment H-5914 to House File
- 2 2074 as follows:
- 3 1. Page 1, by striking lines 3 through 5.

H-6033 FILED *Adopted 4/13* BY TAUKE of Dubuque
 APRIL 13, 1978 *(p. 1540)*

HOUSE FILE 2074

H-6035

- 1 Amend Amendment H-6031 to House File 2074 as
- 2 follows:
- 3 1. Line 9, by inserting after the word "for"
- 4 the words "employment, appointment or".

H-6035 FILED *Adopted 4/13* BY TAUKE of Dubuque
 APRIL 13, 1978 *(p. 1535)*

HOUSE FILE 2074

H-6036

- 1 Amend amendment H-6031, to Senate amendment
- 2 H-5914, to House File 2074 as passed by the House
- 3 and reprinted, as follows:
- 4 1. Page 1, by striking lines 4 through 9 and
- 5 inserting in lieu thereof the following:
- 6 "1. Page 2, by striking lines 10 through 12."

H-6036 FILED *Adopted 4/13* BY GRIFFEE of Chickasaw
 APRIL 13, 1978 *(p. 1538)* STROMER of Hancock

HOUSE FILE 2074

H-6034

- 1 Amend Senate Amendment H-5914 to House File
- 2 2074 as follows:
- 3 1. Page 1, by striking all of lines 6 through 9.

H-6034 FILED *Adopted 4/12*
(p. 1541) BY TAUKE of Dubuque
APRIL 13, 1978

HOUSE FILE 2074

H-6037

- 1 Amend the Senate amendment H-5914, to House File
- 2 2074 as passed by the House and reprinted, as follows:
- 3 1. Page 1, by striking line 33.

H-6037 FILED *Adopted 4/12*
(p. 1541) BY GRIFFEE of Chickasaw
APRIL 13, 1978

HOUSE FILE 2074

H-6038

- 1 Amend the Senate amendment to House File 2074 as
- 2 amended, passed and reprinted by the House as follows:
- 3 Page 3, by inserting after line 15 the following:
- 4 "_____". Page 9, line 6, by striking the following:
- 5 "January 1, 1979" and inserting in lieu thereof the
- 6 following: "July 1, 1978".

H-6038 FILED *Adopted 4/12*
(p. 1541) BY ANDERSON of Jasper
APRIL 13, 1978 AVENSON of Fayette
GRIFFEE of Chickasaw

HOUSE CLIP SHEET

MONDAY, APRIL 17, 1978

HOUSE FILE 2074

H-6046

1 Amend the Senate amendment H-5914, to House File
2 2074 as amended, passed and reprinted by the House,
3 as follows:
4 1. Page 3, by inserting after line 15 the following:
5 "_____. Amend the title page, line 5, by inserting
6 after the word "statute," the words "except chapter
7 twenty (20, Code 1977,".

H-6046 FILED, ADOPTED BY AVENSON of Fayette
APRIL 13, 1978 (p 1541)

HOUSE FILE 2074

H-6032

1 Amend the Senate amendment, H-5914, to House File
2 2074 as amended, passed and reprinted by the House
3 as follows:
4 1. Page 3, by striking lines 5 through 15 and
5 inserting in lieu thereof the following:
6 "Sec. _____. Section twenty point seventeen (20.17),
7 subsection three (3), Code 1977, is amended to read
8 as follows:
9 3. Negotiating sessions, including strategy
10 meetings of public employers or employee organizations,
11 mediation and the deliberative process of arbitrators
12 shall be exempt from the provisions of chapter 28A.
13 However, the employee organization shall present its
14 initial bargaining position to the public employer
15 at the first bargaining session. The public employer
16 shall present its initial bargaining position to the
17 employee organization at the second bargaining session,
18 which shall be held no later than two weeks following
19 the first bargaining session. Both sessions shall
20 be open to the public and subject to the provisions
21 of chapter twenty-eight A (28A) of the Code. Hearings
22 conducted by arbitrators shall be open to the public."

H-6032 FILED *Adopted* BY AVENSON of Fayette
APRIL 13, 1978 *4/13 (p 1537)* ANDERSON of Jasper
WELDEN of Hardin
MONROE of Des Moines
DAVITT of Warren
SHIMANEK of Jones
KREWSON of Polk
EVANS of Grundy
LONERGAN of Boone
MENKE of O'Brien

1 Amend House File 2074 as amended, passed and
2 reprinted by the House as follows:

3 1. Page 1, line 34, by striking the words
4 "ministerial, social or informational" and inserting
5 in lieu thereof the word "social".

6 2. Page 1, by striking line 35 through page 2,
7 line 1, and inserting in lieu thereof the following:
8 "no discussion of policy or no intent to avoid the
9 purposes of this Act."

10 3. Page 2, line 3, by striking the word
11 "interested" and inserting in lieu thereof the word
12 "all".

13 4. Page 2, by striking lines 4 and 5.

14 5. Page 2, by striking lines 6 and 7.

15 6. Page 2, by striking lines 12 through 15 and
16 inserting in lieu thereof the following: "permitted
17 by law. Except as provided in section six (6) of
18 this Act, all actions and discussions at meetings
19 of governmental bodies, whether formal or informal,
20 shall be conducted and executed in open session."

21 7. Page 2, line 23, by inserting after the word
22 "body" the following: ", except township trustees,".

23 8. Page 2, lines 26 through 28, by striking the
24 words "The tentative agenda shall include any proposed
25 ratification of ministerial matters conducted by
26 mail."

27 9. Page 2, line 28, by striking the words
28 "communicating with" and inserting in lieu thereof
29 the word "advising".

30 10. Page 2, line 29, by inserting after the word
31 "media" the words "who have filed a request for notice
32 with the governmental body".

33 11. Page 3, by striking lines 8 and 9.

34 12. Page 3, by inserting after line 23 the
35 following:

36 "4. If another section of the Code requires a
37 manner of giving specific notice of a meeting, hearing
38 or an intent to take action by a governmental body,
39 compliance with that section shall constitute
40 compliance with the notice requirements of this
41 section."

42 13. Page 3, line 27, by inserting after the word
43 "present" the words "at the meeting".

44 14. Page 3, line 30, by inserting after the word
45 "required" the words "or authorized".

46 15. Page 3, lines 31 and 32, by striking the words
47 "or exempted from any disclosure requirements of the
48 Code".

