Substitutes for SF 2449
4/17/00 (P. 1187)

4/11/00 Amend/Do Pass w/H 8831

APR 10 2000
HUMAN RESOURCES

REPRINTED

HOUSE FILE 2565
BY RANTS

(COMPANION TO LSB 7257XS
BY IVERSON)

Passed House, (P. 1483) Date 4/13/00 Passed Senate, (P. 1261) Date 4-19-00
Vote: Ayes 98 Nays 0 Vote: Ayes 47 Nays 1
Approved 5/15/00

A BILL FOR

An Act relating to tobacco use prevention and control and providing an effective date.

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

HF 2565

TLSB 7257YH 78
pf/cf/24

S.F. _____ H.F. 2565

1 Section 1. NEW SECTION. 142A.1 TOBACCO USE PREVENTION
2 AND CONTROL PARTNERSHIP -- PURPOSE AND INTENT.
3 1. The purpose of this chapter is to establish a
4 comprehensive partnership among the general assembly, the
5 executive branch, communities, and the people of Iowa in
6 addressing the prevalence of tobacco use in the state.
7 2. It is the intent of the general assembly that the
8 comprehensive tobacco use prevention and control initiative
9 established in this chapter will specifically address
10 reduction of tobacco use by youth and pregnant women,
11 promotion of compliance by minors and retailers with tobacco
12 sales laws and ordinances, and enhancement of the capacity of
13 youth to make healthy choices, and provide for extensive
14 involvement of youth in attaining these results.
15 3. It is also the intent of the general assembly that the
16 comprehensive tobacco use prevention and control initiative
17 will evolve to create a social and legal climate in which
18 tobacco use becomes undesirable and unacceptable, in which
19 role models and those who influence youth promote healthy
20 social norms, and demonstrate behavior that counteracts the
21 glamorization of tobacco use, and in which tobacco becomes
22 less accessible. The evolution of the initiative shall be
23 accomplished by engaging all who are affected by the use of
24 tobacco in the state, including smokers and nonsmokers, youth,
25 and adults.
26 Sec. 2. NEW SECTION. 142A.2 DEFINITIONS.
27 As used in this chapter, unless the context otherwise
28 requires:
29 1. "Administrator" means the administrator of the division
30 of tobacco use prevention and control.
31 2. "Alcoholic beverage" means alcoholic beverage as
32 defined in section 123.3.
33 3. "Commission" means the commission on tobacco use
34 prevention and control established in this chapter.
35 4. "Community partnership" means a public agency or

1 nonprofit organization implementing the tobacco use prevention
2 and control initiative in a local area in accordance with this
3 chapter.
4 5. "Department" means the Iowa department of public
5 health.
6 6. "Director" means the director of public health.
7 7. "Distributor" means distributor as defined in section
8 453A.1.
9 8. "Division" means the division of tobacco use prevention
10 and control of the Iowa department of public health,
11 established pursuant to this chapter.
12 9. "Importer" means importer as defined in section 123.3.
13 10. "Initiative" means the comprehensive tobacco use
14 prevention and control initiative established in this chapter.
15 11. "Manufacture" with regard to alcoholic beverages,
16 means manufacture as defined in section 123.3.
17 12. "Manufacturer" means manufacturer as defined in
18 section 453A.1.
19 13. "Pregnant woman" means a female of any age who is
20 pregnant.
21 14. "Retailer" means retailer as defined in section
22 453A.1.
23 15. "School-age youth" means a person attending school in
24 kindergarten through grade twelve.
25 16. "Tobacco" means both cigarettes and tobacco products
26 as defined in section 453A.1.
27 17. "Youth" means a person who is five through twenty-four
28 years of age.
29 Sec. 3. NEW SECTION. 142A.3 TOBACCO USE PREVENTION AND
30 CONTROL -- DIVISION -- COMMISSION -- CREATED.
31 1. The department shall establish, as a separate and
32 distinct division within the department, a division of tobacco
33 use prevention and control. The division shall develop,
34 implement, and administer the initiative established in this
35 chapter and shall perform other duties as directed by this

1 chapter or as assigned by the director of public health.
2 2. A commission on tobacco use prevention and control is
3 established to develop policy, provide direction for the
4 initiative, and perform all other duties as directed by this
5 chapter or referred to the commission by the director of
6 public health.
7 3. The commission shall consist of the following voting
8 members who shall serve three-year, staggered terms:
9 a. Three members who are active with nonprofit health
10 organizations, at the local level, that emphasize tobacco use
11 prevention.
12 b. Two members who are active as health services providers
13 at the local level.
14 c. Two members who are retailers.
15 d. Three members who are active with health promotion
16 activities at the local level in youth education, law
17 enforcement, nonprofit services, or other activities relating
18 to tobacco use prevention and control.
19 Following initial appointments to the commission, the
20 members appointed under this subsection shall be appointed by
21 the governor, subject to confirmation by the senate, pursuant
22 to section 2.32 and 69.19.
23 4. In addition to the members described in subsection 3,
24 the membership of the commission shall include five voting
25 members who are selected by the participants in the annual
26 statewide youth summit of the initiative's youth program. The
27 selection process shall provide that each of the state's
28 congressional districts is represented. These members shall
29 also serve three-year staggered terms.
30 5. The commission shall also include the following ex
31 officio, nonvoting members:
32 a. Four members of the general assembly, with not more
33 than one member from each chamber being from the same
34 political party. The two senators shall be appointed by the
35 majority leader of the senate following consultation with the

1 president of the senate and the minority leader of the senate.
2 The two representatives shall be appointed by the speaker of
3 the house of representatives after consultation with the
4 majority and minority leaders of the house of representatives.
5 b. The presiding officer of the statewide youth executive
6 body, selected by the delegates to the statewide youth summit.
7 6. In addition to the members of the council, the
8 following agencies, organizations, and persons shall each
9 assign a single liaison to the commission to provide
10 assistance to the commission in the discharge of the
11 commission's duties:
12 a. The department of education.
13 b. The drug policy coordinator.
14 c. The department of justice, office of the attorney
15 general.
16 d. The department of human services.
17 7. Citizen members shall be reimbursed for actual and
18 necessary expenses incurred in performance of their duties.
19 Citizen members shall be paid a per diem as specified in
20 section 7E.6. Legislative members are eligible for per diem
21 and expenses as provided in section 2.10.
22 8. A member of the commission who is convicted of a crime
23 relating to tobacco, alcohol, or controlled substances is
24 subject to removal from the commission.
25 9. The commission shall designate an advisory council.
26 The commission shall determine the membership and
27 representation of the advisory council and members of the
28 council shall serve at the pleasure of the commission. The
29 advisory council may include representatives of health care
30 provider groups, parent groups, antitobacco advocacy programs
31 and organizations, tobacco retailers, research and evaluation
32 experts, and youth organizers.
33 10. A vacancy on the commission other than for the youth
34 members shall be filled in the same manner as the original
35 appointment for the balance of the unexpired term. A youth

1 member vacancy shall be filled by the presiding officer of the
2 statewide executive body as selected by the delegates to the
3 statewide youth summit. The commission shall elect a
4 chairperson from among its voting members and may select other
5 officers from among its voting members, as determined
6 necessary by the commission. The commission shall meet
7 regularly as determined by the commission, upon the call of
8 the chairperson, or upon the call of a majority of the voting
9 members.
10 Sec. 4. NEW SECTION. 142A.4 COMMISSION DUTIES.
11 The commission shall do all of the following:
12 1. Develop and implement the comprehensive tobacco use
13 prevention and control initiative as provided in this chapter.
14 2. Provide a forum for the discussion, development, and
15 recommendation of public policy alternatives in the field of
16 tobacco use prevention and control.
17 3. Develop an educational component of the initiative.
18 Educational efforts provided through the school system shall
19 be developed in conjunction with the department of education.
20 4. Develop a plan for evolution of the initiative in
21 accordance with the purpose and intent specified in section
22 142A.1.
23 5. Provide technical assistance, training, and other
24 support under the initiative.
25 6. Take actions to develop and implement a statewide
26 system for the initiative programs that are delivered through
27 community partnerships.
28 7. Manage and coordinate the provision of funding and
29 other moneys available to the initiative by combining all or
30 portions of appropriations or other revenues as authorized by
31 law.
32 8. Assist with the linkage of the initiative with child
33 welfare and juvenile justice decategorization projects,
34 education programming, community empowerment areas, and other
35 programs and services directed to youth at the state and

1 community level.
2 9. Coordinate and respond to any requests from a community
3 partnership relating to any of the following:
4 a. Removal of barriers to community partnership efforts.
5 b. Pooling and redirecting of existing federal, state, or
6 other public or private funds available for purposes that are
7 consistent with the initiative.
8 c. Seeking of federal waivers to assist community
9 partnership efforts.
10 In coordinating and responding to the requests, the
11 commission shall work with state agencies, the governor, and
12 the general assembly as necessary to address requests deemed
13 appropriate by the commission.
14 10. Adopt rules pursuant to chapter 17A as necessary for
15 the designation, governance, and oversight of the initiative
16 and the implementation of this chapter. The commission shall
17 provide for community partnership and youth program input in
18 the rules adoption process. The rules shall include but are
19 not limited to all of the following:
20 a. Performance indicators for initiative programs,
21 community partnerships, and the services provided under the
22 auspices of community partnerships. The performance
23 indicators shall be developed with input from communities.
24 b. Minimum standards to further the provision of equal
25 access to services.
26 11. Monitor and evaluate the effectiveness of performance
27 measures utilized under the initiative.
28 12. Submit a report to the governor and the general
29 assembly on a periodic basis, during the initial year of
30 operation, and on an annual basis thereafter, regarding the
31 initiative, including demonstrated progress based on
32 performance indicators. The commission shall report more
33 frequently if requested by the joint appropriations
34 subcommittee that makes recommendations concerning the
35 commission's budget.

1 13. Approve contracts entered into with the alcoholic
2 beverages division of the department of commerce, to provide
3 for enforcement of tobacco laws and regulations.
4 14. Advise the director in evaluating potential candidates
5 for the position of administrator, consult with the director
6 in the hiring of the administrator, and review and advise the
7 director on the performance of the administrator in the
8 discharge of the administrator's duties.
9 15. Prioritize funding needs and the allocation of moneys
10 appropriated and other resources available for the programs
11 and activities of the initiative.
12 16. Ensure that sufficient resources are available to
13 promote and ensure retailer compliance with tobacco laws and
14 ordinances relating to minors and ensure that compliance with
15 42 U.S.C. § 300X-26 is prioritized when allocating funds under
16 this chapter.
17 17. Review fiscal needs of the initiative and make
18 recommendations to the director in the development of budget
19 requests.
20 18. Solicit and accept any gift of money or property,
21 including any grant of money, services, or property from the
22 federal government, the state, a political subdivision, or a
23 private source that is consistent with the goals of the
24 initiative. Such gifts shall not be accepted from
25 manufactures or distributors of tobacco products or from
26 importers of or persons who manufacture alcoholic beverages.
27 19. Advise and make recommendations to the governor, the
28 general assembly, the director, and the administrator,
29 relative to tobacco use, treatment, intervention, prevention,
30 control, and education programs in the state.
31 20. Evaluate the work of the division and the department
32 relating to the initiative. For this purpose, the commission
33 shall have access to any relevant department records and
34 documents, and other information reasonably obtainable by the
35 department.

