

Broers
Wilderdyke
Ford

HSB 598

HUMAN RESOURCES

SENATE/HOUSE FILE _____

BY (PROPOSED DEPARTMENT OF
ELDER AFFAIRS BILL)

Succ^d By
S O 2488

Passed Senate, Date _____

Passed House, Date _____

Vote: Ayes _____ Nays _____

Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to the department of elder affairs including
2 provisions relating to the elder Iowans Act, elder family
3 homes, elder group homes, and assisted living programs.

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

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1 Section 1. Section 231.3, subsections 1, 3, and 4, Code
2 2001, are amended to read as follows:

3 1. An adequate income in-retirement.

4 3. Suitable housing, ~~appropriate to the special~~ that
5 reflects the needs of older people.

6 4. Full restorative services for those who require
7 institutional care, and a comprehensive array of community-
8 based, long-term care services adequate to sustain older
9 people in their communities and, whenever possible, in their
10 homes including support for caregivers.

11 Sec. 2. Section 231.4, Code 2001, is amended to read as
12 follows:

13 231.4 DEFINITIONS.

14 For purposes of this chapter, unless the context otherwise
15 requires:

16 1. "Administrative action" means an action or decision
17 made by an owner, employee, or agent of a long-term care
18 facility, or by a governmental agency, which affects the
19 service provided to residents covered in this chapter.

20 2. "Commission" means the commission of elder affairs.

21 ~~3. "Comprehensive and coordinated system" means a system~~
22 ~~for providing all necessary supportive services, including~~
23 ~~nutrition services, in a manner designed to:~~

24 ~~a. Facilitate accessibility to, and utilization of, all~~
25 ~~supportive services and nutrition services provided within the~~
26 ~~geographic area served by the system by any public or private~~
27 ~~agency or organization.~~

28 ~~b. Develop and make the most efficient use of supportive~~
29 ~~services and nutrition services in meeting the needs of~~
30 ~~elders.~~

31 ~~c. Use available resources efficiently and with a minimum~~
32 ~~of duplication.~~

33 ~~4.~~ 3. "Department" means the department of elder affairs.

34 ~~5.~~ 4. "Director" means the director of the department of
35 elder affairs.

1 6- 5. "Elder" means an individual who is sixty years of
2 age or older. "Elderly" means individuals sixty years of age
3 or older.

4 7- 6. "Equivalent support" means in-kind contributions of
5 services, goods, volunteer support time, administrative
6 support, or other support reasonably determined by the
7 commission department as equivalent to a dollar amount.

8 8- 7. "Federal Act" means the Older Americans Act of 1965,
9 42 U.S.C. § 3001 et seq., as amended to and including February
10 17, 1986 November 13, 2000.

11 9- --"Focal-point"-means-a-facility-established-to-encourage
12 the-maximum-collocation-and-coordination-of-services-for
13 elders.

14 10- --"Greatest-economic-need"-means-the-need-resulting-from
15 an-income-level-at-or-below-the-poverty-threshold-established
16 by-the-bureau-of-the-census.

17 11- --"Greatest-social-need"-means-the-need-caused-by
18 noneconomic-factors-which-include-physical-and-mental
19 disabilities, language-barriers, and-cultural-or-social
20 isolation-including-that-caused-by-racial-or-ethnic-status
21 which-restricts-an-individual's-ability-to-perform-normal
22 daily-tasks-or-which-threatens-the-elder's-capacity-to-live
23 independently.

24 12- --"Information-and-referral-source"-means-a-location
25 where-a-department-of-elder-affairs-or-any-public-or-private
26 agency-or-organization.

27 a- --Maintains-current-information-with-respect-to-the
28 opportunities-and-services-available-to-elders, and-develops
29 current-lists-of-elders-in-need-of-services-and-opportunities.

30 b- --Employs, where-feasible, a-specially-trained-staff-to
31 assess-the-needs-and-capacities-of-elders, and-to-inform
32 elders-of-the-opportunities-and-services.

33 13- --"Legal-assistance"-means-legal-advice-and
34 representation-by-an-attorney-including, but-not-limited-to,
35 counseling-or-other-appropriate-assistance-by-a-paralegal-or

1 ~~law-student-under-the-supervision-of-an-attorney,-and-includes~~
2 ~~counseling-or-representation-by-a-person-who-does-not-possess~~
3 ~~a-juris-doctorate,-where-permitted-by-law,-of-elders-with~~
4 ~~economic-or-social-needs-~~

5 ~~14-~~ 8. "Long-term care facility" means a long-term care
6 unit of a hospital, ~~a-licensed-hospice-program,-a-foster-group~~
7 ~~home,-a-group-living-arrangement,-~~ or a facility licensed under
8 section 135C.1, excluding facilities licensed primarily to
9 serve persons with mental retardation or mental illness,
10 whether the facility is public or private.