49 16. Page 3, line 33, by striking the word "the"
50 and inserting in lieu thereof the word "that".

- 1 17. Page 4, line 1, by striking the words "with
2 counsel".
- 3 18. Page 4, line 9, by inserting before the word
4 "conduct" the words "discuss whether to conduct a
5 hearing or to".
- 6 19. Page 4, line 15, by inserting after the word
7 "of" the word "specific".
- 8 20. Page 4, line 19, by inserting after the word
9 "of" the word "specific".
- 10 21. Page 4, by striking line 23 and inserting
11 in lieu thereof the following:
12 "i. To consider the evaluation."
- 13 22. Page 5, by striking lines 3 and 4 and inserting
14 in lieu thereof the following: "business during a
15 closed session which does not directly relate to the
16 specific reason announced as justification for the
17 closed session."
- 18 23. Page 5, line 5, by inserting after the word
19 "action" the words "by any governmental body".
- 20 24. Page 5, line 25, by striking the words "of
21 those" and inserting in lieu thereof the words "and
22 use of all or".
- 23 25. Page 6, by striking lines 19 through 22 and
24 inserting in lieu thereof the words "more than five
25 hundred dollars nor less than one hundred dollars.
26 These".
- 27 26. Page 7, lines 11 through 13, by striking the
28 words ", except with respect to the issuance of bonds
29 under paragraph d of this subsection".
- 30 27. Page 7, line 14, by striking the words "ninety
31 days" and inserting in lieu thereof the words "six
32 months".
- 33 28. Page 7, line 18, by inserting after the word
34 "session." the words "This paragraph shall not apply
35 to an action taken regarding the issuance of bonds
36 or other evidence of indebtedness of a governmental
37 body if a public hearing, election or public sale
38 has been held regarding the bonds or evidence of
39 indebtedness."
- 40 29. Page 7, by striking lines 19 through 27.
- 41 30. Page 8, by inserting before line 11 the
42 following: "The public may use cameras or recording
43 devices at any open session."
- 44 31. Page 8, line 16, by striking the word
45 "governing" and inserting in lieu thereof the word
46 "governmental".
- 47 32. Page 8, line 18, by striking the word
48 "governing" and inserting in lieu thereof the word
49 "governmental".
- 50 33. Page 9, line 20, by striking the word

1 "governing" and inserting in lieu thereof the word
2 "governmental".

3 34. Page 8, by inserting after line 35 the follow-
4 ing new section:

5 "Sec. _____. Section twenty point seventeen (20.17),
6 Code 1977, is amended by striking subsection three
7 (3) and inserting in lieu thereof the following:

8 3. Negotiating sessions, mediation, hearings con-
9 ducted by arbitrators and fact finders, and the
10 deliberative process of arbitrators shall be conducted
11 in compliance with chapter twenty-eight A (28A) of
12 the Code. Strategy sessions conducted by public
13 employers or employee organizations shall be exempt
14 from the provisions of chapter twenty-eight A (28A)
15 of the Code."

16 35. By renumbering sections and subsections as
17 necessary to conform with this amendment.

H-5914 FILED
RECEIVED FROM SENATE
APRIL 5, 1978

*Have amended (6030, 6033, 6037, 6038, 6046) &
conferred 4/13 (p. 15+2)*

HOUSE FILE 2074

S-5367

1 Amend the Hultman amendment, S-5317, to House
2 File 2074 as amended, passed and reprinted by the
3 House as follows:
4 1. Page 1, by striking lines 5 through 14 and
5 inserting in lieu thereof the following:
6 "Sec. ____ Section twenty point seventeen (20.17),
7 subsection three (3), Code 1977, is amended to read as
8 follows:
9 3. Negotiating sessions, including strategy
10 meetings of public employers or employee organizations,
11 mediation and the deliberative process of arbitrators
12 shall be exempt from the provisions of chapter twenty-
13 eight -A (28A). However, the employee organization
14 shall present its initial bargaining position to the
15 public employer at the first bargaining session. The
16 public employer shall present its initial bargaining
17 position to the employee organization at the second
18 bargaining session, which shall be held no later than
19 two weeks following the first bargaining session.
20 Both sessions shall be open to the public and subject
21 to the provisions of chapter twenty-eight -A (28A)
22 of the Code. Hearings conducted by arbitrators shall
23 be open to the public."

S-5367 FILED *Order of order 4/4 (p. 720)*
MARCH 14, 1978

BY CLOYD ROBINSON
DAVID M. READINGER
LOWELL L. JUNKINS
RICHARD DRAKE

SENATE CLIP SHEET

March 15, 1978

HOUSE FILE 2074

S-5356

1 Amend House File 2074 as amended, passed and
2 reprinted by the House as follows:
3 1. Page 8, by inserting after line 35 the
4 following:
5 "Sec. _____. Section twenty point seventeen (20.17),
6 Code 1977, is amended by striking subsection three
7 (3) and inserting in lieu thereof the following:
8 3. Negotiating sessions, hearings conducted by
9 arbitrators and fact finders, and the deliberative
10 process of arbitrators shall be conducted in compliance
11 with chapter twenty-eight A (28A) of the Code.
12 Mediation and strategy sessions conducted by public
13 employers or employee organizations shall be exempt
14 from the provisions of chapter twenty-eight A (28A)
15 of the Code."
16 2. By renumbering the sections to conform with
17 this amendment.

S-5356 FILED *Out of order 4/4* BY JOAN ORR
MARCH 14, 1978 (*p. 719*)

HOUSE FILE 2074

S-5357

1 Amend the amendment, S-5317, to House File 2074
2 as amended, passed and reprinted by the House as
3 follows:
4 1. Page 1, by striking line 8 and inserting in
5 lieu thereof the following:
6 "3. Negotiating sessions, hearings con-".
7 2. Page 1, by striking line 12 and inserting in
8 lieu thereof the following: "Mediation and strategy
9 sessions conducted by public employers or".

S-5357 FILED *Out of order 4/4* BY JOAN ORR
MARCH 14, 1978 (*p. 717*)

HOUSE FILE 2074

S-5322

1 Amend the Kelly amendment S-5311 to House File 2074
2 as amended, passed and reprinted by the House as
3 follows:
4 1. Page 1, by striking lines 3 through 5 and
5 inserting in lieu thereof the following:
6 "1. Page 1, line 34, by striking the word
7 "ministerial;"."