1 21. Develop the structure for the statewide youth summit
2 to be held annually.
3 Sec. 5. NEW SECTION. 142A.5 DIRECTOR AND ADMINISTRATOR
4 DUTIES.
5 1. The director shall do all of the following:
6 a. Establish and maintain the division of tobacco use
7 prevention and control.
8 b. Employ a division administrator who shall be
9 responsible for the administration and oversight of the
10 division. The administrator shall be exempt from the merit
11 system provisions of chapter 19A.
12 c. Coordinate all tobacco use prevention and enforcement
13 programs and activities under the purview of the department.
14 d. Receive and review budget recommendations from the
15 commission. The director shall consider these recommendations
16 in developing the budget request for the department.
17 e. Enter into contracts with the alcoholic beverages
18 division of the department of commerce, to provide enforcement
19 of tobacco laws and regulations. Such contracts shall provide
20 that enforcement efforts shall include training of local
21 authorities that issue retailer permits in the procedure for
22 suspension or revocation of a permit.
23 2. The administrator shall do all of the following:
24 a. Implement the initiative, coordinate the activities of
25 the commission and the initiative, and coordinate other
26 tobacco prevention and control activities as assigned by the
27 director.
28 b. Monitor and evaluate the effectiveness of performance
29 measures.
30 c. Provide staff and administrative support to the
31 commission.
32 d. Administer contracts entered into under this chapter.
33 e. Coordinate and cooperate with other tobacco use
34 prevention and enforcement programs within and outside of the
35 state.

1 f. Coordinate the efforts of the division with tobacco law
2 enforcement programs funded through the commission.
3 Sec. 6. NEW SECTION. 142A.6 COMPREHENSIVE TOBACCO USE
4 PREVENTION AND CONTROL INITIATIVE ESTABLISHED -- PURPOSE --
5 RESULTS.
6 1. A comprehensive tobacco use prevention and control
7 initiative is established. The division shall implement the
8 initiative as provided in this chapter.
9 2. The purpose of the initiative is to attain the
10 following results:
11 a. Reduction of tobacco use by youth.
12 b. Strong, active youth involvement in activities to
13 prevent youth tobacco use and to promote cessation of youth
14 tobacco use.
15 c. Enhanced capacity of youth to make healthy choices.
16 d. Reduction of tobacco use by pregnant women who
17 currently use tobacco but desire to terminate tobacco use and
18 participate in cessation efforts.
19 e. Increased compliance by minors and retailers with
20 tobacco sales laws and ordinances.
21 3. Success in achieving the initiative's desired results
22 may be demonstrated by a minimum of the following:
23 a. Data demonstrating consistent progress in reducing the
24 prevalence of tobacco use among youth and adults.
25 b. Survey results indicating widespread support among
26 youth for the initiative's tobacco use prevention and control
27 activities, for programs that enhance the ability of youth to
28 make healthy choices including those related to use of
29 tobacco, alcohol, and other substances, and for the media,
30 marketing, and communications efforts supporting the
31 initiative's desired results. Any survey conducted shall also
32 include an assessment of the effectiveness of tobacco use
33 prevention and control activities in affecting other unhealthy
34 behaviors including sexual activity and violent behavior.
35 c. Data demonstrating increased compliance by minors and

1 retailers with tobacco sales laws and ordinances.
2 4. The division shall implement the initiative in a manner
3 that ensures that youth are extensively involved in the
4 decision making for the programs implemented under the
5 initiative. The initiative shall also involve parents,
6 schools, and community members in activities to achieve the
7 results desired for the initiative. The division shall
8 encourage collaboration at the state and local levels to
9 maximize available resources and to provide flexibility to
10 support community efforts.
11 5. Notwithstanding chapter 18 or any other provision of
12 law to the contrary, goods and services necessary to implement
13 the initiative may be procured without competitive bidding,
14 subject to approval of the commission.
15 Sec. 7. NEW SECTION. 142A.7 INITIATIVE COMPONENTS.
16 1. The initiative shall include but is not limited to all
17 of the following:
18 a. Youth programs, designed to achieve the initiative's
19 desired results, that are directed by youth participants for
20 youth.
21 b. A media, marketing, and communications program to
22 achieve the initiative's desired results. Advertising shall
23 not include the name, voice, or likeness of any elected or
24 appointed public official or of any candidate for elective
25 office.
26 c. Independent evaluation of each component of the
27 initiative.
28 d. Ongoing assessment of data, review of indicators used
29 in assessing the effectiveness of the initiative, and
30 evaluation of the initiative, its programs, and its marketing
31 strategy. The initial baseline used to subsequently measure
32 the effectiveness of the initiative shall be developed using
33 existing, available indicators and data sources. Following
34 development of the initial baseline, indicators of the
35 effectiveness of the initiative shall be reviewed on at least

1 an annual basis to ensure that the indicators used most
2 accurately provide for measurement of such effectiveness. The
3 data assessed may include data demonstrating the prevalence of
4 tobacco use among youth and pregnant women, the prevalence of
5 the use of alcohol and other substances among youth, and the
6 effectiveness of tobacco promotional activities. The data
7 assessed may also include data demonstrating the prevalence of
8 other youth and adult behaviors, attitudes, knowledge, and
9 beliefs including those related to the prevalence of sexual
10 activity among youth and the effectiveness of pregnancy
11 prevention measures, and the prevalence of violent behavior
12 among youth.
13 2. Administrative costs associated with each program of
14 the initiative and program provider shall be established at a
15 reasonable level consistent with effective management
16 practices.
17 3. Requests for information or for proposals shall
18 emphasize that performance measures are required for any
19 contract or allocation of funding under the initiative.
20 Sec. 8. NEW SECTION. 142A.8 COMMUNITY PARTNERSHIPS.
21 1. A community partnership is a public agency or nonprofit
22 organization operating in a local area under contract with the
23 department to implement the initiative in that local area
24 utilizing broad community involvement.
25 2. A community partnership area shall encompass a county
26 or multicounty area, school district or multischool district
27 area, or community empowerment area, in accordance with
28 criteria adopted by the commission for appropriate population
29 levels and size of geographic areas.
30 3. The commission shall adopt rules pursuant to chapter
31 17A providing procedures for the initial designation of
32 community partnership areas and for subsequent changes to the
33 initially designated areas.
34 4. The requirements for contracts entered into by a
35 community partnership and the department shall include but are

1 not limited to all of the following:
2 a. Administrative functions.
3 b. Fiscal provisions.
4 c. Community and youth involvement in program and
5 administrative decisions.
6 d. Law enforcement involvement.
7 Sec. 9. NEW SECTION. 142A.9 YOUTH PROGRAM.
8 1. A youth program component shall be implemented in each
9 community partnership area to achieve the purposes of the
10 initiative.
11 2. The youth program shall include but is not limited to
12 all of the following:
13 a. A structure for program participants to interact with
14 other participating youth within the community partnership
15 area and in other areas of the state.
16 b. A structure for formal youth involvement in youth
17 program governance at the community partnership area level and
18 in a statewide youth summit or summits consisting of
19 participation by representatives of the community partnership
20 area level.
21 c. A structure for participation in a statewide executive
22 body consisting of participants selected by the delegates to
23 the statewide youth summit of the youth program.
24 d. Youth activities that are character-based and focused
25 on rewarding appropriate values, behavior, and healthy choices
26 by participants.
27 3. To the greatest extent possible, the youth program
28 shall be directed by youth for youth participants. In
29 addition, the state and local administrators associated with
30 the initiative shall consult with and utilize the youth
31 program participants in the media, marketing, and
32 communications program, education efforts, evaluation,
33 collaboration, enforcement, and other aspects of the
34 initiative.
35 Sec. 10. NEW SECTION. 142A.10 FUNDING OF PROGRAMS

1 DELIVERED THROUGH COMMUNITY PARTNERSHIPS.
2 1. The commission shall develop and implement a statewide
3 system for the initiative programs that are delivered through
4 community partnerships.
5 2. The system shall provide for equitable allocation of
6 funding for initiative programs among the state's community
7 partnership areas, based upon school-age population and other
8 criteria established by the commission.
9 3. The specific programs, distribution provisions, and
10 other provisions approved by the commission for expenditure of
11 the maximum allocation amount established for a community
12 partnership area shall be outlined in the written contract
13 with the community partnership.
14 4. Any allocation received by a community partnership
15 shall be matched with local funding, in-kind services, office
16 support, or other tangible support or offset of costs.
17 Sec. 11. NEW SECTION. 142A.11 REPEAL.
18 This chapter is repealed June 30, 2005.
19 Sec. 12. INITIAL APPOINTMENTS.
20 1. The initial appointments to the commission on tobacco
21 use prevention and control of the members who are not youth
22 members selected at the youth summit or who are not commission
23 nonvoting members, as established by this Act, are as follows:
24 a. Three members to a one-year term.
25 b. Three members to a two-year term.
26 c. Four members to a three-year term.
27 2. The initial youth appointments shall be as follows:
28 a. One member to a one-year term.
29 b. Two members to a two-year term.
30 c. Two members to a three-year term.
31 3. The initial appointments to the commission on tobacco
32 use prevention and control who are not youth members selected
33 at the annual youth summit or who are not commission nonvoting
34 members shall be made by the governor from a nominating pool
35 provided by the legislative council for the terms set out in

1 subsection 1. The legislative council shall solicit extensive
2 public input in developing the nominating pool. The
3 nominating pool shall include at least three nominees for each
4 membership slot.
5 4. The initial appointments to the commission shall be
6 made within sixty days of the effective date of this Act.
7 Sec. 13. REVIEW OF ENFORCEMENT EFFORTS. The tobacco use
8 prevention and control commission created under chapter 142A,
9 in cooperation with the office of the attorney general, the
10 Iowa department of public health, and the alcoholic beverage
11 division of the department of commerce, shall review current
12 state and local tobacco enforcement regulations and
13 activities, including those related to retailers, clerks and
14 minors, and shall submit recommendations to the governor and
15 the general assembly, on or before December 1, 2000, to
16 provide for balanced and uniform enforcement statewide.
17 Sec. 14. EMERGENCY RULES. The department of public health
18 may adopt emergency rules under section 17A.4, subsection 2,
19 and section 17A.5, subsection 2, paragraph "b", to implement
20 this Act, and the rules shall become effective immediately
21 upon filing, unless the effective date is delayed by the
22 administrative rules review committee, notwithstanding section
23 17A.4, subsection 5, and section 17A.8, subsection 9, or a
24 later effective date is specified in the rules. Any rules
25 adopted in accordance with this section shall not take effect
26 before the rules are reviewed by the administrative rules
27 review committee. Any rules adopted in accordance with the
28 provisions of this section shall also be published as notice
29 of intended action as provided in section 17A.4.
30 Sec. 15. EFFECTIVE DATE. This Act, being deemed of
31 immediate importance, takes effect upon enactment.
32 EXPLANATION
33 This bill creates new Code chapter 142A relating to tobacco
34 use prevention and control.
35 Code section 142A.1 provides the purpose and intent of the

1 chapter. This section provides that the purpose of the
2 chapter is to establish a comprehensive partnership among the
3 general assembly, the executive branch, communities, and the
4 people of Iowa in addressing the prevalence of tobacco use in
5 the state. The intent of the general assembly is that the
6 comprehensive tobacco use prevention and control initiative
7 established in the chapter specifically address reduction of
8 tobacco use by youth and pregnant women, promotion of
9 compliance by youth and retailers with tobacco sales laws and
10 ordinances, and enhancement of the capacity of youth to make
11 healthy choices, and provide for extensive involvement of
12 youth in the activities under the initiative. This section
13 also provides that it is the intent of the general assembly
14 that the initiative evolve to create a social and legal
15 climate in which tobacco use becomes undesirable and
16 unacceptable, in which role models and those who influence
17 younger generations promote social norms and demonstrate
18 behavior that counteracts the glamorization of tobacco use,
19 and in which tobacco becomes less accessible. The evolution
20 of the initiative is to be accomplished by engaging all who
21 are affected by the use of tobacco in the state including
22 smokers and nonsmokers, youth and adults.
23 Code section 142A.2 provides definitions used in the
24 chapter.
25 Code section 142A.3 creates a tobacco use prevention and
26 control division within the Iowa department of public health
27 and creates a tobacco use prevention and control commission.
28 This section specifies the membership of the commission. The
29 commission is comprised of 15 voting members, five of which
30 are youth, and five ex officio nonvoting members. The voting
31 members who are not youth are initially to be appointed by the
32 governor utilizing a pool of nominees presented by the
33 legislative council. Subsequent to the initial appointments,
34 the governor is directed to appoint these voting members,
35 subject to confirmation by the senate. In addition to the