11 ~~15--~~"Multipurpose senior center" means a community
12 ~~facility-for-the-organization-and-provision-of-a-broad~~
13 ~~spectrum-of-services,-which-shall-include,-but-not-be-limited~~
14 ~~to,-health,-social,-nutritional,-and-educational-services-and~~
15 ~~the-provision-of-facilities-for-recreational-activities-for~~
16 ~~elders-~~

17 ~~16-~~ 9. "Resident's advocate program" means the state long-
18 term care resident's advocate program operated by the
19 commission department of elder affairs and administered by the
20 long-term care resident's advocate.

21 For the purposes of this chapter, "focal point", "greatest
22 economic need", "greatest social need", "legal assistance",
23 and "multipurpose senior center" mean as those terms are
24 defined in the federal Act.

25 Sec. 3. Section 231.14, unnumbered paragraph 1, and
26 subsections 6, 7, 8, and 10, Code 2001, are amended to read as
27 follows:

28 The commission is the policymaking body of the sole state
29 agency responsible for administration of the ~~Elder-Americans~~
30 federal Act of 1965,-as-amended. The commission shall:

31 6. Adopt policies to assure that the department will take
32 into account the views of ~~recipients-of-supportive-services-or~~
33 ~~nutrition-services,-or~~ elders using multipurpose senior
34 centers in the development of policy.

35 7. Adopt a formula for the distribution of federal ~~Elder~~

1 Americans Act, state elderly services, and senior living
2 program funds taking into account, to the maximum extent
3 feasible, the best available data on the geographic
4 distribution of elders in the state, and publish the formula
5 for review and comment.

6 8. Adopt policies and measures to assure that preference
7 will be given to providing services to elders with the
8 greatest economic or social needs, with particular attention
9 to low-income minority elders, ~~and include methods of carrying~~
10 ~~out the preference in the state plan.~~

11 ~~10. -- Adopt policies by which eligibility for federal,~~
12 ~~state, and local funding is established at age sixty, with~~
13 ~~preference in service delivery given to elders age seventy-~~
14 ~~five or older.~~

15 Sec. 4. Section 231.23, subsection 4, Code 2001, is
16 amended to read as follows:

17 4. Advocate for elders by reviewing and commenting upon
18 all state plans, budgets, laws, rules, regulations, and
19 policies which affect elders and by providing technical
20 assistance to any agency, organization, association, or
21 individual representing the needs of the elders.

22 Sec. 5. NEW SECTION. 231.25 CONFIDENTIALITY.

23 1. Information obtained by the department, and its
24 employees or agents, which does not constitute the
25 department's final findings in any monitoring, investigation,
26 surveying, or certification is privileged and confidential,
27 and is not subject to discovery, subpoena, or other means of
28 legal compulsion for release to a person other than the
29 department, and its employees or agents, and to the person
30 involved as a party in a contested case proceeding resulting
31 directly from the monitoring, investigation, survey, or
32 certification. However, the identity of the person filing the
33 complaint shall remain confidential and shall not be released
34 to any party.

35 2. The name of the person who files a complaint with the

1 department, the name and address of a client or tenant of a
2 program under this chapter, an assisted living program or an
3 elder group home, and a client's or tenant's identifying
4 medical information is confidential and shall not be subject
5 to discovery, subpoena, or other means of legal compulsion for
6 its release to the public or an assisted living program or
7 elder group home in any proceeding.

8 3. Information obtained during monitoring, investigation,
9 surveying, or certification may be disclosed to the
10 appropriate licensing authorities or adult protective service
11 entities within this state, another state, the District of
12 Columbia, a territory, the federal government, or other
13 country in which the holder of the certification or license is
14 certified, licensed, or accredited or has applied for a
15 license, certification, or accreditation. If the information
16 which would otherwise be confidential indicates that a crime
17 may have been committed, the department shall notify the
18 appropriate law enforcement agency. If the information which
19 would otherwise be confidential indicates that an act of abuse
20 may have been committed, the information shall be reported to
21 the proper investigative agency.

22 4. Contested case hearings shall be open to the public,
23 unless otherwise requested by a party to the contested case.
24 However, all exhibits and documents presented at the hearing
25 or filed in the contested case that disclose identifying
26 information of any client or tenant shall be sealed and
27 subject to a protective order to protect the privacy of the
28 client or tenant. The department's final decision is a public
29 record.