S-5322 FILED & LOST (p. 467)
MARCH 7, 1978

BY C. W. HUTCHINS

HOUSE FILE 2074

S-5325

1 Amend House File 2074, as amended, passed and
2 reprinted by the House as follows:
3 1. Page 7, by striking lines 17 and 18 and
4 inserting in lieu thereof the following: "works
5 or results in the disadvantage, injury, injustice,
6 detriment, irreparable harm or prejudice to the
7 governmental body or the public."

S-5325 FILED
MARCH 7, 1978
WITHDRAWN

BY JAMES M. REDMOND

HOUSE FILE 2074

S-5326

1 Amend House File 2074, as amended, passed and
2 reprinted by the House as follows:
3 1. Page 7, lines 17 and 18, by striking the words
4 "outweighs the public interest in sustaining the validity
5 of the action taken in the closed session" and inserting
6 in lieu thereof the words "works or results in the
7 disadvantage, injury, injustice, detriment, irreparable
8 harm or prejudice to the public."

S-5326 FILED & LOST (p. 469)
MARCH 7, 1978

BY JAMES M. REDMOND

HOUSE FILE 2074

S-5317

1 Amend House File 2074 as amended, passed and
2 reprinted by the House as follows:

3 1. Page 8, by inserting after line 35 the follow-
4 ing:

5 "Sec. _____. Section twenty point seventeen (20.17),
6 Code 1977, is amended by striking subsection three
7 (3) and inserting in lieu thereof the following:

8 3. Negotiating sessions, mediation, hearings con-
9 ducted by arbitrators and fact finders, and the deliber-
10 ative process of arbitrators shall be conducted in
11 compliance with chapter twenty-eight A (28A) of the Code.
12 Strategy sessions conducted by public employers or
13 employee organizations shall be exempt from the provi-
14 sions of chapter twenty-eight A (28A) of the Code."

15 2. By renumbering the sections to conform with this
16 amendment.

S-5317 FILED & ADOPTED (p. 466)
MARCH 7, 1978

BY CALVIN O. HULTMAN
LUCAS J. DE KOSTER

Motion to reconsider lost 3/7 (p. 468)

HOUSE FILE 2074

S-5318

1 Amend House File 2074, as amended, passed and
2 reprinted by the House as follows:

3 1. Page 2, line 3, by striking the word "interested"
4 and inserting in lieu thereof the word "all".

5 2. Page 2, by striking lines 4 and 5.

6 3. Page 8, by inserting before line 11 the
7 following: "The public may use cameras or recording
8 devices at any open session."

S-5318 FILED & ADOPTED (p. 467)
MARCH 7, 1978

BY RICHARD R. RAMSEY
LUCAS J. DE KOSTER
JAMES V. GALLAGHER

HOUSE FILE 2074

S-5319

1 Amend House File 2074, as amended, passed
2 and reprinted by the House as follows:

3 1. Page 7, line 14, by striking the words
4 "ninety days" and inserting in lieu thereof the
5 words "six months".

S-5319 FILED & ADOPTED (p. 467)
MARCH 7, 1978

BY PHILIP B. HILL
TOM SLATER

SENATE 10
MARCH 7, 1978

HOUSE FILE 2074

S-5315

1 Amend House File 2074, as amended, passed and
2 reprinted by the House as follows:
3 1. Page 2, line 3, by striking the word
DIV. 4 "interested" and inserting in lieu thereof the word
A 5 "all".
6 2. Page 2, by striking lines 4 and 5.
DIV. 7 3. Page 8, by inserting after line 14 the follow-
B 8 ing new section:
9 "Sec. __. NEW SECTION. No governmental body shall
10 prohibit the public from using cameras or recording
11 devices at any open session."

S-5315 FILED - *h/d 3/7 (p. 467)* BY RICHARD R. RAMSEY
MARCH 6, 1978

HOUSE FILE 2074

S-5316

1 Amend House File 2074, as amended, passed and
2 reprinted by the House as follows:
3 1. Page 8, by inserting after line 9 the following
4 new section:
5 "Sec. __. CRIMINAL PENALTIES. Any person
6 who knowingly and willfully engages in conduct prohibited
7 by this Act shall be, upon conviction, guilty of an
8 aggravated misdemeanor.
9 The bringing of suit to assess a civil penalty
10 against a person by filing a petition shall be an
11 election of remedies to not bring a criminal prosecution
12 against this person. The bringing of a criminal
13 prosecution against a person by filing an information
14 or returning an indictment shall be an election of
15 remedies to not bring suit to assess a civil penalty
16 against this person."

S-5316 FILED *Lant 3/7 (p. 465)* BY JAMES M. REDMOND
MARCH 6, 1978

HOUSE FILE 2074

S-5301

- 1 Amend House File 2074 as amended, passed and re-
- 2 printed by the House as follows:
- 3 Page 2, line 29, by adding after the word "media"
- 4 the words "or news medium".

S-5301 FILED
MARCH 6, 1978

BY FORREST V. SCHWENGELS

HOUSE FILE 2074

S-5303

- 1 Amend House File 2074 as amended and passed by
- 2 the House as follows:
- DIV. A 3 1. Page 2, line 28, by striking the words
- 4 "communicating with" and inserting in lieu thereof
- 5 the word "advising".
- DIV. B 6 2. Page 2, line 29, by striking the words "news
- 7 media and posting the notice" and inserting in lieu
- 8 thereof the words "local news media of that informa-
- 9 tion and posting notice of that information".

S-5303 FILED
MARCH 6, 1978

BY RICHARD R. RAMSEY

DIV. A - ADOPTED (p. 451)
DIV. B - RULED OUT OF ORDER (451)

HOUSE FILE 2074

S-5304

- 1 Amend House File 2074 as amended, passed and
- 2 reprinted by the House as follows:
- 3 1. Page 2, line 23, by inserting after the word
- 4 "body" the following: ", except township trustees,".

S-5304 FILED & ADOPTED (p. 450)
MARCH 6, 1978

BY RICHARD R. RAMSEY
ROGER J. SHAFF
ELIZABETH R. MILLER
BERL E. PRIEBE
LOUIS P. CULVER
CALVIN O. HULTMAN

HOUSE FILE 2074

S-5310

- 1 Amend House File 2074, as amended, passed and
- 2 reprinted by the House as follows:
- 3 1. Page 7, by striking lines 32 through 35.