1 members of the commission, specified agencies are directed to
2 each assign one liaison to the commission to provide
3 assistance to the commission. The commission is also directed
4 to designate an advisory council to the commission to include
5 representatives of health care provider groups, parent groups,
6 antitobacco advocacy programs and organizations, tobacco
7 retailers, research and evaluation experts, and youth
8 organizers. The bill provides that if a member of the
9 commission is convicted of a crime relating to tobacco,
10 alcohol, or controlled substances, the member is subject to
11 removal.
12 Code section 142A.4 specifies the commission duties, and
13 Code section 142A.5 specifies the duties of the director of
14 public health and the duties of the administrator of the
15 division of tobacco use prevention and control under the
16 chapter.
17 Code section 142A.6 establishes the comprehensive tobacco
18 use prevention and control initiative. The purpose of the
19 initiative is to attain the specified results of reduction of
20 tobacco use by youth, strong and active involvement of youth
21 in tobacco use prevention and cessation activities, enhanced
22 capacity of youth to make healthy choices, reduction of
23 tobacco use by pregnant women, and increased compliance by
24 minors and retailers with tobacco sales laws and ordinances.
25 The bill specifies the type of data which will demonstrate
26 success of the initiative. The initiative is to be
27 implemented with the extensive involvement of youth and the
28 involvement of parents, schools, and community members. The
29 division is to encourage collaboration at the state and local
30 levels to maximize available resources and to provide
31 flexibility to support community efforts. The bill provides
32 that goods and services necessary to implement the initiative
33 may be procured without competitive bidding, subject to the
34 approval of the commission.
35 Code section 142A.7 specifies the components of the

1 initiative including youth programs, a media, marketing, and
2 communications program, independent evaluation of each
3 component of the initiative, and ongoing data assessment and
4 initiative evaluation. The bill limits administrative costs
5 of each program to a reasonable level and requires that any
6 request for information or request for proposal emphasize that
7 performance measures are required for any contract or
8 allocation of funding under the initiative.
9 Code section 142A.8 provides for the designation of
10 community partnerships which are public agencies or nonprofit
11 organizations operating in a local area under contract with
12 the department to implement the initiative in that local area.
13 The community partnership is to utilize broad community
14 involvement. Community partnerships may be a county or
15 multicounty area, school district or multischool district
16 area, or a community empowerment area, in accordance with
17 criteria adopted by the commission for appropriate population
18 levels and geographic area size. The commission is to adopt
19 rules to provide procedures for initial designation of the
20 community partnerships. Contracts entered into between the
21 department and community partnerships are to include
22 administrative functions, fiscal provisions, community and
23 youth involvement in program and administrative decisions, and
24 law enforcement involvement.
25 Code section 142A.9 provides for a youth program component.
26 A youth program is to be implemented in each community
27 partnership area. Each youth program is to include a
28 structure for program participants to interact with other
29 participating youth in the community partnership and
30 throughout the state, a structure for formal youth involvement
31 in youth program governance in the community partnership and
32 in statewide youth summits, a structure for participation in a
33 statewide executive body consisting of participants selected
34 by the delegates to the statewide youth summit of the youth
35 program, and youth activities that are character-based and

1 focused on rewarding appropriate values, behavior, and healthy
2 choices by participants. The youth program is to be directed
3 by youth for youth, and is to include utilization of and
4 consultation with youth in the media, marketing, and
5 communications program, education efforts, evaluation,
6 collaboration, enforcement, and other aspects of the
7 initiative.
8 Code section 142A.10 directs the commission to develop a
9 system to implement a statewide system for the initiative
10 programs delivered through the community partnerships. The
11 system is to provide for equitable allocation of funding,
12 based upon school-age population, and other criteria
13 established by the commission. The specific programs,
14 distribution provisions, and other provisions approved by the
15 commission for expenditure of the maximum allocation
16 established for a community partnership area are to be
17 outlined in the written contract with the community
18 partnership. Allocations received by a community partnership
19 must be matched with local funding, in-kind services, office
20 support, or other tangible support, or offset of costs.
21 Code section 142A.11 provides for repeal of the new Code
22 chapter June 30, 2005.
23 The bill provides for the initial appointments to the
24 commission in a manner that staggers the terms of the voting
25 members. The bill provides that initial appointments to the
26 commission of members who are not youth members, or who are
27 not nonvoting members are to be appointed by the governor from
28 a nominating pool provided by the legislative council. The
29 legislative council is directed to solicit extensive public
30 input in developing the nominating pool. The nominating pool
31 is to include at least three nominees for each membership
32 slot. The initial appointments to the commission are to be
33 made within 60 days of the effective date of the bill.
34 The bill provides that the tobacco use prevention and
35 control commission, in cooperation with the office of the

1 attorney general, the Iowa department of public health, and
2 the alcoholic beverages division of the department of
3 commerce, is to review current state and local tobacco
4 enforcement regulations and activities, and submit
5 recommendations to the governor and the general assembly on or
6 before December 1, 2000, to provide for balanced and uniform
7 enforcement statewide.
8 The bill provides emergency rulemaking authority for the
9 Iowa department of public health. Any rules adopted under
10 this provision do not take effect until reviewed by the
11 administrative rules review committee.
12 The bill takes effect upon enactment.
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

HOUSE FILE 2565

H-8831

1 Amend House File 2565 as follows:
2 1. Page 1, by striking line 13, and inserting the
3 following: "youth to make healthy choices. The
4 initiative shall allow extensive".
5 2. Page 1, line 17, by striking the words "evolve
6 to create" and inserting the following: "foster".
7 3. Page 1, by striking line 22, and inserting the
8 following: "less accessible to youth. The intent of
9 the general assembly shall be".
10 4. Page 3, by inserting after line 22, the
11 following:
12 "Members appointed under this subsection shall be
13 representative of the racial and ethnic diversity of
14 the state with at least one member representing a
15 racial or ethnic minority population."
16 5. Page 3, line 28, by inserting after the word
17 "represented." the following: "The members appointed
18 under this subsection shall be representative of the
19 racial and ethnic diversity of the state with at least
20 one member representing a racial or ethnic minority
21 population."
22 6. Page 4, by striking lines 34 and 35, and
23 inserting the following: "members shall be filled as
24 an appointment by the governor, subject to
25 confirmation by the senate, pursuant to sections 2.32
26 and 69.19 for the balance of the unexpired term. A
27 youth".
28 7. Page 9, line 16, by striking the words "women
29 who" and inserting the following: "women."
30 8. Page 9, by striking lines 17 and 18.
31 9. Page 9, line 27, by striking the word
32 "activities," and inserting the following:
33 "activities;".
34 10. Page 9, line 29, by striking the word
35 "substances," and inserting the following:
36 "substances;".
37 11. Page 9, line 33, by inserting after the word
38 "unhealthy" the following: "youth".
39 12. Page 10, by striking lines 11 through 14, and
40 inserting the following:
41 "5. Procurement of goods and services necessary to
42 implement the initiative is subject to approval of the
43 commission. Notwithstanding chapter 18 or any other
44 provision of law to the contrary, such procurement may
45 be accomplished without competitive bidding."
46 13. Page 10, by striking lines 31 through 33, and
47 inserting the following: "strategy. The initial
48 baseline used to measure the effectiveness of the
49 initiative shall be developed using existing,
50 available indicators. Following".

H-8831
Page 2

1 14. Page 11, line 24, by inserting after the word
2 "involvement." the following: "The community
3 partnership shall act as the fiscal agent for moneys
4 administered by the community partnership."
5 15. Page 11, line 27, by striking the words "or
6 community empowerment area" and inserting the
7 following: "enterprise zone, or community empowerment
8 area".
9 16. Page 12, by inserting after line 6 the
10 following:
11 "e. Evaluation of the program."
12 17. Page 12, lines 28 and 29, by striking the
13 words "In addition, the state" and inserting the
14 following: "State".
15 18. Page 12, by striking lines 32 through 34 and
16 inserting the following: "communications program;
17 education efforts; and other aspects of the initiative
18 including evaluation, collaboration, and enforcement."
19 19. Page 13, line 18, by striking the figure
20 "2005" and inserting the following: "2010".
21 20. By renumbering, relettering, or redesignating
22 and correcting internal references as necessary.

By COMMITTEE ON HUMAN RESOURCES
BODDICKER of Cedar, Chairperson

H-8831 FILED APRIL 11, 2000

4/13/00
(P. 1475)

HOUSE FILE 2565

H-8890

1 Amend House File 2565 as follows:
2 1. Page 1, by striking line 13, and inserting the
3 following: "youth to make healthy choices. The
4 initiative shall allow extensive".
5 2. Page 1, line 17, by striking the words "evolve
6 to create" and inserting the following: "foster".
7 3. Page 1, line 20, by striking the word "norms,"
8 and inserting the following: "norms".
9 4. Page 1, by striking line 22, and inserting the
10 following: "less accessible to youth. The intent of
11 the general assembly shall be".
12 5. Page 1, by striking lines 31 and 32.
13 6. Page 2, by striking lines 7 and 8.
14 7. Page 2, by striking line 12.
15 8. Page 2, by striking lines 15 and 16.
16 9. Page 3, by striking lines 9 through 14, and
17 inserting the following:
18 "a. Three members who are active with nonprofit
19 health organizations that emphasize tobacco use
20 prevention or who are active as health services
21 providers, at the local level.
22 b. One member who is a retailer."
23 10. Page 3, line 15, by striking the letter "d"
24 and inserting the following: "c".
25 11. Page 3, by striking line 19, and inserting
26 the following:
27 "The".
28 12. Page 3, line 22, by striking the word
29 "section" and inserting the following: "sections".
30 13. Page 3, line 22, by inserting after the
31 figure "69.19." the following: "At least one member
32 appointed under this subsection shall be a member of a
33 racial minority."
34 14. Page 3, line 24, by striking the word "five"
35 and inserting the following: "three".
36 15. Page 3, by striking lines 27 through 29, and
37 inserting the following: "youth membership
38 appointments are not subject to section 69.16 or
39 69.16A. However, the selection process shall provide
40 for diversity among the members and at least one of
41 the youth members shall be a female. These members
42 shall also serve three-year staggered terms."
43 16. By striking page 3, line 34, through page 4,
44 line 4, and inserting the following: "political
45 party. The majority leader of the senate and the
46 minority leader of the senate shall each appoint one
47 of the senate members. The majority leader of the
48 house and the minority leader of the house of
49 representatives shall each appoint one of the house
50 members."

H-8890
Page 2

1 17. Page 4, by inserting after line 16, the
2 following:
3 "e. The alcoholic beverages division of the
4 department of commerce."
5 18. Page 4, line 25, by striking the word "shall"
6 and inserting the following: "may".
7 19. Page 5, line 20, by striking the word
8 "evolution" and inserting the following:
9 "implementation".
10 20. Page 5, line 23, by inserting after the word
11 "Provide" the following: "for".
12 21. Page 6, line 35, by inserting after the word
13 "budget." the following: "Beginning July 1, 2005, the
14 commission shall also perform a comprehensive review
15 of the initiative and shall submit a report of its
16 findings to the governor and the general assembly on
17 or before December 15, 2005."
18 22. Page 7, by striking lines 24 through 26, and
19 inserting the following: "initiative. The commission
20 shall adopt rules prohibiting the acceptance of gifts
21 from a manufacturer of tobacco products."
22 23. Page 8, line 10, by inserting after the word
23 "division." the following: "The division
24 administrator shall report to and shall serve at the
25 pleasure of the director."
26 24. Page 8, line 12, by striking the word
27 "enforcement" and inserting the following: "control".
28 25. Page 8, by striking lines 19 through 22, and
29 inserting the following: "of tobacco laws and
30 regulations. Such contracts shall require that
31 enforcement efforts include training of local
32 authorities who issue retailer permits and education
33 of retailers."
34 26. Page 8, line 26, inserting after the word
35 "tobacco" the following: "use".
36 27. Page 8, line 34, by striking the word
37 "enforcement" and inserting the following: "control".
38 28. Page 9, line 16, by striking the words "women
39 who" and inserting the following: "women."
40 29. Page 9, by striking lines 17 and 18.
41 30. Page 9, line 27, by striking the word
42 "activities," and inserting the following:
43 "activities;".
44 31. Page 9, line 29, by striking the word
45 "substances," and inserting the following:
46 "substances;".
47 32. Page 9, line 31, by striking the word "shall"
48 and inserting the following: "may".
49 33. Page 9, line 33, by inserting after the word
50 "unhealthy" the following: "youth".