30 5. Records maintained by the long-term care resident's
31 advocate program are confidential pursuant to the federal Act.

32 Sec. 6. Section 231.31, Code 2001, is amended by striking
33 the section and inserting in lieu thereof the following:

34 231.31 STATE PLAN ON AGING.

35 The department of elder affairs shall develop, and submit

1 to the commission of elder affairs for approval, a multiyear
2 state plan on aging. The state plan on aging shall meet all
3 applicable federal requirements.

4 Sec. 7. Section 231.32, Code 2001, is amended to read as
5 follows:

6 231.32 CRITERIA FOR DESIGNATION OF AREA AGENCIES ON AGING.

7 1. The commission shall designate thirteen area agencies
8 on aging, the same of which existed on July 1, 1985. The
9 commission shall continue the designation until an area agency
10 on aging's designation is removed for cause as determined by
11 the commission or until the agency voluntarily withdraws as an
12 area agency on aging. In that event, the commission shall
13 then proceed in accordance with subsections 2 and 3.

14 Designated area agencies on aging shall comply with the
15 requirements of the federal Act.

16 2. The commission shall designate an area agency to serve
17 each planning and service area, after consideration of the
18 views offered by ~~the-political-subdivisions-in-the-area~~ units
19 of general-purpose local government. An area agency may be:

20 a. An established office of aging which is operating
21 within a planning and service area designated by the
22 commission.

23 b. Any office or agency of a unit of ~~a-political~~
24 subdivision general-purpose local government, which is
25 designated for the purpose of serving as an area agency by the
26 chief elected official of such unit.

27 c. Any office or agency designated by the appropriate
28 chief elected officials of any combination of ~~political~~
29 subdivisions units of general-purpose local government to act
30 on behalf of the combination for such purpose.

31 d. Any public or nonprofit private agency in a planning
32 and service area or any separate organizational unit within
33 such agency which is under the supervision or direction for
34 this purpose of the department of elder affairs and which can
35 engage in the planning or provision of a broad range of

1 supportive services or nutrition services within the planning
2 and service area.

3 Each area agency shall provide assurance, determined
4 adequate by the commission, that the area agency has the
5 ability to develop an area plan and to carry out, directly or
6 through contractual or other arrangements, a program in
7 accordance with the plan within the planning and service area.
8 In designating an area agency on aging within the planning and
9 service area, the commission shall give preference to an
10 established office of aging, unless the commission finds that
11 no such office within the planning and service area has the
12 capacity to carry out the area plan.

13 3. When the commission designates a new area agency on
14 aging the commission shall give the right of first refusal to
15 a political-subdivision unit of general-purpose local
16 government if:

17 a. Such unit can meet the requirements of subsection 1.

18 b. The boundaries of such a unit and the boundaries of the
19 area are reasonably contiguous.

20 Sec. 8. Section 231.33, Code 2001, is amended to read as
21 follows:

22 231.33 AREA AGENCIES ON AGING DUTIES.

23 Each area agency on aging shall:

24 1. Develop and administer an area plan on aging.

25 2. Assess the types and levels of services needed by older
26 persons in the planning and service area, and the
27 effectiveness of other public or private programs serving
28 those needs.

29 3. Enter into subgrants or contracts to provide ~~all~~
30 services under the plan.

31 4. Provide technical assistance as needed, prepare written
32 monitoring reports at least quarterly, and provide a written
33 report of an annual on-site assessment of all service
34 providers funded by the area agency.

35 5. Coordinate the administration of its plan with federal

1 programs and with other federal, state, and local resources in
2 order to develop a comprehensive and coordinated service
3 system.

4 6. Establish an advisory council.

5 7. Give preference in the delivery of services under the
6 area plan to elders with the greatest economic or social need.

7 8. Assure that elders in the planning and service area
8 have reasonably convenient access to information and referral
9 services.

10 9. Provide adequate and effective opportunities for elders
11 to express their views to the area agency on policy
12 development and program implementation under the area plan.

13 10. Designate community focal points.

14 11. Contact outreach efforts, with special emphasis on the
15 rural elderly, to identify elders with greatest economic or
16 social needs and inform them of the availability of services
17 under the area plan.

18 12. Develop and publish the methods that the agency uses
19 to establish preferences and priorities for services.

20 ~~13. Attempt to involve the area lawyers in legal~~
21 ~~assistance activities.~~

22 ~~14.~~ 13. Submit all fiscal and performance reports in
23 accordance with the policies of the commission.