S-5310 FILED
MARCH 6, 1978

BY JAMES M. REDMOND

SENATE 9
MARCH 7, 1978

HOUSE FILE 2074

S-5311

1 Amend House File 2074, as amended, passed and
2 reprinted by the House as follows:
3 1. Page 1, line 34, by striking the words
4 "ministerial, social or informational" and inserting
5 in lieu thereof the word "social".
6 2. Page 1, by striking line 35 through page 2,
7 line 1, and inserting in lieu thereof the following:
8 "no discussion of policy or no intent to avoid the
9 purposes of this Act."

S-5311 FILED *Adopted 3/7 (p 447)* BY E. KEVIN KELLY
MARCH 6, 1978

HOUSE FILE 2074

S-5312

1 Amend the State Government amendment, S-5198, to
2 House File 2074, as amended, passed and reprinted by
3 the House as follows:
4 1. Page 1, by striking lines 40 and 41 and
5 inserting in lieu thereof the following:
6 "13. Page 4, by striking line 23 and inserting
7 in lieu thereof the following:
8 i. To consider the evaluation".

S-5312 FILED & ADOPTED (*p. 451*) BY C. W. HUTCHINS
MARCH 6, 1978

HOUSE FILE 2074

S-5313

1 Amend House File 2074, as amended, passed and
2 reprinted by the House as follows:
3 1. Page 7, line 14, by striking the words "ninety
4 days" and inserting in lieu thereof the words "one year".

S-5313 FILED *Done 3/6 (p 453)* BY JAMES M. REDMOND
MARCH 6, 1978

HOUSE FILE 2074

S-5314

1 Amend House File 2074 as amended, passed and re-
2 printed by the House as follows:
3 Page 7, line 1, by adding after the word "body."
4 the words ", except that if a member of the govern-
5 mental agency is not assessed damages as a result
6 of having relied upon the opinion of the attorney for
7 the governmental body, the damages not to exceed the
8 damages which would normally be assessed against a
9 single member may be assessed against such attorney."

S-5314 FILED BY FORREST V. SCHWENGELS
MARCH 6, 1978
WITHDRAWN (*p. 453*)

HOUSE FILE 2074

S-5305

1 Amend House File 2074, as amended, passed and
2 reprinted by the House as follows:
DIV. 3 1. Page 2, line 3, by striking the word "interested"
A 4 and inserting in lieu thereof the word "any".
DIV. 5 2. Page 2, by striking lines 4 and 5.
B 6 3. Page 8, line 14, by inserting after the word
7 "spectators." the following: "Furthermore, no govern-
8 mental body shall prohibit the public from using cameras
9 or recording devices at any open session."

S-5305 FILED
MARCH 6, 1978

BY RICHARD R. RAMSEY

DIV. A - Withdrawn } (p. 447)
DIV. B - Withdrawn }

HOUSE FILE 2074

S-5306

1 Amend the State Government amendment S-5198, to
2 House File 2074 as amended, passed and reprinted by
3 the House as follows:
4 1. Page 2, line 12, by striking the figure "18" and
5 inserting in lieu thereof the figure "8".

S-5306 FILED & ADOPTED (p. 448) BY MINNETTE DODERER
MARCH 6, 1978

HOUSE FILE 2074

S-5307

1 Amend the State Government amendment S-5198 to
2 House File 2074 as amended, passed and reprinted
3 by the House as follows:
4 Page 1, line 11, by striking the words "formal
5 or informal".

S-5307 FILED
MARCH 6, 1978

BY FORREST V. SCHWENGELS

RULED OUT OF ORDER (p. 445)

HOUSE FILE 2074

S-5309

1 Amend House File 2074 as amended, passed and re-
2 printed by the House as follows:
3 Page 1, line 29, by striking the words "formal or
4 informal".

S-5309 FILED
MARCH 6, 1978

BY FORREST V. SCHWENGELS

RULED OUT OF ORDER (p. 445)

HOUSE FILE 2074

S-5202

- 1 Amend the Doderer amendment S-5198, to House File
- 2 2074 as amended, passed and reprinted by the House, as
- 3 follows:
- 4 1. Page 1, line 8, by striking the figure "3"
- 5 and inserting in lieu thereof the figure "2".

S-5202 FILED *Adopted 3/6 (p. 447)* BY MINNETTE F. DODERER
FEBRUARY 20, 1978

HOUSE FILE 2074

S-5252

- 1 Amend House File 2074 as amended, passed,
- 2 and reprinted by the House as follows:
- 3 1. Page 4, line 1, by striking the words
- 4 "with counsel".

S-5252 FILED *Adopted 3/6 (452)* BY PHILIP B. HILL
FEBRUARY 27, 1978 EDGAR HOLDEN

HOUSE FILE 2074

S-5274

- 1 Amend the State Government Committee amendment,
- 2 S-5198, to House File 2074, as amended, passed and
- 3 reprinted by the House as follows:
- 4 1. Page 1, line 3, by striking the word "and"
- 5 and inserting in lieu thereof a period.
- 6 2. Page 1, by striking lines 4 through 7.

S-5274 FILED - *Adopted 3/6 (p. 447)* BY BOB RUSH
MARCH 1, 1978 CALVIN O. HULTMAN
E. KEVIN KELLY
MINNETTE F. DODERER

HOUSE FILE 2074

S-5280

- 1 Amend House File 2074 as amended, passed and
- 2 reprinted by the House as follows:
- 3 1. Page 6, by striking lines 8 through 13.
- 4 2. Renumber the subsections to conform with this
- 5 amendment.

S-5280 FILED *Adopted 3/6 (p. 453)* BY BOB RUSH
MARCH 1, 1978

S-5290

1 Amend House File 2074 as amended, passed and
2 reprinted by the House as follows:

DIV. A 3 1. Page 2, line 29, by inserting after the word
4 "media" the words "who have filed a request for notice
5 with the governmental body".

6 2. Page 3, by inserting after line 23 the
7 following:

8 "4. If another section of the Code requires a
9 manner of giving specific notice of a meeting, hearing
10 or an intent to take action by a governmental body,
11 compliance with that section shall constitute
12 compliance with the notice requirements of this
13 section."