H-8890
Page 3

1 34. Page 10, by striking lines 11 through 14, and
2 inserting the following:
3 "5. Procurement of goods and services necessary to
4 implement the initiative is subject to approval of the
5 commission. Notwithstanding chapter 18 or any other
6 provision of law to the contrary, such procurement may
7 be accomplished by the commission under its own
8 competitive bidding process which shall provide for
9 consideration of such factors as price, bidder
10 competence, and expediency in procurement."
11 35. Page 10, line 27, by striking the word
12 "initiative" and inserting the following: "statewide
13 initiative".
14 36. Page 10, line 28, by inserting after the word
15 "Ongoing" the following: "statewide".
16 37. Page 10, by striking lines 31 through 33, and
17 inserting the following: "strategy. The initial
18 baseline used to measure the effectiveness of the
19 initiative shall be developed using existing,
20 available indicators. Following".
21 38. Page 11, by striking lines 2 through 12, and
22 inserting the following: "accurately provide for
23 measurement of such effectiveness. Primary emphasis
24 in data assessment shall be on data relating to
25 tobacco usage and may include data demonstrating the
26 prevalence of tobacco use among youth and pregnant
27 women, and the prevalence of the use of alcohol and
28 other substances among youth. Sources of data
29 considered shall include but are not limited to the
30 centers for disease control and prevention of the
31 United States department of health and human services
32 and the Iowa youth tobacco survey, and may include the
33 Iowa youth risk survey conducted by the department or
34 the youth risk behavior survey.".
35 39. Page 11, by inserting before line 13, the
36 following:
37 "e. A tobacco use prevention and control education
38 program.
39 f. An enforcement program."
40 40. Page 11, line 24, by inserting after the word
41 "involvement." the following: "The community
42 partnership or its designee shall act as the fiscal
43 agent for moneys administered by the community
44 partnership."
45 41. Page 11, line 27, by striking the words "or
46 community empowerment area" and inserting the
47 following: "economic development enterprise zone that
48 meets the requirements of an urban or rural enterprise
49 community under Title XIII of the federal Omnibus
50 Budget Reconciliation Act of 1993, or community

H-8890
Page 4

empowerment area".

42. Page 12, by inserting after line 6 the following:

"e. Evaluation of the program."

43. Page 12, lines 28 and 29, by striking the words "In addition, the state" and inserting the following: "State".

44. Page 12, by striking lines 32 through 34 and inserting the following: "communications program; education efforts; and other aspects of the initiative including evaluation, collaboration, and enforcement."

45. Page 13, line 18, by striking the figure "2005" and inserting the following: "2010".

46. Page 13, line 24, by striking the word "Three" and inserting the following: "Two".

47. Page 13, line 25, by striking the word "Three" and inserting the following: "Two".

48. Page 13, line 26, by striking the word "Four" and inserting the following: "Three".

49. Page 13, line 29, by striking the words "Two members" and inserting the following: "One member".

50. Page 13, line 30, by striking the words "Two members" and inserting the following: "One member".

51. By striking page 13, line 34, through page 14, line 4, and inserting the following: "members shall be made by the governor. The legislative council may compile a list of individuals based on recommendations received from members of the general assembly, following public input, and submit the list to the governor to assist efforts in identifying qualified and capable candidates for initial appointments."

52. Page 14, line 10, by striking the word "beverage" and inserting the following: "beverages".

53. Page 14, by inserting after line 16, the following:

"Sec. ___. ADMINISTRATOR -- INITIAL HIRING. The provisions of section 142A.4 relating to the commission providing advice and consultation with regard to the hiring of the administrator do not apply to the initial hiring of an administrator if the commission is not operational at the time that a potential candidate for the position of administrator is formally offered the administrator position. However, under such circumstances, the director shall consult with the ex officio members of the commission, if appointed at the time such a formal offer is extended."

54. By renumbering, relettering, or redesignating and correcting internal references as necessary.

By BRUNKHORST of Bremer
FOEGE of Linn
HEATON of Henry

Adopted 4/13/00 (p.1480)

H-8890 FILED APRIL 13, 2000

HOUSE FILE 2565

H-8894

1 Amend House File 2565 as follows:
2 1. Page 13, by inserting after line 18, the
3 following:
4 "Sec.___. Section 453A.39, Code 1999, is amended
5 by striking the section and inserting in lieu thereof
6 the following:
7 453A.39 TOBACCO PRODUCTS, CIGARETTES --
8 PROHIBITIONS.
9 In order to promote the tobacco use prevention and
10 control partnership established in section 142A.1, the
11 following persons shall comply with the following, as
12 applicable:
13 1. A manufacturer, distributor, wholesaler,
14 retailer, or distributing agent or agent thereof shall
15 not give away cigarettes or tobacco products.
16 2. A manufacturer, distributor, wholesaler,
17 retailer, or distributing agent or agent thereof shall
18 not provide free articles, products, commodities,
19 gifts, or concessions in any exchange for the purchase
20 of cigarettes or tobacco products.
21 3. The prohibitions in this section do not apply
22 to transactions between manufacturers, distributors,
23 wholesalers, or retailers."
24 2. By renumbering as necessary.

By RAECKER of Polk
GARMAN of Story
BOAL of Polk
CARROLL of Poweshiek
SHEY of Linn
THOMSON of Linn
HOFFMAN of Crawford
KETTERING of Sac
LORD of Dallas
METCALF of Polk
CHIODO of Polk
SHOULTZ of Black Hawk

H-8894 FILED APRIL 13, 2000

W/D
4/13/00 (P. 1480)

HOUSE FILE 2565

H-8896

1 Amend the amendment, H-8890, to House File 2565, as
2 follows:
3 1. Page 2, line 21, by inserting after the word
4 "products" the following: "or from a person who
5 manufactures alcoholic beverages".

By MURPHY of Dubuque

H-8896 FILED APRIL 13, 2000

Lost
4/13/00
(P. 1480)

HOUSE FILE 2565

H-8897

1 Amend House File 2565 as follows:
2 1. Page 13, by inserting after line 18, the
3 following:
4 "Sec.___. Section 453A.39, Code 1999, is amended
5 by striking the section and inserting in lieu thereof
6 the following:
7 453A.39 TOBACCO PRODUCTS, CIGARETTES --
8 PROHIBITIONS.
9 In order to promote the tobacco use prevention and
10 control partnership established in section 142A.1, the
11 following persons shall comply with the following, as
12 applicable:
13 1. A manufacturer, distributor, wholesaler,
14 retailer, or distributing agent or agent thereof shall
15 not give away cigarettes or tobacco products.
16 2. A manufacturer, distributor, wholesaler,
17 retailer, or distributing agent or agent thereof shall
18 not provide free articles, products, commodities,
19 gifts, or concessions in any exchange for the purchase
20 of cigarettes or tobacco products.
21 3. The prohibitions in this section do not apply
22 to transactions between manufacturers, distributors,
23 wholesalers, or retailers."
24 2. By renumbering as necessary.

By CHIODO of Polk

H-8897 FILED APRIL 13, 2000

W/D
4/13/00
(P. 1480)

HOUSE FILE 2565

H-8900

1 Amend House File 2565 as follows:
2 1. Page 10, by inserting after line 14, the
3 following:
4 "6. In order to promote the tobacco use prevention
5 and control partnership established in section 142A.1,
6 the following persons shall comply with the following,
7 as applicable:
8 a. A manufacturer, distributor, wholesaler,
9 retailer, or distributing agent or agent thereof shall
10 not give away cigarettes or tobacco products.
11 b. A manufacturer, distributor, wholesaler,
12 retailer, or distributing agent or agent thereof shall
13 not provide free articles, products, commodities,
14 gifts, or concessions in any exchange for the purchase
15 of cigarettes or tobacco products.
16 c. The prohibitions in this section do not apply
17 to transactions between manufacturers, distributors,
18 wholesalers, or retailers.
19 d. For the purpose of this subsection,
20 manufacturer, distributor, wholesaler, retailer, and
21 distributing agent mean as defined in section 453A.1."
22 2. Page 13, by inserting after line 18 the
23 following:
24 "Sec. ___. Section 453A.39, Code 1999, is
25 repealed."
26 3. By renumbering as necessary.

By CHIODO of Polk

H-8900 FILED APRIL 13, 2000

Adopted
4/13/00 (P. 1482)

Substitutes for SF 2449
4-17-00 (P. 1187)

HOUSE FILE 2565
BY RANTS

(COMPANION TO LSB 7257XS
BY IVERSON)

(As Amended and Passed by the House, April 13, 2000)

Passed House, Date _____ Passed Senate, (P 1261) Date 4/19/00
Vote: Ayes _____ Nays _____ Vote: Ayes 47 Nays 1
Approved _____

A BILL FOR

1 An Act relating to tobacco use prevention and control and
2 providing an effective date.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4
5
6
7 House Amendments _____
8
9 Deleted Language *
10
11
12
13
14
15
16
17
18
19

TLSB 7257YH 78
pf/cf/24

S.F. _____ H.F. 2565

1 Section 1. NEW SECTION. 142A.1 TOBACCO USE PREVENTION
2 AND CONTROL PARTNERSHIP -- PURPOSE AND INTENT.
3 1. The purpose of this chapter is to establish a
4 comprehensive partnership among the general assembly, the
5 executive branch, communities, and the people of Iowa in
6 addressing the prevalence of tobacco use in the state.
7 2. It is the intent of the general assembly that the
8 comprehensive tobacco use prevention and control initiative
9 established in this chapter will specifically address
10 reduction of tobacco use by youth and pregnant women,
11 promotion of compliance by minors and retailers with tobacco
12 sales laws and ordinances, and enhancement of the capacity of
13 youth to make healthy choices. The initiative shall allow
14 extensive involvement of youth in attaining these results.
15 3. It is also the intent of the general assembly that the
16 comprehensive tobacco use prevention and control initiative
17 will foster a social and legal climate in which tobacco use
18 becomes undesirable and unacceptable, in which role models and
19 those who influence youth promote healthy social norms and
20 demonstrate behavior that counteracts the glamorization of
21 tobacco use, and in which tobacco becomes less accessible to
22 youth. The intent of the general assembly shall be
23 accomplished by engaging all who are affected by the use of
24 tobacco in the state, including smokers and nonsmokers, youth,
25 and adults.
26 Sec. 2. NEW SECTION. 142A.2 DEFINITIONS.
27 As used in this chapter, unless the context otherwise
28 requires:
29 1. "Administrator" means the administrator of the division
30 of tobacco use prevention and control.
31 2. "Commission" means the commission on tobacco use
32 prevention and control established in this chapter.
33 3. "Community partnership" means a public agency or
34 nonprofit organization implementing the tobacco use prevention
35 and control initiative in a local area in accordance with this

1 chapter.
2 4. "Department" means the Iowa department of public
3 health.
4 5. "Director" means the director of public health.
5 6. "Division" means the division of tobacco use prevention
6 and control of the Iowa department of public health,
7 established pursuant to this chapter.
8 7. "Initiative" means the comprehensive tobacco use
9 prevention and control initiative established in this chapter.
10 8. "Manufacturer" means manufacturer as defined in section
11 453A.1.
12 9. "Pregnant woman" means a female of any age who is
13 pregnant.
14 10. "Retailer" means retailer as defined in section
15 453A.1.
16 11. "School-age youth" means a person attending school in
17 kindergarten through grade twelve.
18 12. "Tobacco" means both cigarettes and tobacco products
19 as defined in section 453A.1.
20 13. "Youth" means a person who is five through twenty-four
21 years of age.
22 Sec. 3. NEW SECTION. 142A.3 TOBACCO USE PREVENTION AND
23 CONTROL -- DIVISION -- COMMISSION -- CREATED.
24 1. The department shall establish, as a separate and
25 distinct division within the department, a division of tobacco
26 use prevention and control. The division shall develop,
27 implement, and administer the initiative established in this
28 chapter and shall perform other duties as directed by this
29 chapter or as assigned by the director of public health.
30 2. A commission on tobacco use prevention and control is
31 established to develop policy, provide direction for the
32 initiative, and perform all other duties as directed by this
33 chapter or referred to the commission by the director of
34 public health.
35 3. The commission shall consist of the following voting