24 ~~15.~~ 14. Monitor, evaluate, and comment on laws, rules,
25 regulations, policies, programs, hearings, levies, and
26 community actions which significantly affect the lives of
27 elders.

28 ~~16.~~ 15. Conduct public hearings on the needs of elders.

29 ~~17.~~ 16. Represent the interests of elders to public
30 officials, public and private agencies, or organizations.

31 ~~18.~~ 17. Coordinate activities in support of the statewide
32 long-term care resident's advocate program.

33 ~~19.~~ 18. Coordinate planning with other agencies and
34 organizations to promote new or expanded benefits and
35 opportunities for elders.

1 ~~20-~~ 19. Coordinate planning with other agencies for
2 assuring the safety of elders in a natural disaster or other
3 safety threatening situation.

4 ~~21:--Submit-a-report-to-the-department-of-elder-affairs~~
5 ~~every-six-months,-of-the-name-of-each-health-care-facility-in~~
6 ~~its-area-for-which-the-resident-advocate-committee-has-failed~~
7 ~~to-submit-the-report-required-by-rules-adopted-pursuant-to~~
8 ~~section-231.44-~~

9 Sec. 9. Section 231.41, Code 2001, is amended to read as
10 follows:

11 231.41 PURPOSE.

12 The purpose of this subchapter is to establish the long-
13 term care resident's advocate program operated by the Iowa
14 commission of elder affairs in accordance with the
15 requirements of the ~~Elder-Americans~~ federal Act of 1965, and
16 to adopt the supporting federal regulations and guidelines for
17 its implementation. In accordance with chapter 17A, the
18 commission of elder affairs shall adopt and enforce rules for
19 the implementation of this subchapter.

20 Sec. 10. Section 231.42, unnumbered paragraph 1, and
21 subsections 1, 3, and 5, Code 2001, are amended to read as
22 follows:

23 The Iowa commission of elder affairs, in accordance with
24 section 3027(a)(12) of the federal Act, shall establish the
25 office of long-term care resident's advocate within the
26 commission department. The long-term care resident's advocate
27 shall:

28 1. Investigate and resolve complaints about administrative
29 actions that may adversely affect the health, safety, welfare,
30 or rights of elderly residents in long-term care facilities.

31 3. Provide information to other agencies and to the public
32 about the problems of elderly residents in long-term care
33 facilities.

34 5. Carry out other activities consistent with the
35 ~~resident's-advocate-provisions-of-the~~ federal Act.

1 Sec. 11. Section 231.43, subsection 3, Code 2001, is
2 amended to read as follows:

3 3. Procedures to enable the long-term care resident's
4 advocate to elicit, receive, and process complaints regarding
5 administrative actions which may adversely affect the health,
6 safety, welfare, or rights of elderly residents in long-term
7 care facilities.

8 Sec. 12. Section 231.44, subsections 2, 3, and 4, Code
9 2001, are amended to read as follows:

10 2. The responsibilities of the resident advocate committee
11 are in accordance with the rules adopted by the commission
12 pursuant to chapter 17A. When adopting the rules, the
13 commission shall consider the needs of residents of elder
14 group homes as defined in section 231B.1 and each category of
15 licensed health long-term care facility ~~as defined in section~~
16 ~~235E.1, subsection 6,~~ and the services each facility may
17 render. ~~The commission shall coordinate the development of~~
18 ~~rules with the mental health and developmental disabilities~~
19 ~~commission created in section 225E.5 to the extent the rules~~
20 ~~would apply to a facility primarily serving persons with~~
21 ~~mental illness, mental retardation, or a developmental~~
22 ~~disability.~~ The commission shall coordinate the development
23 of appropriate rules with other state agencies.

24 3. A health long-term care facility shall disclose the
25 names, addresses, and phone numbers of a resident's family
26 members, if requested, to a resident advocate committee
27 member, unless permission for this disclosure is refused in
28 writing by a family member.

29 4. ~~Neither the~~ The state, nor any resident advocate
30 committee member is, any resident advocate coordinator, and
31 any sponsoring area agency on aging are not liable for an
32 action undertaken by a resident advocate committee member or a
33 resident advocate committee coordinator in the performance of
34 duty, if the action is undertaken and carried out in good
35 faith.

1 Sec. 13. Section 231.51, Code 2001, is amended to read as
2 follows:

3 231.51 ~~SENIOR~~ OLDER AMERICAN COMMUNITY SERVICE EMPLOYMENT
4 PROGRAM ~~(SESEP)~~, TITLE V OF THE OLDER AMERICANS ACT.