DIV. B 14 3. Page 7, lines 11 through 13, by striking the
15 words ", except with respect to the issuance of bonds
16 under paragraph d of this subsection".

17 4. Page 7, line 18, by inserting after the word
18 "session." the words "This paragraph shall not apply
19 to an action taken regarding the issuance of bonds
20 or other evidence of indebtedness of a governmental
21 body if a public hearing, election or public sale
22 has been held regarding the bonds or evidence of
23 indebtedness."

24 5. Page 7, by striking lines 19 through 27.

25 6. By relettering the paragraphs to conform with
26 this amendment.

S-5290 FILED

BY E. KEVIN KELLY

MARCH 6, 1978

DIV. A & B - ADOPTED

(p. p 451-452)

HOUSE FILE 2074

S-5295

1 Amend the State Government amendment S-5198 to House
2 File 2074 as amended, passed and reprinted by the House,
3 as follows:

DIV. A 4 1. Page 1, by striking lines 8 through 14.

DIV. B 5 2. Page 1, line 41, by striking the word "evalua-
6 tion,".

S-5295 FILED

BY C. W. HUTCHINS

MARCH 6, 1978

DIV. A - ADOPTED

(p. 448)

DIV. B - WITHDRAWN

(p. 450)

HOUSE FILE 2074

S-5300

1 Amend the State Government Committee amendment
2 S-5198 amending House File 2074 as amended, passed
3 and reprinted by the House as follows:

4 1. Page 1, by inserting after line 30 the follow-
5 ing:

6 "____. Page 3, lines 31 and 32, by striking the
7 words "or exempted from any disclosure requirements
8 of the Code"."

9 2. By renumbering the amendment to conform with
10 this amendment.

S-5300 FILED & ADOPTED (p. 448) BY E. KEVIN KELLY
MARCH 6, 1978

S-5198

1 Amend House File 2074 as amended, passed and
2 reprinted by the House, as follows:

3 1. Page 1, by striking lines 24 through 27 and
4 inserting in lieu thereof the following:
5 "d. An eleemosynary corporation existing for the
6 primary purpose of supporting the programs of a
7 governmental body."

8 2. Page 1, by striking lines 28 through page 3,
9 line 1 and inserting in lieu thereof the following:

10 "2. "Meeting" means a gathering in person or by
11 electronic means, formal or informal, of a quorum
12 of the members of a governmental body where the
13 business of that body is discussed or any action on
14 its behalf is taken."

15 3. Page 2, by striking lines 6 and 7.

16 4. Page 2, by striking lines 12 through 15 and
17 inserting in lieu thereof the following: "permitted
18 by law. Except as provided in section six (6) of
19 this Act, all actions and discussions at meetings
20 of governmental bodies, whether formal or informal,
21 shall be conducted and executed in open session."

22 5. Page 2, lines 26 through 28, by striking the
23 words "The tentative agenda shall include any proposed
24 ratification of ministerial matters conducted by
25 mail."

26 6. Page 3, by striking lines 8 and 9.

27 7. Page 3, line 27, by inserting after the word
28 "present" the words "at the meeting".

29 8. Page 3, line 30, by inserting after the word
30 "required" the words "or authorized".

31 9. Page 3, line 33, by striking the word "the"
32 and inserting in lieu thereof the word "that".

33 10. Page 4, line 9, by inserting before the word
34 "conduct" the words "discuss whether to conduct a
35 hearing or to".

36 11. Page 4, line 15, by inserting after the word
37 "of" the word "specific".

38 12. Page 4, line 19, by inserting after the word
39 "of" the word "specific".

40 13. Page 4, lines 23 and 24, by striking the words
41 "employment, evaluation, appointment or".

42 14. Page 5, by striking lines 3 and 4 and inserting
43 in lieu thereof the following: "business during a
44 closed session which does not directly relate to the
45 specific reason announced as justification for the
46 closed session."

47 15. Page 5, line 5, by inserting after the word
48 "action" the words "by any governmental body".

49 16. Page 5, line 25, by striking the words "of
50 those" and inserting in lieu thereof the words "and

PAGE 2
S-5198

1 use of all or".

A 2 17. Page 6, by striking lines 19 through 22 and
3 inserting in lieu thereof the words "more than five
4 hundred dollars nor less than one hundred dollars.
5 These".

6 18. Page 8, line 16, by striking the word
7 "governing" and inserting in lieu thereof the word
8 "governmental".

9 19. Page 8, line 18, by striking the word
10 "governing" and inserting in lieu thereof the word
11 "governmental".

12 20. Page 18, line 20, by striking the word
13 "governing" and inserting in lieu thereof the word
14 "governmental".

S-5198 FILED
FEBRUARY 16, 1978

BY MINNETTE F. DODERER, CHAIRPERSON
COMMITTEE ON STATE GOVERNMENT

A. Adopted as amended by
5274, 5202, 5295A, 5300, 5306
3/6 (p. 448)

B. Adopted as amended by 5312 3/6 (451)

C. Lost 3/6 (p. 449)

HOUSE AMENDMENT TO SENATE AMENDMENT
TO HOUSE FILE 2074

S-5581

1 Amend the Senate amendment H-5914 to House File
2 2074 as amended, passed and reprinted by the House
3 as follows:

- 4 1. Page 1, by striking lines 3 through 5.
- 5 2. Page 1, by striking line 33.
- 6 3. Page 2, by striking lines 1 and 2.
- 7 4. Page 2, by striking lines 10 through 12.
- 8 5. Page 3, by striking lines 5 through 15 and

9 inserting in lieu thereof the following:

10 "Sec. ____ . Section twenty point seventeen (20.17),
11 subsection three (3), Code 1977, is amended to read
12 as follows:

13 3. Negotiating sessions, ~~including~~ strategy
14 meetings of public employers or employee organizations,
15 mediation and the deliberative process of arbitrators
16 shall be exempt from the provisions of chapter 28A.
17 However, the employee organization shall present its
18 initial bargaining position to the public employer
19 at the first bargaining session. The public employer
20 shall present its initial bargaining position to the
21 employee organization at the second bargaining session,
22 which shall be held no later than two weeks following
23 the first bargaining session. Both sessions shall
24 be open to the public and subject to the provisions
25 of chapter twenty-eight A (28A) of the Code. Hearings
26 conducted by arbitrators shall be open to the public."