1 members who shall serve three-year, staggered terms:
2 a. Three members who are active with nonprofit health
3 organizations that emphasize tobacco use prevention or who are
4 active as health services providers, at the local level.
5 b. One member who is a retailer.
6 c. Three members who are active with health promotion
7 activities at the local level in youth education, law
8 enforcement, nonprofit services, or other activities relating
9 to tobacco use prevention and control.
10 The members appointed under this subsection shall be
11 appointed by the governor, subject to confirmation by the
12 senate, pursuant to sections 2.32 and 69.19. At least one
13 member appointed under this subsection shall be a member of a
14 racial minority.
15 4. In addition to the members described in subsection 3,
16 the membership of the commission shall include three voting
17 members who are selected by the participants in the annual
18 statewide youth summit of the initiative's youth program. The
19 youth membership appointments are not subject to section 69.16
20 or 69.16A. However, the selection process shall provide for
21 diversity among the members and at least one of the youth
22 members shall be a female. These members shall also serve
23 three-year staggered terms.
24 5. The commission shall also include the following ex
25 officio, nonvoting members:
26 a. Four members of the general assembly, with not more
27 than one member from each chamber being from the same
28 political party. The majority leader of the senate and the
29 minority leader of the senate shall each appoint one of the
30 senate members. The majority leader of the house and the
31 minority leader of the house of representatives shall each
32 appoint one of the house members.
33 b. The presiding officer of the statewide youth executive
34 body, selected by the delegates to the statewide youth summit.
35 6. In addition to the members of the council, the

1 following agencies, organizations, and persons shall each
2 assign a single liaison to the commission to provide
3 assistance to the commission in the discharge of the
4 commission's duties:
5 a. The department of education.
6 b. The drug policy coordinator.
7 c. The department of justice, office of the attorney
8 general.
9 d. The department of human services.
10 e. The alcoholic beverages division of the department of
11 commerce.
12 7. Citizen members shall be reimbursed for actual and
13 necessary expenses incurred in performance of their duties.
14 Citizen members shall be paid a per diem as specified in
15 section 7E.6. Legislative members are eligible for per diem
16 and expenses as provided in section 2.10.
17 8. A member of the commission who is convicted of a crime
18 relating to tobacco, alcohol, or controlled substances is
19 subject to removal from the commission.
20 9. The commission may designate an advisory council. The
21 commission shall determine the membership and representation
22 of the advisory council and members of the council shall serve
23 at the pleasure of the commission. The advisory council may
24 include representatives of health care provider groups, parent
25 groups, antitobacco advocacy programs and organizations,
26 tobacco retailers, research and evaluation experts, and youth
27 organizers.
28 10. A vacancy on the commission other than for the youth
29 members shall be filled in the same manner as the original
30 appointment for the balance of the unexpired term. A youth
31 member vacancy shall be filled by the presiding officer of the
32 statewide executive body as selected by the delegates to the
33 statewide youth summit. The commission shall elect a
34 chairperson from among its voting members and may select other
35 officers from among its voting members, as determined

1 necessary by the commission. The commission shall meet
2 regularly as determined by the commission, upon the call of
3 the chairperson, or upon the call of a majority of the voting
4 members.
5 Sec. 4. NEW SECTION. 142A.4 COMMISSION DUTIES.
6 The commission shall do all of the following:
7 1. Develop and implement the comprehensive tobacco use
8 prevention and control initiative as provided in this chapter.
9 2. Provide a forum for the discussion, development, and
10 recommendation of public policy alternatives in the field of
11 tobacco use prevention and control.
12 3. Develop an educational component of the initiative.
13 Educational efforts provided through the school system shall
14 be developed in conjunction with the department of education.
15 4. Develop a plan for implementation of the initiative in
16 accordance with the purpose and intent specified in section
17 142A.1.
18 5. Provide for technical assistance, training, and other
19 support under the initiative.
20 6. Take actions to develop and implement a statewide
21 system for the initiative programs that are delivered through
22 community partnerships.
23 7. Manage and coordinate the provision of funding and
24 other moneys available to the initiative by combining all or
25 portions of appropriations or other revenues as authorized by
26 law.
27 8. Assist with the linkage of the initiative with child
28 welfare and juvenile justice decategorization projects,
29 education programming, community empowerment areas, and other
30 programs and services directed to youth at the state and
31 community level.
32 9. Coordinate and respond to any requests from a community
33 partnership relating to any of the following:
34 a. Removal of barriers to community partnership efforts.
35 b. Pooling and redirecting of existing federal, state, or

1 other public or private funds available for purposes that are
2 consistent with the initiative.
3 c. Seeking of federal waivers to assist community
4 partnership efforts.
5 In coordinating and responding to the requests, the
6 commission shall work with state agencies, the governor, and
7 the general assembly as necessary to address requests deemed
8 appropriate by the commission.
9 10. Adopt rules pursuant to chapter 17A as necessary for
10 the designation, governance, and oversight of the initiative
11 and the implementation of this chapter. The commission shall
12 provide for community partnership and youth program input in
13 the rules adoption process. The rules shall include but are
14 not limited to all of the following:
15 a. Performance indicators for initiative programs,
16 community partnerships, and the services provided under the
17 auspices of community partnerships. The performance
18 indicators shall be developed with input from communities.
19 b. Minimum standards to further the provision of equal
20 access to services.
21 11. Monitor and evaluate the effectiveness of performance
22 measures utilized under the initiative.
23 12. Submit a report to the governor and the general
24 assembly on a periodic basis, during the initial year of
25 operation, and on an annual basis thereafter, regarding the
26 initiative, including demonstrated progress based on
27 performance indicators. The commission shall report more
28 frequently if requested by the joint appropriations
29 subcommittee that makes recommendations concerning the
30 commission's budget. Beginning July 1, 2005, the commission
31 shall also perform a comprehensive review of the initiative
32 and shall submit a report of its findings to the governor and
33 the general assembly on or before December 15, 2005.
34 13. Approve contracts entered into with the alcoholic
35 beverages division of the department of commerce, to provide

1 for enforcement of tobacco laws and regulations.
2 14. Advise the director in evaluating potential candidates
3 for the position of administrator, consult with the director
4 in the hiring of the administrator, and review and advise the
5 director on the performance of the administrator in the
6 discharge of the administrator's duties.
7 15. Prioritize funding needs and the allocation of moneys
8 appropriated and other resources available for the programs
9 and activities of the initiative.
10 16. Ensure that sufficient resources are available to
11 promote and ensure retailer compliance with tobacco laws and
12 ordinances relating to minors and ensure that compliance with
13 42 U.S.C. § 300X-26 is prioritized when allocating funds under
14 this chapter.
15 17. Review fiscal needs of the initiative and make
16 recommendations to the director in the development of budget
17 requests.
18 18. Solicit and accept any gift of money or property,
19 including any grant of money, services, or property from the
20 federal government, the state, a political subdivision, or a
21 private source that is consistent with the goals of the
22 initiative. The commission shall adopt rules prohibiting the
23 acceptance of gifts from a manufacturer of tobacco products.
24 19. Advise and make recommendations to the governor, the
25 general assembly, the director, and the administrator,
26 relative to tobacco use, treatment, intervention, prevention,
27 control, and education programs in the state.
28 20. Evaluate the work of the division and the department
29 relating to the initiative. For this purpose, the commission
30 shall have access to any relevant department records and
31 documents, and other information reasonably obtainable by the
32 department.
33 21. Develop the structure for the statewide youth summit
34 to be held annually.
35 Sec. 5. NEW SECTION. 142A.5 DIRECTOR AND ADMINISTRATOR

1 DUTIES.
2 1. The director shall do all of the following:
3 a. Establish and maintain the division of tobacco use
4 prevention and control.
5 b. Employ a division administrator who shall be
6 responsible for the administration and oversight of the
7 division. The division administrator shall report to and
8 shall serve at the pleasure of the director. The
9 administrator shall be exempt from the merit system provisions
10 of chapter 19A.
11 c. Coordinate all tobacco use prevention and control
12 programs and activities under the purview of the department.
13 d. Receive and review budget recommendations from the
14 commission. The director shall consider these recommendations
15 in developing the budget request for the department.
16 e. Enter into contracts with the alcoholic beverages
17 division of the department of commerce, to provide enforcement
18 of tobacco laws and regulations. Such contracts shall require
19 that enforcement efforts include training of local authorities
20 who issue retailer permits and education of retailers.
21 2. The administrator shall do all of the following:
22 a. Implement the initiative, coordinate the activities of
23 the commission and the initiative, and coordinate other
24 tobacco use prevention and control activities as assigned by
25 the director.
26 b. Monitor and evaluate the effectiveness of performance
27 measures.
28 c. Provide staff and administrative support to the
29 commission.
30 d. Administer contracts entered into under this chapter.
31 e. Coordinate and cooperate with other tobacco use
32 prevention and control programs within and outside of the
33 state.
34 f. Coordinate the efforts of the division with tobacco law
35 enforcement programs funded through the commission.

1 Sec. 6. NEW SECTION. 142A.6 COMPREHENSIVE TOBACCO USE
2 PREVENTION AND CONTROL INITIATIVE ESTABLISHED -- PURPOSE --
3 RESULTS.
4 1. A comprehensive tobacco use prevention and control
5 initiative is established. The division shall implement the
6 initiative as provided in this chapter.
7 2. The purpose of the initiative is to attain the
8 following results:
9 a. Reduction of tobacco use by youth.
10 b. Strong, active youth involvement in activities to
11 prevent youth tobacco use and to promote cessation of youth
12 tobacco use.
13 c. Enhanced capacity of youth to make healthy choices.
14 d. Reduction of tobacco use by pregnant women.
15 e. Increased compliance by minors and retailers with
16 tobacco sales laws and ordinances.
17 3. Success in achieving the initiative's desired results
18 may be demonstrated by a minimum of the following:
19 a. Data demonstrating consistent progress in reducing the
20 prevalence of tobacco use among youth and adults.
21 b. Survey results indicating widespread support among
22 youth for the initiative's tobacco use prevention and control
23 activities; for programs that enhance the ability of youth to
24 make healthy choices including those related to use of
25 tobacco, alcohol, and other substances; and for the media,
26 marketing, and communications efforts supporting the
27 initiative's desired results. Any survey conducted may also
28 include an assessment of the effectiveness of tobacco use
29 prevention and control activities in affecting other unhealthy
30 youth behaviors including sexual activity and violent
31 behavior.
32 c. Data demonstrating increased compliance by minors and
33 retailers with tobacco sales laws and ordinances.
34 4. The division shall implement the initiative in a manner
35 that ensures that youth are extensively involved in the

1 decision making for the programs implemented under the
2 initiative. The initiative shall also involve parents,
3 schools, and community members in activities to achieve the
4 results desired for the initiative. The division shall
5 encourage collaboration at the state and local levels to
6 maximize available resources and to provide flexibility to
7 support community efforts.
8 5. Procurement of goods and services necessary to
9 implement the initiative is subject to approval of the
10 commission. Notwithstanding chapter 18 or any other provision
11 of law to the contrary, such procurement may be accomplished
12 by the commission under its own competitive bidding process
13 which shall provide for consideration of such factors as
14 price, bidder competence, and expediency in procurement.
15 6. In order to promote the tobacco use prevention and
16 control partnership established in section 142A.1, the
17 following persons shall comply with the following, as
18 applicable:
19 a. A manufacturer, distributor, wholesaler, retailer, or
20 distributing agent or agent thereof shall not give away
21 cigarettes or tobacco products.
22 b. A manufacturer, distributor, wholesaler, retailer, or
23 distributing agent or agent thereof shall not provide free
24 articles, products, commodities, gifts, or concessions in any
25 exchange for the purchase of cigarettes or tobacco products.
26 c. The prohibitions in this section do not apply to
27 transactions between manufacturers, distributors, wholesalers,
28 or retailers.
29 d. For the purpose of this subsection, manufacturer,
30 distributor, wholesaler, retailer, and distributing agent mean
31 as defined in section 453A.1.
32 Sec. 7. NEW SECTION. 142A.7 INITIATIVE COMPONENTS.
33 1. The initiative shall include but is not limited to all
34 of the following:
35 a. Youth programs, designed to achieve the initiative's