5 1. The department ~~will~~ shall direct and administer the
6 senior older American community service employment program
7 ~~(SESEP)~~ as authorized by the federal Act in coordination with
8 the department of workforce development and the department of
9 economic development.

10 2. The purpose of the ~~senior-community-service-employment~~
11 program is to foster ~~and-promote-useful-part-time~~
12 ~~opportunities-in-community-service-activities-for-unemployed,~~
13 ~~low-income-persons-who-are-fifty-five-years-old-or-older~~
14 individual economic self-sufficiency and to increase the
15 number of participants placed in unsubsidized employment in
16 the public and private sectors while maintaining the community
17 service focus of the program.

18 3. Funds appropriated to the department from the United
19 States department of labor shall be distributed to local
20 projects in accordance with federal requirements.

21 4. The department shall require such uniform reporting and
22 financial accounting by area agencies on aging and local
23 projects as may be necessary to fulfill the purposes of this
24 section.

25 Sec. 14. Section 231.52, Code 2001, is amended to read as
26 follows:

27 231.52 ~~RETIRED-IOWANS-COMMUNITY-EMPLOYMENT~~ SENIOR
28 INTERNSHIP PROGRAM ~~(RICEP)~~.

29 1. The department shall establish the ~~retired-iowans~~
30 community-employment senior internship program in coordination
31 with the department of workforce development to encourage and
32 promote the meaningful employment of older ~~citizens-in-the~~
33 state Iowans.

34 2. Funds appropriated to the department for this purpose
35 shall be distributed statewide according to administrative

1 rules by the commission.

2 3. The department shall require such uniform reporting and
3 financial accounting by area agencies on aging and local
4 projects as may be necessary to fulfill the purposes of this
5 section.

6 Sec. 15. Section 231.53, Code Supplement 2001, is amended
7 by striking the section and inserting in lieu thereof the
8 following:

9 231.53 COORDINATION WITH WORKFORCE INVESTMENT ACT.

10 The employment and training program administered by the
11 department shall be coordinated with the training program for
12 older individuals administered by the department of workforce
13 development under the federal Workforce Investment Act.

14 Sec. 16. Section 231.58, subsection 4, paragraph a, Code
15 2001, is amended to read as follows:

16 a. Develop, for legislative review, the mechanisms and
17 procedures necessary to implement ~~utilizing current~~
18 ~~personnel~~, a case-managed system of long-term care based on a
19 uniform comprehensive assessment tool.

20 Sec. 17. NEW SECTION. 231C.3A ENFORCEMENT ACTIONS --
21 RULES.

22 1. The department may deny, suspend, or revoke the
23 certification of an assisted living program, or may take other
24 actions, specified by rule of the department, against an
25 assisted living program if the assisted living program fails
26 to comply with this chapter or the rules or standards adopted
27 pursuant to this chapter. The department shall adopt rules
28 pursuant to chapter 17A, and in consultation with consumer and
29 industry representatives, which establish the enforcement
30 actions which may be taken.

31 2. The department may adopt rules pursuant to chapter 17A
32 as necessary to meet the purposes of this chapter and to
33 enforce this chapter and the rules, standards, and
34 requirements adopted pursuant to this chapter.

35 Sec. 18. NEW SECTION. 231C.3B COMPLAINTS -- ALLEGED

1 VIOLATIONS -- PROCESS -- PROTECTIONS.

2 1. The department may investigate complaints filed with
3 the department alleging a violation of this chapter or the
4 rules or standards adopted pursuant to this chapter. The
5 department shall adopt rules to establish a procedure for the
6 filing of complaints and for the investigation of complaints
7 filed with the department. The procedure shall provide that
8 if the department, upon preliminary review, determines that
9 the complaint is without reasonable basis, or if the
10 department determines following an investigation that the
11 complaint is unsubstantiated, the department may dismiss the
12 complaint. The decision of the department to dismiss the
13 complaint, or the department's determination that the
14 complaint is unsubstantiated, is final agency action and is
15 not subject to contested case proceedings, appeal, or judicial
16 review provisions of chapter 17A.

17 2. An assisted living program certified under this chapter
18 shall not discriminate or retaliate against a tenant, an
19 employee of the program, or any other person who initiates or
20 participates in any proceeding authorized under this chapter
21 or the rules or standards adopted pursuant to this chapter.