27 6. Page 3, by inserting after line 15 the
28 following:

29 " ____ . Page 9, line 6, by striking the following:
30 "January 1, 1979" and inserting in lieu thereof the
31 following: "July 1, 1978"."

32 7. Amend the title page, line 5, by inserting
33 after the word "statute," the words "except chapter
34 twenty (20), Code 1977,."

S-5581 FILED
APRIL 18, 1978

RECEIVED FROM THE HOUSE

*Senate referred to committee 4/19/78 (S-5581)
House amended 4/20/78 (H-5581)*

REPORT OF THE CONFERENCE COMMITTEE
ON HOUSE FILE 2074

To the President of the Senate and the Speaker of the House of Representatives:

We, the undersigned members of the first conference committee appointed to consider the differences between the Senate and the House of Representatives on House File 2074, a bill for an Act relating to the holding of meetings by governmental bodies expressly created by statute or executive order, local governmental bodies, and other groups created by such governmental bodies, in open session, unless otherwise exempted by statute, and providing remedies and damages, respectfully make the following report:

1. That the House recede from its amendment S-5581 to Senate amendment H-5914 to House File 2074 as amended, passed and reprinted by the House.

2. That the Senate recede from its amendment H-5914 to House File 2074 as amended, passed and reprinted by the House.

3. That House File 2074 as amended, passed and reprinted by the House be amended as follows:

1. Page 1, line 30, by striking the word "discussion,".

2. Page 1, line 34, by striking the words "ministerial, social or informational" and inserting in lieu thereof the words "ministerial or social".

3. Page 1, by striking line 35 through page 2, line 1, and inserting in lieu thereof the following: "no discussion of policy or no intent to avoid the purposes of this Act."

4. Page 2, by striking lines 2 through 7 and inserting in lieu thereof the following:

"3. "Open session" means a meeting to which all members of the public have access."

5. Page 2, by striking lines 12 through 15 and inserting in lieu thereof the following: "permitted by law. Except as provided in section six (6) of this Act, all actions and

discussions at meetings of governmental bodies, whether formal or informal, shall be conducted and executed in open session."

6. Page 2, line 23, by inserting after the word "body" the following: ", except township trustees,".

7. Page 2, lines 26 through 28, by striking the words "The tentative agenda shall include any proposed ratification of ministerial matters conducted by mail."

8. Page 2, line 28, by striking the words "communicating with" and inserting in lieu thereof the word "advising".

9. Page 2, line 29, by inserting after the word "media" the words "who have filed a request for notice with the governmental body".

10. Page 3, line 8, by striking the word "only".

11. Page 3, by inserting after line 23 the following:

"4. If another section of the Code requires a manner of giving specific notice of a meeting, hearing or an intent to take action by a governmental body, compliance with that section shall constitute compliance with the notice requirements of this section."

12. Page 3, line 27, by inserting after the word "present" the words "at the meeting".

13. Page 3, line 30, by inserting after the word "required" the words "or authorized".

14. Page 3, lines 31 and 32, by striking the words "or exempted from any disclosure requirements of the Code".

15. Page 3, line 33, by striking the word "the" and inserting in lieu thereof the word "that".

16. Page 4, line 9, by inserting before the word "conduct" the words "discuss whether to conduct a hearing or to".

17. Page 4, line 15, by inserting after the word "of" the word "specific".

18. Page 4, line 19, by inserting after the word "of" the word "specific".

19. Page 4, by striking lines 23 through 26 and inserting in lieu thereof the following:

"i. To evaluate the professional competency of an

individual whose appointment, hiring, performance or discharge is being considered when necessary to prevent needless and irreparable injury to that individual's reputation and that individual requests a closed session."

20. Page 5, by striking lines 3 and 4 and inserting in lieu thereof the following: "business during a closed session which does not directly relate to the specific reason announced as justification for the closed session."

21. Page 5, line 5, by inserting after the word "action" the words "by any governmental body".

22. Page 5, line 25, by striking the words "of those" and inserting in lieu thereof the words "and use of all or".

23. Page 5, line 26, by striking the words "to be disclosed".

24. Page 6, by striking lines 19 through 22 and inserting in lieu thereof the words "more than five hundred dollars nor less than one hundred dollars. These".

25. Page 7, lines 11 through 13, by striking the words ", except with respect to the issuance of bonds under paragraph d of this subsection".

26. Page 7, line 14, by striking the words "ninety days" and inserting in lieu thereof the words "six months".

27. Page 7, line 18, by inserting after the word "session." the words "This paragraph shall not apply to an action taken regarding the issuance of bonds or other evidence of indebtedness of a governmental body if a public hearing, election or public sale has been held regarding the bonds or evidence of indebtedness."

28. Page 7, by striking lines 19 through 27.

29. Page 8, by inserting before line 11 the following: "The public may use cameras or recording devices at any open session."

30. Page 8, line 16, by striking the word "governing" and inserting in lieu thereof the word "governmental".

31. Page 8, line 18, by striking the word "governing" and inserting in lieu thereof the word "governmental".

32. Page 8, line 20, by striking the word "governing" and inserting in lieu thereof the word "governmental".

33. Page 8, by inserting after line 35 the following:

"Sec. _____. Section twenty point seventeen (20.17), subsection three (3), Code 1977, is amended to read as follows:

3. Negotiating sessions, including strategy meetings of public employers or employee organizations, mediation and the deliberative process of arbitrators shall be exempt from the provisions of chapter 28A. However, the employee organization shall present its initial bargaining position to the public employer at the first bargaining session. The public employer shall present its initial bargaining position to the employee organization at the second bargaining session, which shall be held no later than two weeks following the first bargaining session. Both sessions shall be open to the public and subject to the provisions of chapter twenty-eight A (28A) of the Code. Hearings conducted by arbitrators shall be open to the public."

34. By renumbering the sections and subsections to conform with this amendment.

ON THE PART OF THE SENATE:

Cloyd Robinson, Chair
C. Joseph Coleman
E. Kevin Kelly
Bob Rush

ON THE PART OF THE HOUSE

Donald Avenson, Chair
Robert T. Anderson
Cooper Evans
Nancy J. Shimanek

FILED
APRIL 26, 1978

House adopted 4/27 (p. 1970)
Senate adopted 4/28 (p. 1119)

HOUSE FILE 2074

AN ACT

RELATING TO THE HOLDING OF MEETINGS BY GOVERNMENTAL BODIES EXPRESSLY CREATED BY STATUTE OR EXECUTIVE ORDER, LOCAL GOVERNMENTAL BODIES, AND OTHER GROUPS CREATED BY SUCH GOVERNMENTAL BODIES, IN OPEN SESSION, UNLESS OTHERWISE EXEMPTED BY STATUTE, AND PROVIDING REMEDIES AND DAMAGES.