1 desired results, that are directed by youth participants for
2 youth.
3 b. A media, marketing, and communications program to
4 achieve the initiative's desired results. Advertising shall
5 not include the name, voice, or likeness of any elected or
6 appointed public official or of any candidate for elective
7 office.
8 c. Independent evaluation of each component of the
9 statewide initiative.
10 d. Ongoing statewide assessment of data, review of
11 indicators used in assessing the effectiveness of the
12 initiative, and evaluation of the initiative, its programs,
13 and its marketing strategy. The initial baseline used to
14 measure the effectiveness of the initiative shall be developed
15 using existing, available indicators. Following development
16 of the initial baseline, indicators of the effectiveness of
17 the initiative shall be reviewed on at least an annual basis
18 to ensure that the indicators used most accurately provide for
19 measurement of such effectiveness. Primary emphasis in data
20 assessment shall be on data relating to tobacco usage and may
21 include data demonstrating the prevalence of tobacco use among
22 youth and pregnant women, and the prevalence of the use of
23 alcohol and other substances among youth. Sources of data
24 considered shall include but are not limited to the centers
25 for disease control and prevention of the United States
26 department of health and human services and the Iowa youth
27 tobacco survey, and may include the Iowa youth risk survey
28 conducted by the department or the youth risk behavior survey.
29 e. A tobacco use prevention and control education program.
30 f. An enforcement program.
31 2. Administrative costs associated with each program of
32 the initiative and program provider shall be established at a
33 reasonable level consistent with effective management
34 practices.
35 3. Requests for information or for proposals shall

1 emphasize that performance measures are required for any
2 contract or allocation of funding under the initiative.
3 Sec. 8. NEW SECTION. 142A.8 COMMUNITY PARTNERSHIPS.
4 1. A community partnership is a public agency or nonprofit
5 organization operating in a local area under contract with the
6 department to implement the initiative in that local area
7 utilizing broad community involvement. The community
8 partnership or its designee shall act as the fiscal agent for
9 moneys administered by the community partnership.
10 2. A community partnership area shall encompass a county
11 or multicounty area, school district or multischool district
12 area, economic development enterprise zone that meets the
13 requirements of an urban or rural enterprise community under
14 Title XIII of the federal Omnibus Budget Reconciliation Act of
15 1993, or community empowerment area, in accordance with
16 criteria adopted by the commission for appropriate population
17 levels and size of geographic areas.
18 3. The commission shall adopt rules pursuant to chapter
19 17A providing procedures for the initial designation of
20 community partnership areas and for subsequent changes to the
21 initially designated areas.
22 4. The requirements for contracts entered into by a
23 community partnership and the department shall include but are
24 not limited to all of the following:
25 a. Administrative functions.
26 b. Fiscal provisions.
27 c. Community and youth involvement in program and
28 administrative decisions.
29 d. Law enforcement involvement.
30 e. Evaluation of the program.
31 Sec. 9. NEW SECTION. 142A.9 YOUTH PROGRAM.
32 1. A youth program component shall be implemented in each
33 community partnership area to achieve the purposes of the
34 initiative.
35 2. The youth program shall include but is not limited to

1 all of the following:
2 a. A structure for program participants to interact with
3 other participating youth within the community partnership
4 area and in other areas of the state.
5 b. A structure for formal youth involvement in youth
6 program governance at the community partnership area level and
7 in a statewide youth summit or summits consisting of
8 participation by representatives of the community partnership
9 area level.
10 c. A structure for participation in a statewide executive
11 body consisting of participants selected by the delegates to
12 the statewide youth summit of the youth program.
13 d. Youth activities that are character-based and focused
14 on rewarding appropriate values, behavior, and healthy choices
15 by participants.
16 3. To the greatest extent possible, the youth program
17 shall be directed by youth for youth participants. State and
18 local administrators associated with the initiative shall
19 consult with and utilize the youth program participants in the
20 media, marketing, and communications program; education
21 efforts; and other aspects of the initiative including
22 evaluation, collaboration, and enforcement.
23 Sec. 10. NEW SECTION. 142A.10 FUNDING OF PROGRAMS
24 DELIVERED THROUGH COMMUNITY PARTNERSHIPS.
25 1. The commission shall develop and implement a statewide
26 system for the initiative programs that are delivered through
27 community partnerships.
28 2. The system shall provide for equitable allocation of
29 funding for initiative programs among the state's community
30 partnership areas, based upon school-age population and other
31 criteria established by the commission.
32 3. The specific programs, distribution provisions, and
33 other provisions approved by the commission for expenditure of
34 the maximum allocation amount established for a community
35 partnership area shall be outlined in the written contract

1 with the community partnership.
2 4. Any allocation received by a community partnership
3 shall be matched with local funding, in-kind services, office
4 support, or other tangible support or offset of costs.
5 Sec. 11. NEW SECTION. 142A.11 REPEAL.
6 This chapter is repealed June 30, 2010.
7 Sec. 12. Section 453A.39, Code 1999, is repealed.
8 Sec. 13. INITIAL APPOINTMENTS.
9 1. The initial appointments to the commission on tobacco
10 use prevention and control of the members who are not youth
11 members selected at the youth summit or who are not commission
12 nonvoting members, as established by this Act, are as follows:
13 a. Two members to a one-year term.
14 b. Two members to a two-year term.
15 c. Three members to a three-year term.
16 2. The initial youth appointments shall be as follows:
17 a. One member to a one-year term.
18 b. One member to a two-year term.
19 c. One member to a three-year term.
20 3. The initial appointments to the commission on tobacco
21 use prevention and control who are not youth members selected
22 at the annual youth summit or who are not commission nonvoting
23 members shall be made by the governor. The legislative
24 council may compile a list of individuals based on
25 recommendations received from members of the general assembly,
26 following public input, and submit the list to the governor to
27 assist efforts in identifying qualified and capable candidates
28 for initial appointments.
29 4. The initial appointments to the commission shall be
30 made within sixty days of the effective date of this Act.
31 Sec. 14. REVIEW OF ENFORCEMENT EFFORTS. The tobacco use
32 prevention and control commission created under chapter 142A,
33 in cooperation with the office of the attorney general, the
34 Iowa department of public health, and the alcoholic beverages
35 division of the department of commerce, shall review current

1 state and local tobacco enforcement regulations and
2 activities, including those related to retailers, clerks and
3 minors, and shall submit recommendations to the governor and
4 the general assembly, on or before December 1, 2000, to
5 provide for balanced and uniform enforcement statewide.
6 Sec. 15. ADMINISTRATOR -- INITIAL HIRING. The provisions
7 of section 142A.4 relating to the commission providing advice
8 and consultation with regard to the hiring of the
9 administrator do not apply to the initial hiring of an
10 administrator if the commission is not operational at the time
11 that a potential candidate for the position of administrator
12 is formally offered the administrator position. However,
13 under such circumstances, the director shall consult with the
14 ex officio members of the commission, if appointed at the time
15 such a formal offer is extended.
16 Sec. 16. EMERGENCY RULES. The department of public health
17 may adopt emergency rules under section 17A.4, subsection 2,
18 and section 17A.5, subsection 2, paragraph "b", to implement
19 this Act, and the rules shall become effective immediately
20 upon filing, unless the effective date is delayed by the
21 administrative rules review committee, notwithstanding section
22 17A.4, subsection 5, and section 17A.8, subsection 9, or a
23 later effective date is specified in the rules. Any rules
24 adopted in accordance with this section shall not take effect
25 before the rules are reviewed by the administrative rules
26 review committee. Any rules adopted in accordance with the
27 provisions of this section shall also be published as notice
28 of intended action as provided in section 17A.4.
29 Sec. 17. EFFECTIVE DATE. This Act, being deemed of
30 immediate importance, takes effect upon enactment.
31
32
33
34
35

HOUSE FILE 2565

S-5438

1 Amend House File 2565, as amended, passed, and
2 reprinted by the House, as follows:

DIV A

3 1. Page 1, line 6, by inserting after the word
4 "state." the following: "In demonstrating a firm
5 commitment to this partnership and in order to provide
6 a positive model for youth, specifically, and the
7 people of Iowa, in general, the general assembly and
8 the executive branch shall declare the state capitol a
9 smoke-free environment."

DIV B

10 2. Page 15, by inserting after line 15, the
11 following:
12 "Sec. ___. STATE CAPITOL -- SMOKE-FREE. In order
13 to comply with section 142A.1, the general assembly
14 shall adopt any rules necessary to require that all
15 areas controlled by the general assembly or either
16 chamber are smoke-free upon the effective date of this
17 Act."

18 3. By renumbering as necessary.

By MIKE CONNOLLY

S-5438 FILED APRIL 17, 2000
DIV A - RULED OUT OF ORDER; DIV B - WITHDRAWN

(P 1187)

HOUSE FILE 2565

S-5495

1 Amend House File 2565, as amended, passed, and
2 reprinted by the House, as follows:
3 1. Page 3, line 25, by inserting after the word
4 "members" the following: "from organizations that
5 prohibit the use of tobacco in buildings or portions
6 of buildings under their control".

By MIKE CONNOLLY

S-5495 FILED APRIL 18, 2000
W/D
4/19/00
(P. 1260)

HOUSE FILE 2565

S-5499

1 Amend House File 2565, as amended, passed, and
2 reprinted by the House, as follows:
3 1. Page 1, line 7, by inserting after the word
4 "assembly" the following: "that the use of tobacco
5 shall not be allowed in any building or portion or any
6 building under the control of the general assembly,
7 and".

By MIKE CONNOLLY

S-5499 FILED APRIL 19, 2000
RULED OUT OF ORDER

(P 1259)

HOUSE FILE 2565

S-5518

1 Amend the amendment, S-5499, to House File 2565, as
2 amended, passed and reprinted by the House, as
3 follows:
4 1. Page 1, line 5, by striking the words "portion
5 or" and inserting the following: "portion of".

By MIKE CONNOLLY

S-5518 FILED APRIL 19, 2000
RULED OUT OF ORDER

HOUSE FILE 2565

S-5439

1 Amend House File 2565, as amended, passed, and
2 reprinted by the House, as follows:
3 1. Page 10, by striking lines 15 through 31.
4 2. Page 14, by striking line 7.

By NANCY BOETTGER

S-5439 FILED APRIL 17, 2000

W/D
4/19/00 (P. 1260)

HOUSE FILE 2565

S-5441

1 Amend the amendment, S-5438, to House File 2565, as
2 amended, passed, and reprinted by the House, as
3 follows:
4 1. Page 1, lines 8 and 9, by striking the words
5 "a smoke-free environment" and inserting the
6 following: "and all public elementary and secondary
7 school buildings smoke-free environments".

By DAVID MILLER

S-5441 FILED APRIL 17, 2000
RULED OUT OF ORDER

HOUSE FILE 2565

S-5443

1 Amend House File 2565, as amended, passed, and
2 reprinted by the House, as follows:
3 1. Page 1, line 6, by inserting after the word
4 "state." the following: "In demonstrating a firm
5 commitment to this partnership and in order to provide
6 a positive model for youth, specifically, and the
7 people of Iowa, in general, the general assembly and
8 the executive branch shall declare the state capitol a
9 smoke-free environment."