22 Sec. 19. Section 514D.5, subsections 3 and 4, Code 2001,
23 are amended to read as follows:

24 3. The commissioner ~~after consultation with the commission~~
25 ~~of elder affairs~~ shall prescribe disclosure rules for ~~medicare~~
26 Medicare supplement coverage which are determined to be in the
27 public interest and which are designed to adequately inform
28 the prospective insured of the need for and extent of coverage
29 offered as ~~medicare~~ Medicare supplement coverage. For
30 ~~medicare~~ Medicare supplement coverage, the outline of coverage
31 required by subsection 2 shall be furnished to the prospective
32 insured with the application form.

33 4. The commissioner ~~after consultation with the commission~~
34 ~~of elder affairs~~ shall further prescribe by rule a standard
35 form for and the contents of an informational brochure for

1 persons eligible for medicare Medicare by reason of age, which
 2 is intended to improve the buyer's ability to select the most
 3 appropriate coverage and to improve the buyer's understanding
 4 of medicare Medicare. Except in the case of direct response
 5 insurance policies, the commissioner may require by rule that
 6 this informational brochure be provided to prospective
 7 insureds eligible for medicare Medicare concurrently with
 8 delivery of the outline of coverage. With respect to direct
 9 response insurance policies, the commissioner may require by
 10 rule that this brochure must be provided to prospective
 11 insureds eligible for medicare Medicare by reason of age upon
 12 request, but not later than at the time of delivery of the
 13 policy or contract. ~~The commissioner shall provide the~~
 14 ~~information received from insurers pursuant to subsection 3~~
 15 ~~and this subsection and information relating to section 231.59~~
 16 ~~to the director of the department of elder affairs.~~

17 Sec. 20. Sections 231.24, 231.54, 231.57, 231.59, 231.60,
 18 335.31, and 414.29, Code 2001, are repealed.

19 Sec. 21. Chapter 231A, Code 2001, is repealed.

20 EXPLANATION

21 This bill includes provisions relating to the department of
 22 elder affairs including the elder Iowans Act (Code chapter
 23 231), elder family homes, elder group homes, and assisted
 24 living programs.

25 The bill amends definitions used in the elder Iowans Act to
 26 reference definitions used in the federal Older Americans Act
 27 as amended to November 13, 2000. The bill renames the Senior
 28 Community Service Employment Program (SCSEP), the Older
 29 American Community Service Employment Program, and renames the
 30 Retired Iowans Community Employment Program (RICEP), the
 31 Senior Internship Program, and changes the reference to the
 32 Job Training Partnership Act to the Workforce Investment Act
 33 to reflect the changes in the federal Act.

34 The bill also eliminates the elder law education program
 35 and the representative payee projects, eliminates the

1 directive to the department of elder affairs to coordinate
2 information and assistance provided within the state to assist
3 elders in obtaining and protecting their rights and benefits,
4 and eliminates the directive to the department of elder
5 affairs to develop and disseminate information regarding
6 insurance policies available to supplement Medicare. The bill
7 repeals the chapter relating to elder family homes.

8 The bill also establishes enforcement provisions relating
9 to certified assisted living programs and provides
10 confidentiality provisions relating to information obtained by
11 the department of elder affairs relating to monitoring,
12 investigation, surveying, or certification. The bill also
13 provides that records maintained by the long-term care
14 resident's advocate program are confidential pursuant to the
15 federal Act.

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STATE OF IOWA

THOMAS J. VILSACK
GOVERNOR

SALLY J. PEDERSON
LT. GOVERNOR

DEPARTMENT OF ELDER AFFAIRS
DR. JUDITH ANNE CONLIN, DIRECTOR

MEMORANDUM

TO: Members of Iowa's General Assembly

From: Dr. Judith Conlin

RE: 2002 Prefiling of Iowa Code Changes, Chapter 231 "Elder Iowans Act"

Date: December 27, 2001

Attached are proposed changes to Iowa Code, Chapter 231, "Elder Iowans Act." The proposed changes are based upon suggestions by the Attorney General's office, changes resulting from the reauthorization of the Older Americans Act on November 13, 2000 as well as changes in other federal programs such as the Workforce Investment Act. These changes also reflect a goal of the department to reduce the redundancy of code requirements that already exist within federal law.

In summary, the attached technical corrections include changes such as the deletion of the Elderlaw program, the Representative Payee Program, the Elder Family Home Program, as well as sections related to Medicare Assignment and Insurance Information. Many definitions that are included in the Older Americans Act have been deleted. In regard to employment programs, references to JTPA have been changed to WIA and the Retired Iowans Community Employment Program has been renamed the Senior Internship Program.