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

Section 1. Chapter twenty-eight A (28A), Code 1977, is amended by striking the chapter and inserting in lieu thereof sections two (2) through nine (9) of this Act.

Sec. 2. NEW SECTION. INTENT--DECLARATION OF POLICY. This Act seeks to assure, through a requirement of open meetings of governmental bodies, that the basis and rationale of governmental decisions, as well as those decisions themselves, are easily accessible to the people. Ambiguity in the construction or application of this Act should be resolved in favor of openness.

Sec. 3. NEW SECTION. DEFINITIONS. As used in this chapter:

1. "Governmental body" means:
 - a. A board, council, commission or other governing body expressly created by the statutes of this state or by executive order.
 - b. A board, council, commission, or other governing body of a political subdivision or tax-supported district in this state.
 - c. A multimembered body formally and directly created by one or more boards, councils, commissions, or other governing bodies subject to paragraphs "a" and "b" of this subsection.
 - d. Those multimembered bodies to which the state board of regents or a president of a university has delegated the responsibility for the management and control of the intercol-

legiate athletic programs at the state universities.

2. "Meeting" means a gathering in person or by electronic means, formal or informal, of a majority of the members of a governmental body where there is deliberation or action upon any matter within the scope of the governmental body's policy-making duties. Meetings shall not include a gathering of members of a governmental body for purely ministerial or social purposes when there is no discussion of policy or no intent to avoid the purposes of this Act.

3. "Open session" means a meeting to which all members of the public have access.

Sec. 4. NEW SECTION. MEETINGS OF GOVERNMENTAL BODIES. Meetings of governmental bodies shall be preceded by public notice as provided in section five (5) of this Act and shall be held in open session unless closed sessions are expressly permitted by law. Except as provided in section six (6) of this Act, all actions and discussions at meetings of governmental bodies, whether formal or informal, shall be conducted and executed in open session.

Each governmental body shall keep minutes of all its meetings showing the date, time and place, the members present, and the action taken at each meeting. The minutes shall show the results of each vote taken and the vote of each member present shall be made public at the open session. The minutes shall be public records open to public inspection.

Sec. 5. NEW SECTION. PUBLIC NOTICE.

1. A governmental body, except township trustees, shall give notice of the time, date, and place of each meeting, and its tentative agenda, in a manner reasonably calculated to apprise the public of that information. Reasonable notice shall include advising the news media who have filed a request for notice with the governmental body and posting the notice on a bulletin board or other prominent place which is easily accessible to the public and clearly designated for that purpose at the principal office of the body holding the meeting, or if no such office exists, at the building in which the meeting is to be held.

2. Notice conforming with all of the requirements of subsection one (1) of this section shall be given at least twenty-four hours prior to the commencement of any meeting of a governmental body unless for good cause such notice is impossible or impractical, in which case as much notice as is reasonably possible shall be given. Each meeting shall be held at a place reasonably accessible to the public, and at a time reasonably convenient to the public, unless for good cause such a place or time is impossible or impractical. Special access to the meeting may be granted to handicapped or disabled individuals.

When it is necessary to hold a meeting on less than twenty-four hours notice, or at a place that is not reasonably accessible to the public, or at a time that is not reasonably convenient to the public, the nature of the good cause justifying that departure from the normal requirements shall be stated in the minutes.

3. A formally constituted subunit of a parent governmental body may conduct a meeting without notice as required by this section during a lawful meeting of the parent governmental body, a recess in that meeting, or immediately following that meeting, if the meeting of the subunit is publicly announced at the parent meeting and the subject of the meeting reasonably coincides with the subjects discussed or acted upon by the parent governmental body.

4. If another section of the Code requires a manner of giving specific notice of a meeting, hearing or an intent to take action by a governmental body, compliance with that section shall constitute compliance with the notice requirements of this section.

Sec. 6. NEW SECTION. CLOSED SESSION.

1. A governmental body may hold a closed session only by affirmative public vote of either two-thirds of the members of the body or all of the members present at the meeting. A governmental body may hold a closed session only to the extent a closed session is necessary for any of the following reasons:

a. To review or discuss records which are required or authorized by state or federal law to be kept confidential or to be kept confidential as a condition for that governmental body's possession or continued receipt of federal funds.

b. To discuss application for letters patent.

c. To discuss strategy with counsel in matters that are presently in litigation or where litigation is imminent where its disclosure would be likely to prejudice or disadvantage the position of the governmental body in that litigation.

d. To discuss the contents of a licensing examination or whether to initiate licensee disciplinary investigations or proceedings if the governmental body is a licensing or examining board.

e. To discuss whether to conduct a hearing or to conduct hearings to suspend or expel a student, unless an open session is requested by the student or a parent or guardian of the student if the student is a minor.

f. To discuss the decision to be rendered in a contested case conducted according to the provisions of chapter 17A of the Code.

g. To avoid disclosure of specific law enforcement matters, such as current or proposed investigations, inspection or auditing techniques or schedules, which if disclosed would enable law violators to avoid detection.

h. To avoid disclosure of specific law enforcement matters, such as allowable tolerances or criteria for the selection, prosecution or settlement of cases, which if disclosed would facilitate disregard of requirements imposed by law.

i. To evaluate the professional competency of an individual whose appointment, hiring, performance or discharge is being considered when necessary to prevent needless and irreparable injury to that individual's reputation and that individual requests a closed session.

j. To discuss the purchase of particular real estate only where premature disclosure could be reasonably expected to increase the price the governmental body would have to pay for that property. The minutes and the tape recording of

a session closed under this paragraph shall be available for public examination when the transaction discussed is completed.

2. The vote of each member on the question of holding the closed session and the reason for holding the closed session by reference to a specific exemption under this section shall be announced publicly at the open session and entered in the minutes. A governmental body shall not discuss any business during a closed session which does not directly relate to the specific reason announced as justification for the closed session.