By MIKE CONNOLLY

S-5443 FILED APRIL 17, 2000

HOUSE FILE 2565

S-5445

1 Amend House File 2565, as amended, passed, and
2 reprinted by the House, as follows:
3 1. Page 14, by striking line 7 and inserting the
4 following:
5 "Sec.___. Section 453A.39, Code 1999, is amended
6 by striking the section and inserting in lieu thereof
7 the following:
8 453A.39 TOBACCO PRODUCTS, CIGARETTES --
9 PROHIBITIONS.
10 In order to promote the tobacco use prevention and
11 control partnership established in section 142A.1, the
12 following persons shall comply with the following, as
13 applicable:
14 1. A manufacturer, distributor, wholesaler,
15 retailer, or distributing agent or agent thereof shall
16 not give away cigarettes or tobacco products.
17 2. A manufacturer, distributor, wholesaler,
18 retailer, or distributing agent or agent thereof shall
19 not provide free articles, products, commodities,
20 gifts, or concessions in any exchange for the purchase
21 of cigarettes or tobacco products.
22 3. The prohibitions in this section do not apply
23 to transactions between manufacturers, distributors,
24 wholesalers, or retailers."
25 2. By renumbering as necessary.

By JOE BOLKCOM

S-5445 FILED APRIL 17, 2000

W/D 4/19/00 (P.1261)

HOUSE FILE 2565

S-5446

1 Amend House File 2565, as amended, passed, and
2 reprinted by the House, as follows:
3 1. Page 1, line 23, by inserting after the words
4 "accomplished by" the following: "assisting current
5 tobacco users in terminating use and by".

By JOE BOLKCOM
ROBERT E. DVORSKY

S-5446 FILED APRIL 17, 2000

Lost 4/19/00 (P.1260)

HOUSE FILE 2565

S-5450

1 Amend House File 2565, as amended, passed, and
2 reprinted by the House, as follows:
3 1. Page 1, line 6, by inserting after the word
4 "state." the following: "In demonstrating a firm
5 commitment to this partnership and in order to provide
6 a positive model for youth, specifically, and the
7 people of Iowa, in general, the general assembly and
8 the executive branch shall declare the general
9 assembly a smoke-free environment."

By MIKE CONNOLLY

O/O 4/19/00 (P.1259)

S-5450 FILED APRIL 17, 2000

HOUSE FILE 2565

S-5456

1 Amend House File 2565, as amended, passed, and
2 reprinted by the House, as follows:
3 1. Page 14, by inserting before line 7, the
4 following:
5 "Sec. ___. Section 142B.6, unnumbered paragraph 3,
6 Code 1999, is amended to read as follows:
7 Enforcement of this chapter shall be implemented in
8 an equitable manner throughout the state. For the
9 purpose of equitable and uniform implementation,
10 application, and enforcement of state and local laws
11 and regulations, the provisions of this chapter shall
12 supersede any local law or regulation which is
13 inconsistent with or conflicts with the provisions of
14 this chapter. <u>However, a local law enforcement agency</u>
15 <u>is authorized to enforce the provisions of this</u>
16 <u>chapter.</u>"
17 2. By renumbering as necessary.

By O. GENE MADDOX

S-5456 FILED APRIL 17, 2000

W/D
4/19/00 (P.1261)

HOUSE FILE 2565

S-5461

1 Amend the amendment, S-5450, to House File 2565, as
2 amended, passed, and reprinted by the House, as
3 follows:
4 1. Page 1, by striking line 9, and inserting the
5 following: "assembly and all public elementary and
6 secondary school buildings smoke-free environments.""
7 2. Page 1, by inserting after line 9, the
8 following:
9 "___. Page 10, line 2, by striking the word
10 "parents,".
11 ___. Page 10, line 3, by striking the word
12 "schools," and inserting the following: "schools by
13 providing a smoke-free environment, and shall involve
14 parents"."

By DAVID MILLER

S-5461 FILED APRIL 17, 2000

O/O 4-19-00
(P.1259)

HOUSE FILE 2565

S-5464

1 Amend House File 2565, as amended, passed, and
2 reprinted by the House, as follows:
3 1. Page 10, line 2, by striking the word
4 "parents,".
5 2. Page 10, line 3, by striking the word
6 "schools," and inserting the following: "schools by
7 providing a smoke-free environment, and shall involve
8 parents".

By DAVID MILLER

S-5464 FILED APRIL 17, 2000

W/D
4/19/00 (P.1260)

HOUSE FILE 2565

AN ACT

RELATING TO TOBACCO USE PREVENTION AND CONTROL AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. NEW SECTION. 142A.1 TOBACCO USE PREVENTION AND CONTROL PARTNERSHIP -- PURPOSE AND INTENT.

1. The purpose of this chapter is to establish a comprehensive partnership among the general assembly, the executive branch, communities, and the people of Iowa in addressing the prevalence of tobacco use in the state.

2. It is the intent of the general assembly that the comprehensive tobacco use prevention and control initiative established in this chapter will specifically address reduction of tobacco use by youth and pregnant women, promotion of compliance by minors and retailers with tobacco sales laws and ordinances, and enhancement of the capacity of youth to make healthy choices. The initiative shall allow extensive involvement of youth in attaining these results.

3. It is also the intent of the general assembly that the comprehensive tobacco use prevention and control initiative will foster a social and legal climate in which tobacco use becomes undesirable and unacceptable, in which role models and those who influence youth promote healthy social norms and demonstrate behavior that counteracts the glamorization of tobacco use, and in which tobacco becomes less accessible to youth. The intent of the general assembly shall be accomplished by engaging all who are affected by the use of tobacco in the state, including smokers and nonsmokers, youth, and adults.

Sec. 2. NEW SECTION. 142A.2 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Administrator" means the administrator of the division of tobacco use prevention and control.

2. "Commission" means the commission on tobacco use prevention and control established in this chapter.

3. "Community partnership" means a public agency or nonprofit organization implementing the tobacco use prevention and control initiative in a local area in accordance with this chapter.

4. "Department" means the Iowa department of public health.

5. "Director" means the director of public health.

6. "Division" means the division of tobacco use prevention and control of the Iowa department of public health, established pursuant to this chapter.

7. "Initiative" means the comprehensive tobacco use prevention and control initiative established in this chapter.

8. "Manufacturer" means manufacturer as defined in section 453A.1.

9. "Pregnant woman" means a female of any age who is pregnant.

10. "Retailer" means retailer as defined in section 453A.1.

11. "School-age youth" means a person attending school in kindergarten through grade twelve.

12. "Tobacco" means both cigarettes and tobacco products as defined in section 453A.1.

13. "Youth" means a person who is five through twenty-four years of age.

Sec. 3. NEW SECTION. 142A.3 TOBACCO USE PREVENTION AND CONTROL -- DIVISION -- COMMISSION -- CREATED.

1. The department shall establish, as a separate and distinct division within the department, a division of tobacco use prevention and control. The division shall develop,

HF2565

implement, and administer the initiative established in this chapter and shall perform other duties as directed by this chapter or as assigned by the director of public health.

2. A commission on tobacco use prevention and control is established to develop policy, provide direction for the initiative, and perform all other duties as directed by this chapter or referred to the commission by the director of public health.

3. The commission shall consist of the following voting members who shall serve three-year, staggered terms:

a. Three members who are active with nonprofit health organizations that emphasize tobacco use prevention or who are active as health services providers, at the local level.

b. One member who is a retailer.

c. Three members who are active with health promotion activities at the local level in youth education, law enforcement, nonprofit services, or other activities relating to tobacco use prevention and control.

The members appointed under this subsection shall be appointed by the governor, subject to confirmation by the senate, pursuant to sections 2.32 and 69.19. At least one member appointed under this subsection shall be a member of a racial minority.

4. In addition to the members described in subsection 3, the membership of the commission shall include three voting members who are selected by the participants in the annual statewide youth summit of the initiative's youth program. The youth membership appointments are not subject to section 69.16 or 69.16A. However, the selection process shall provide for diversity among the members and at least one of the youth members shall be a female. These members shall also serve three-year staggered terms.

5. The commission shall also include the following ex officio, nonvoting members:

a. Four members of the general assembly, with not more than one member from each chamber being from the same political party. The majority leader of the senate and the minority leader of the senate shall each appoint one of the senate members. The majority leader of the house and the minority leader of the house of representatives shall each appoint one of the house members.

b. The presiding officer of the statewide youth executive body, selected by the delegates to the statewide youth summit.

6. In addition to the members of the council, the following agencies, organizations, and persons shall each assign a single liaison to the commission to provide assistance to the commission in the discharge of the commission's duties:

a. The department of education.

b. The drug policy coordinator.

c. The department of justice, office of the attorney general.

d. The department of human services.

e. The alcoholic beverages division of the department of commerce.

7. Citizen members shall be reimbursed for actual and necessary expenses incurred in performance of their duties. Citizen members shall be paid a per diem as specified in section 7E.6. Legislative members are eligible for per diem and expenses as provided in section 2.10.

8. A member of the commission who is convicted of a crime relating to tobacco, alcohol, or controlled substances is subject to removal from the commission.

9. The commission may designate an advisory council. The commission shall determine the membership and representation of the advisory council and members of the council shall serve at the pleasure of the commission. The advisory council may include representatives of health care provider groups, parent groups, antitobacco advocacy programs and organizations,

tobacco retailers, research and evaluation experts, and youth organizers.

10. A vacancy on the commission other than for the youth members shall be filled in the same manner as the original appointment for the balance of the unexpired term. A youth member vacancy shall be filled by the presiding officer of the statewide executive body as selected by the delegates to the statewide youth summit. The commission shall elect a chairperson from among its voting members and may select other officers from among its voting members, as determined necessary by the commission. The commission shall meet regularly as determined by the commission, upon the call of the chairperson, or upon the call of a majority of the voting members.

Sec. 4. NEW SECTION. 142A.4 COMMISSION DUTIES.

The commission shall do all of the following:

1. Develop and implement the comprehensive tobacco use prevention and control initiative as provided in this chapter.

2. Provide a forum for the discussion, development, and recommendation of public policy alternatives in the field of tobacco use prevention and control.

3. Develop an educational component of the initiative. Educational efforts provided through the school system shall be developed in conjunction with the department of education.

4. Develop a plan for implementation of the initiative in accordance with the purpose and intent specified in section 142A.1.

5. Provide for technical assistance, training, and other support under the initiative.

6. Take actions to develop and implement a statewide system for the initiative programs that are delivered through community partnerships.

7. Manage and coordinate the provision of funding and other moneys available to the initiative by combining all or portions of appropriations or other revenues as authorized by law.

8. Assist with the linkage of the initiative with child welfare and juvenile justice decategorization projects, education programming, community empowerment areas, and other programs and services directed to youth at the state and community level.

9. Coordinate and respond to any requests from a community partnership relating to any of the following:

a. Removal of barriers to community partnership efforts.

b. Pooling and redirecting of existing federal, state, or other public or private funds available for purposes that are consistent with the initiative.

c. Seeking of federal waivers to assist community partnership efforts.

In coordinating and responding to the requests, the commission shall work with state agencies, the governor, and the general assembly as necessary to address requests deemed appropriate by the commission.

10. Adopt rules pursuant to chapter 17A as necessary for the designation, governance, and oversight of the initiative and the implementation of this chapter. The commission shall provide for community partnership and youth program input in the rules adoption process. The rules shall include but are not limited to all of the following:

a. Performance indicators for initiative programs, community partnerships, and the services provided under the auspices of community partnerships. The performance indicators shall be developed with input from communities.

b. Minimum standards to further the provision of equal access to services.

11. Monitor and evaluate the effectiveness of performance measures utilized under the initiative.

12. Submit a report to the governor and the general assembly on a periodic basis, during the initial year of operation, and on an annual basis thereafter, regarding the initiative, including demonstrated progress based on

performance indicators. The commission shall report more frequently if requested by the joint appropriations subcommittee that makes recommendations concerning the commission's budget. Beginning July 1, 2005, the commission shall also perform a comprehensive review of the initiative and shall submit a report of its findings to the governor and the general assembly on or before December 15, 2005.