Area Agencies on Aging were invited to comment. Below please find three new sections and their rationales that have been added to Chapter 231:

New Section 231.24 CONFIDENTIALITY.

- To protect confidential client medical and personal information and investigatory documents, it is critical for the department to have clear statutory authority. Assistant AG assigned to the department has advised the department that without clear statutory language, the department's ability to protect client information is limited.
- The regulatory system for assisted living and elder group homes relies on consumer comfort in providing information without fear of retaliation. The ability to limit access to notes and documents that contain informant and complainant identifiers is critical to that level of comfort.
- This language attempts to balance the need for the general public to know how well an assisted living program operates with the individual consumer's right to privacy and the department's ability to carry out its oversight functions.
- At the present time, assisted living monitors must spend extra time wording investigatory notes in a way that prevents discovery of individual names and health care. This is particularly problematic when responding to complaints or in small assisted living programs.
- The department regularly receives queries seeking reassurance that individual responses to the quality in assisted living questionnaire will be kept confidential.
- The Older Americans' Act requires that the LTC Ombudsman's records be kept confidential. Iowa Code does not provide the same level of protection.
- The department receives information from other states' assisted living regulatory and Medicaid entities to prevent poor quality providers from operating in Iowa. We need to be able to reciprocate.

HSB 598

New Section 231C.4A ENFORCEMENT ACTIONS — RULES

- At the present time, the Assistant AG has interpreted current code to allow the department, as part of its regulatory authority for assisted living, to suspend or revoke a certificate if an assisted living program fails to meet standards. The Assistant AG has recommended clarification of the department's authority in code.

Additionally, the current interpretation leaves voluntary improvement and revocation of a certificate as the tools available to the department to gain improvements in quality of service. As non-cooperation with improving care to meet standards is a rare situation, these tools have proved adequate to date. However, the department believes that consumers would be better served if it had the ability to establish other options short of revocation, such as a directed plan of improvement or requiring that an outside consultant be hired. Revocation of a certificate penalizes the older tenants more than the non-compliant owner. These options will provide more efficient and effective State oversight and regulation, without creating a clearly adversarial process.

- This has been discussed with the industry, who have agreed to the language with the insertion of the requirement that the industry be involved with developing any related rules. As the department makes a practice of involving both the industry and consumers in rules discussions, the department is not opposed to the requirement.

New Section 231C.4B COMPLAINTS == ALLEGED VIOLATIONS == PROCESS == PROTECTIONS.

- The Assistant AG has recommended clarification of the department's authority to investigate complaints in assisted living and elder group home settings as part of its certification responsibility and authority.
- The proposed language also allows the department to dismiss a complaint that is without merit. Currently, the department expends staff time and resources on investigating the same complaint from the same complainant five and six times, even though thorough investigation on previous occasions did not substantiate the complaint. This does not promote or further efficient use and expenditure of limited State resources.
- The proposed language also provides protection for anyone who files a complaint or cooperates with the department in its investigation.

S. 3/12/02 Humon Res.
S. 3/13/02 Do Pass

FEB 21 2002
Place On Calendar

HOUSE FILE 2488
BY COMMITTEE ON HUMAN
RESOURCES

(SUCCESSOR TO HSB 598)

Passed House, Date 3/12/02 (P. 708)
Vote: Ayes 90 Nays 0
Passed Senate, Date 3-19-02 (P. 701)
Vote: Ayes 46 Nays 0
Approved April 1, 2002

A BILL FOR

1 An Act relating to the department of elder affairs including
2 provisions relating to the elder Iowans Act.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2488

1 Section 1. Section 231.51, Code 2001, is amended to read
2 as follows:

3 231.51 ~~SENIOR~~ OLDER AMERICAN COMMUNITY SERVICE EMPLOYMENT
4 PROGRAM ~~(SESEP)~~, TITLE V OF THE OLDER AMERICANS ACT.

5 1. The department ~~will~~ shall direct and administer the
6 ~~senior older American~~ community service employment program
7 ~~(SESEP)~~ as authorized by the federal Act in coordination with
8 the department of workforce development and the department of
9 economic development.

10 2. The purpose of the ~~senior-community-service-employment~~
11 program is to foster ~~and-promote-useful-part-time~~
12 ~~opportunities-in-community-service-activities-for-unemployed,~~
13 ~~low-income-persons-who-are-fifty-five-years-old-or-older~~
14 individual economic self-sufficiency and to increase the
15 number of participants placed in unsubsidized employment in
16 the public and private sectors while maintaining the community
17 service focus of the program.