3. Final action by any governmental body on any matter shall be taken in an open session unless some other provision of the Code expressly permits such actions to be taken in closed session.

4. A governmental body shall keep detailed minutes of all discussion, persons present, and action occurring at a closed session, and shall also tape record all of the closed session. The detailed minutes and tape recording of a closed session shall be sealed and shall not be public records open to public inspection. However, upon order of the court in an action to enforce this Act, the detailed minutes and tape recording shall be unsealed and examined by the court in camera. The court shall then determine what part, if any, of the minutes should be disclosed to the party seeking enforcement of this Act for use in that enforcement proceeding. In determining whether any portion of the minutes or recording shall be disclosed to such a party for this purpose, the court shall weigh the prejudicial effects to the public interest of the disclosure of any portion of the minutes or recording in question, against its probative value as evidence in an enforcement proceeding. After such a determination, the court may permit inspection and use of all or portions of the detailed minutes and tape recording by the party seeking enforcement of this Act. A governmental body shall keep the detailed minutes and tape recording of any closed session for a period of at least one year from the date of that meeting.

5. Nothing in this section requires a governmental body to hold a closed session to discuss or act upon any matter.

Sec. 7. NEW SECTION. ENFORCEMENT.

1. The remedies provided by this section against state governmental bodies shall be in addition to those provided by section seventeen A point nineteen (17A.19) of the Code. Any aggrieved person, taxpayer or citizen of the state of Iowa, or the attorney general or county attorney, may seek judicial enforcement of the requirements of this Act. Suits to enforce this Act shall be brought in the district court for the county in which the governmental body has its principal place of business.

2. Once a party seeking judicial enforcement of this Act demonstrates to the court that the body in question is subject to the requirements of this Act and has held a closed session, the burden of going forward shall be on the body and its members to demonstrate compliance with the requirements of this Act.

3. Upon a finding by a preponderance of the evidence that a governmental body has violated any provision of this Act, a court:

a. Shall assess each member of the governmental body who participated in its violation damages in the amount of not more than five hundred dollars nor less than one hundred dollars. These damages shall be paid by the court imposing it to the state of Iowa, if the body in question is a state governmental body, or to the local government involved if the body in question is a local governmental body. A member of a governmental body found to have violated this Act shall not be assessed such damages if that member proves that he or she did any of the following:

- (1) Voted against the closed session.
- (2) Had good reason to believe and in good faith believed facts which, if true, would have indicated compliance with all the requirements of this Act.
- (3) Reasonably relied upon a decision of a court or a formal opinion of the attorney general or the attorney for

the governmental body.

b. Shall order the payment of all costs and reasonable attorneys fees to any party successfully establishing a violation of this Act. The costs and fees shall be paid by those members of the governmental body who are assessed damages under paragraph "a" of this subsection. If no such members exist because they have a lawful defense under that paragraph to the imposition of such damages, the costs and fees shall be paid to the successful party from the budget of the offending governmental body or its parent.

c. Shall void any action taken in violation of this Act, if the suit for enforcement of this Act is brought within six months of the violation and the court finds under the facts of the particular case that the public interest in the enforcement of the policy of this Act outweighs the public interest in sustaining the validity of the action taken in the closed session. This paragraph shall not apply to an action taken regarding the issuance of bonds or other evidence of indebtedness of a governmental body if a public hearing, election or public sale has been held regarding the bonds or evidence of indebtedness.

d. Shall issue an order removing a member of a governmental body from office if that member has engaged in two prior violations of this Act for which damages were assessed against the member during his or her term.

e. May issue a mandatory injunction punishable by civil contempt ordering the members of the offending governmental body to refrain for one year from any future violations of this Act.

4. Ignorance of the legal requirements of this Act shall be no defense to an enforcement proceeding brought under this section. A governmental body which is in doubt about the legality of closing a particular meeting is authorized to bring suit at the expense of that governmental body in the district court of the county of the governmental body's principal place of business to ascertain the propriety of any such action, or seek a formal opinion of the attorney

general or an attorney for the governmental body.

Sec. 8. NEW SECTION. RULES OF CONDUCT AT MEETINGS. The public may use cameras or recording devices at any open session. Nothing in this Act shall prevent a governmental body from making and enforcing reasonable rules for the conduct of its meetings to assure those meetings are orderly, and free from interference or interruption by spectators.

Sec. 9. NEW SECTION. ELECTRONIC MEETINGS.

1. A governmental body may conduct a meeting by electronic means only in circumstances where such a meeting in person is impossible or impractical and only if the governmental body complies with all of the following:

a. The governmental body provides public access to the conversation of the meeting to the extent reasonably possible.

b. The governmental body complies with section five (5) of this Act. For the purpose of this paragraph, the place of the meeting is the place from which the communication originates or where public access is provided to the conversation.

c. Minutes are kept of the meeting.

The minutes shall include a statement explaining why a meeting in person was impossible or impractical.

2. A meeting conducted in compliance with this section shall not be considered in violation of this Act.

3. A meeting by electronic means may be conducted without complying with paragraph 'a' of subsection one (1) if conducted in accordance with all of the requirements for a closed session contained in section six (6) of this Act.

Sec. 10. Section twenty point seventeen (20.17), subsection three (3), Code 1977, is amended to read as follows:

3. Negotiating sessions, ~~including~~ strategy meetings of public employers or employee organizations, mediation and the deliberative process of arbitrators shall be exempt from the provisions of chapter 28A. However, the employee organization shall present its initial bargaining position to the public employer at the first bargaining session. The public employer shall present its initial bargaining position

to the employee organization at the second bargaining session, which shall be held no later than two weeks following the first bargaining session. Both sessions shall be open to the public and subject to the provisions of chapter twenty-eight A (28A) of the Code. Hearings conducted by arbitrators shall be open to the public.

Sec. 11. Section eight hundred thirteen point two (813.2), Rule 3, subsection 4, paragraph j, Code 1977 Supplement, is amended by adding the following new subparagraph:

(4) The detailed minutes and tape recordings sealed pursuant to section six (6) of this Act.

Sec. 12. This Act is effective January 1, 1979.

DALE M. COCHRAN
Speaker of the House

ARTHUR A. NEU
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2074, Sixty-seventh General Assembly.

DAVID L. WRAY
Chief Clerk of the House

Approved June 5, 1978

ROBERT D. RAY
Governor