13. Approve contracts entered into with the alcoholic beverages division of the department of commerce, to provide for enforcement of tobacco laws and regulations.

14. Advise the director in evaluating potential candidates for the position of administrator, consult with the director in the hiring of the administrator, and review and advise the director on the performance of the administrator in the discharge of the administrator's duties.

15. Prioritize funding needs and the allocation of moneys appropriated and other resources available for the programs and activities of the initiative.

16. Ensure that sufficient resources are available to promote and ensure retailer compliance with tobacco laws and ordinances relating to minors and ensure that compliance with 42 U.S.C. § 300X-26 is prioritized when allocating funds under this chapter.

17. Review fiscal needs of the initiative and make recommendations to the director in the development of budget requests.

18. Solicit and accept any gift of money or property, including any grant of money, services, or property from the federal government, the state, a political subdivision, or a private source that is consistent with the goals of the initiative. The commission shall adopt rules prohibiting the acceptance of gifts from a manufacturer of tobacco products.

19. Advise and make recommendations to the governor, the general assembly, the director, and the administrator, relative to tobacco use, treatment, intervention, prevention, control, and education programs in the state.

20. Evaluate the work of the division and the department relating to the initiative. For this purpose, the commission shall have access to any relevant department records and documents, and other information reasonably obtainable by the department.

21. Develop the structure for the statewide youth summit to be held annually.

Sec. 5. NEW SECTION. 142A.5 DIRECTOR AND ADMINISTRATOR DUTIES.

1. The director shall do all of the following:

a. Establish and maintain the division of tobacco use prevention and control.

b. Employ a division administrator who shall be responsible for the administration and oversight of the division. The division administrator shall report to and shall serve at the pleasure of the director. The administrator shall be exempt from the merit system provisions of chapter 19A.

c. Coordinate all tobacco use prevention and control programs and activities under the purview of the department.

d. Receive and review budget recommendations from the commission. The director shall consider these recommendations in developing the budget request for the department.

e. Enter into contracts with the alcoholic beverages division of the department of commerce, to provide enforcement of tobacco laws and regulations. Such contracts shall require that enforcement efforts include training of local authorities who issue retailer permits and education of retailers.

2. The administrator shall do all of the following:

a. Implement the initiative, coordinate the activities of the commission and the initiative, and coordinate other tobacco use prevention and control activities as assigned by the director.

b. Monitor and evaluate the effectiveness of performance measures.

c. Provide staff and administrative support to the commission.

d. Administer contracts entered into under this chapter.

e. Coordinate and cooperate with other tobacco use prevention and control programs within and outside of the state.

f. Coordinate the efforts of the division with tobacco law enforcement programs funded through the commission.

Sec. 6. NEW SECTION. 142A.6 COMPREHENSIVE TOBACCO USE PREVENTION AND CONTROL INITIATIVE ESTABLISHED -- PURPOSE -- RESULTS.

1. A comprehensive tobacco use prevention and control initiative is established. The division shall implement the initiative as provided in this chapter.

2. The purpose of the initiative is to attain the following results:

a. Reduction of tobacco use by youth.

b. Strong, active youth involvement in activities to prevent youth tobacco use and to promote cessation of youth tobacco use.

c. Enhanced capacity of youth to make healthy choices.

d. Reduction of tobacco use by pregnant women.

e. Increased compliance by minors and retailers with tobacco sales laws and ordinances.

3. Success in achieving the initiative's desired results may be demonstrated by a minimum of the following:

a. Data demonstrating consistent progress in reducing the prevalence of tobacco use among youth and adults.

b. Survey results indicating widespread support among youth for the initiative's tobacco use prevention and control activities; for programs that enhance the ability of youth to make healthy choices including those related to use of tobacco, alcohol, and other substances; and for the media, marketing, and communications efforts supporting the initiative's desired results. Any survey conducted may also

include an assessment of the effectiveness of tobacco use prevention and control activities in affecting other unhealthy youth behaviors including sexual activity and violent behavior.

c. Data demonstrating increased compliance by minors and retailers with tobacco sales laws and ordinances.

4. The division shall implement the initiative in a manner that ensures that youth are extensively involved in the decision making for the programs implemented under the initiative. The initiative shall also involve parents, schools, and community members in activities to achieve the results desired for the initiative. The division shall encourage collaboration at the state and local levels to maximize available resources and to provide flexibility to support community efforts.

5. Procurement of goods and services necessary to implement the initiative is subject to approval of the commission. Notwithstanding chapter 18 or any other provision of law to the contrary, such procurement may be accomplished by the commission under its own competitive bidding process which shall provide for consideration of such factors as price, bidder competence, and expediency in procurement.

6. In order to promote the tobacco use prevention and control partnership established in section 142A.1, the following persons shall comply with the following, as applicable:

a. A manufacturer, distributor, wholesaler, retailer, or distributing agent or agent thereof shall not give away cigarettes or tobacco products.

b. A manufacturer, distributor, wholesaler, retailer, or distributing agent or agent thereof shall not provide free articles, products, commodities, gifts, or concessions in any exchange for the purchase of cigarettes or tobacco products.

c. The prohibitions in this section do not apply to transactions between manufacturers, distributors, wholesalers, or retailers.

d. For the purpose of this subsection, manufacturer, distributor, wholesaler, retailer, and distributing agent mean as defined in section 453A.1.

Sec. 7. NEW SECTION. 142A.7 INITIATIVE COMPONENTS.

1. The initiative shall include but is not limited to all of the following:

a. Youth programs, designed to achieve the initiative's desired results, that are directed by youth participants for youth.

b. A media, marketing, and communications program to achieve the initiative's desired results. Advertising shall not include the name, voice, or likeness of any elected or appointed public official or of any candidate for elective office.

c. Independent evaluation of each component of the statewide initiative.

d. Ongoing statewide assessment of data, review of indicators used in assessing the effectiveness of the initiative, and evaluation of the initiative, its programs, and its marketing strategy. The initial baseline used to measure the effectiveness of the initiative shall be developed using existing, available indicators. Following development of the initial baseline, indicators of the effectiveness of the initiative shall be reviewed on at least an annual basis to ensure that the indicators used most accurately provide for measurement of such effectiveness. Primary emphasis in data assessment shall be on data relating to tobacco usage and may include data demonstrating the prevalence of tobacco use among youth and pregnant women, and the prevalence of the use of alcohol and other substances among youth. Sources of data considered shall include but are not limited to the centers for disease control and prevention of the United States department of health and human services and the Iowa youth tobacco survey, and may include the Iowa youth risk survey conducted by the department or the youth risk behavior survey.

e. A tobacco use prevention and control education program.

f. An enforcement program.

2. Administrative costs associated with each program of the initiative and program provider shall be established at a reasonable level consistent with effective management practices.

3. Requests for information or for proposals shall emphasize that performance measures are required for any contract or allocation of funding under the initiative.

Sec. 8. NEW SECTION. 142A.8 COMMUNITY PARTNERSHIPS.

1. A community partnership is a public agency or nonprofit organization operating in a local area under contract with the department to implement the initiative in that local area utilizing broad community involvement. The community partnership or its designee shall act as the fiscal agent for moneys administered by the community partnership.

2. A community partnership area shall encompass a county or multicounty area, school district or multischool district area, economic development enterprise zone that meets the requirements of an urban or rural enterprise community under Title XIII of the federal Omnibus Budget Reconciliation Act of 1993, or community empowerment area, in accordance with criteria adopted by the commission for appropriate population levels and size of geographic areas.

3. The commission shall adopt rules pursuant to chapter 17A providing procedures for the initial designation of community partnership areas and for subsequent changes to the initially designated areas.

4. The requirements for contracts entered into by a community partnership and the department shall include but are not limited to all of the following:

a. Administrative functions.

b. Fiscal provisions.

c. Community and youth involvement in program and administrative decisions.

d. Law enforcement involvement.

e. Evaluation of the program.

Sec. 9. NEW SECTION. 142A.9 YOUTH PROGRAM.

1. A youth program component shall be implemented in each community partnership area to achieve the purposes of the initiative.

2. The youth program shall include but is not limited to all of the following:

a. A structure for program participants to interact with other participating youth within the community partnership area and in other areas of the state.

b. A structure for formal youth involvement in youth program governance at the community partnership area level and in a statewide youth summit or summits consisting of participation by representatives of the community partnership area level.

c. A structure for participation in a statewide executive body consisting of participants selected by the delegates to the statewide youth summit of the youth program.

d. Youth activities that are character-based and focused on rewarding appropriate values, behavior, and healthy choices by participants.

3. To the greatest extent possible, the youth program shall be directed by youth for youth participants. State and local administrators associated with the initiative shall consult with and utilize the youth program participants in the media, marketing, and communications program; education efforts; and other aspects of the initiative including evaluation, collaboration, and enforcement.

Sec. 10. NEW SECTION. 142A.10 FUNDING OF PROGRAMS DELIVERED THROUGH COMMUNITY PARTNERSHIPS.

1. The commission shall develop and implement a statewide system for the initiative programs that are delivered through community partnerships.

2. The system shall provide for equitable allocation of funding for initiative programs among the state's community

partnership areas, based upon school-age population and other criteria established by the commission.

3. The specific programs, distribution provisions, and other provisions approved by the commission for expenditure of the maximum allocation amount established for a community partnership area shall be outlined in the written contract with the community partnership.

4. Any allocation received by a community partnership shall be matched with local funding, in-kind services, office support, or other tangible support or offset of costs.

Sec. 11. NEW SECTION. 142A.11 REPEAL.

This chapter is repealed June 30, 2010.

Sec. 12. Section 453A.39, Code 1999, is repealed.

Sec. 13. INITIAL APPOINTMENTS.

1. The initial appointments to the commission on tobacco use prevention and control of the members who are not youth members selected at the youth summit or who are not commission nonvoting members, as established by this Act, are as follows:

a. Two members to a one-year term.

b. Two members to a two-year term.

c. Three members to a three-year term.

2. The initial youth appointments shall be as follows:

a. One member to a one-year term.

b. One member to a two-year term.

c. One member to a three-year term.

3. The initial appointments to the commission on tobacco use prevention and control who are not youth members selected at the annual youth summit or who are not commission nonvoting members shall be made by the governor. The legislative council may compile a list of individuals based on recommendations received from members of the general assembly, following public input, and submit the list to the governor to assist efforts in identifying qualified and capable candidates for initial appointments.

4. The initial appointments to the commission shall be made within sixty days of the effective date of this Act.

Sec. 14. REVIEW OF ENFORCEMENT EFFORTS. The tobacco use prevention and control commission created under chapter 142A, in cooperation with the office of the attorney general, the Iowa department of public health, and the alcoholic beverages division of the department of commerce, shall review current state and local tobacco enforcement regulations and activities, including those related to retailers, clerks and minors, and shall submit recommendations to the governor and the general assembly, on or before December 1, 2000, to provide for balanced and uniform enforcement statewide.

Sec. 15. ADMINISTRATOR -- INITIAL HIRING. The provisions of section 142A.4 relating to the commission providing advice and consultation with regard to the hiring of the administrator do not apply to the initial hiring of an administrator if the commission is not operational at the time that a potential candidate for the position of administrator is formally offered the administrator position. However, under such circumstances, the director shall consult with the ex officio members of the commission, if appointed at the time such a formal offer is extended.

Sec. 16. EMERGENCY RULES. The department of public health may adopt emergency rules under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph "b", to implement this Act, and the rules shall become effective immediately upon filing, unless the effective date is delayed by the administrative rules review committee, notwithstanding section 17A.4, subsection 5, and section 17A.8, subsection 9, or a later effective date is specified in the rules. Any rules adopted in accordance with this section shall not take effect before the rules are reviewed by the administrative rules review committee. Any rules adopted in accordance with the provisions of this section shall also be published as notice of intended action as provided in section 17A.4.

Sec. 17. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

BRENT SIEGRIST
Speaker of the House

MARY E. KRAMER
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2565, Seventy-eighth General Assembly.

ELIZABETH ISAACSON
Chief Clerk of the House

Approved 5/15, 2000

THOMAS J. VILSACK
Governor