18 3. Funds appropriated to the department from the United
19 States department of labor shall be distributed to local
20 projects in accordance with federal requirements.

21 4. The department shall require such uniform reporting and
22 financial accounting by area agencies on aging and local
23 projects as may be necessary to fulfill the purposes of this
24 section.

25 Sec. 2. Section 231.52, Code 2001, is amended to read as
26 follows:

27 231.52 ~~RETIRED-IOWANS-COMMUNITY-EMPLOYMENT~~ SENIOR
28 INTERNSHIP PROGRAM ~~(RIEEP)~~.

29 1. The department shall establish the ~~retired-iowans~~
30 ~~community-employment~~ senior internship program in coordination
31 with the department of workforce development to encourage and
32 promote the meaningful employment of older ~~citizens-in-the~~
33 state Iowans.

34 2. Funds appropriated to the department for this purpose
35 shall be distributed ~~statewide~~ according to administrative

1 rules by the commission.

2 3. The department shall require such uniform reporting and
3 financial accounting by area agencies on aging and local
4 projects as may be necessary to fulfill the purposes of this
5 section.

6 Sec. 3. Section 231.53, Code Supplement 2001, is amended
7 by striking the section and inserting in lieu thereof the
8 following:

9 231.53 COORDINATION WITH WORKFORCE INVESTMENT ACT.

10 The employment and training program administered by the
11 department shall be coordinated with the training program for
12 older individuals administered by the department of workforce
13 development under the federal Workforce Investment Act.

14 EXPLANATION

15 This bill includes provisions relating to the department of
16 elder affairs including the elder Iowans Act (Code chapter
17 231).

18 The bill renames the Senior Community Service Employment
19 Program (SCSEP), the Older American Community Service
20 Employment Program, and renames the Retired Iowans Community
21 Employment Program (RICEP), the Senior Internship Program, and
22 changes the reference to the Job Training Partnership Act to
23 the Workforce Investment Act to reflect the changes in the
24 federal Older Americans Act.

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HOUSE FILE 2488

AN ACT

RELATING TO THE DEPARTMENT OF ELDER AFFAIRS INCLUDING PROVISIONS
RELATING TO THE ELDER IOWANS ACT.

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

Section 1. Section 231.51, Code 2001, is amended to read
as follows:

231.51 SENIOR OLDER AMERICAN COMMUNITY SERVICE EMPLOYMENT
PROGRAM (SESEP), TITLE V OF THE OLDER AMERICANS ACT.

1. The department ~~will~~ shall direct and administer the
senior older American community service employment program
(SESEP) as authorized by the federal Act in coordination with
the department of workforce development and the department of
economic development.

2. The purpose of the ~~senior-community-service-employment~~
~~program is to foster and-promote-useful-part-time~~
~~opportunities-in-community-service-activities-for-unemployed,~~
~~low-income-persons-who-are-fifty-five-years-old-or-older~~
individual economic self-sufficiency and to increase the
number of participants placed in unsubsidized employment in
the public and private sectors while maintaining the community
service focus of the program.

3. Funds appropriated to the department from the United
States department of labor shall be distributed to local
projects in accordance with federal requirements.

4. The department shall require such uniform reporting and
financial accounting by area agencies on aging and local
projects as may be necessary to fulfill the purposes of this
section.

Sec. 2. Section 231.52, Code 2001, is amended to read as
follows:

231.52 ~~RETIRED-IOWANS-COMMUNITY-EMPLOYMENT~~ SENIOR
INTERNSHIP PROGRAM (RIEIP).

1. The department shall establish the ~~retired-iowans~~
community-employment senior internship program in coordination
with the department of workforce development to encourage and
promote the meaningful employment of ~~older citizens-in-the~~
state Iowans.

2. Funds appropriated to the department for this purpose
shall be distributed ~~statewide~~ according to administrative
rules by the commission.

3. The department shall require such uniform reporting and
financial accounting by area agencies on aging and local
projects as may be necessary to fulfill the purposes of this
section.

Sec. 3. Section 231.53, Code Supplement 2001, is amended
by striking the section and inserting in lieu thereof the
following:

231.53 ~~COORDINATION WITH WORKFORCE INVESTMENT ACT.~~

The employment and training program administered by the department shall be coordinated with the training program for older individuals administered by the department of workforce development under the federal Workforce Investment Act.

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 2488, Seventy-ninth General Assembly.

MARGARET THOMSON
Chief Clerk of the House

Approved 4/1, 2002

THOMAS J. VILSACK
Governor