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SENATE FILE **255**

BY DOTZLER, RAGAN, HATCH,  
DVORSKY, CONNOLLY, GRONSTAL,  
BOLKCOM, BLACK, SENG,  
COURTNEY, WARNSTADT, STEWART,  
HOLVECK, KREIMAN, DEARDEN,  
and BEALL

(COMPANION TO LSB 2681HH BY  
T. TAYLOR)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

A BILL FOR

1 An Act relating to wage discrimination by providing for the  
2 determination of wage discrimination, applicable remedies, and  
3 providing an effective date.

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

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**SF 255**  
BUSINESS & LABOR

1 Section 1. NEW SECTION. 91F.1 DEFINITIONS.

2 As used in this chapter, unless the context otherwise  
3 provides:

4 1. "Employ" means to engage or permit to work.

5 2. "Employee" means a person employed by an employer and  
6 includes all of an employer's year-round employees, whether  
7 working full-time or part-time, and any temporary employee  
8 employed by an employer for a period of at least three months.  
9 "Employee" shall not include an individual employed by the  
10 individual's parent, spouse, or child.

11 3. "Employer" means a person who employs three or more  
12 persons and includes the state and all political subdivisions  
13 of the state.

14 4. "Equivalent jobs" means jobs or occupations that are  
15 equal within the meaning of the federal Equal Pay Act of 1963,  
16 29 U.S.C. § 206(d), or jobs or occupations that are dissimilar  
17 but whose requirements are equivalent, when viewed as a  
18 composite of skills, effort, responsibility, and working  
19 conditions, or jobs or occupations that are equally productive  
20 and have equal value for an employer.

21 5. "Labor organization" means an organization that exists  
22 for the purpose, in whole or in part, of collective bargaining  
23 or of dealing with employers concerning grievances, terms of  
24 conditions of employment, or of other mutual aid or protection  
25 in connection with employment.

26 6. "Market rates" means the rates that employers within a  
27 prescribed geographic area actually pay, or are reported to  
28 pay, for specific jobs, as determined by formal or informal  
29 surveys, wage studies, or other means.

30 7. "Wages" and "wage rates" include all compensation in  
31 any form that an employer provides to employees in payment for  
32 work done or services rendered, including but not limited to  
33 base pay, bonuses, commissions, awards, tips, or various forms  
34 of nonmonetary compensation if provided in lieu of or in  
35 addition to monetary compensation and that have economic value

1 to an employee.

2 Sec. 2. NEW SECTION. 91F.2 WAGE DISCRIMINATION  
3 PROHIBITION.

4 1. It shall be an unlawful employment practice in  
5 violation of this chapter for an employer to discriminate  
6 between employees on the basis of sex, race, or national  
7 origin by doing any of the following:

8 a. Paying wages to employees at a rate less than the rate  
9 paid to employees of the opposite sex or of a different race  
10 or national origin for work in equivalent jobs.

11 b. Paying wages to employees in a job that is dominated by  
12 employees of a particular sex, race, or national origin at a  
13 rate less than the rate at which such employer pays to  
14 employees in another job that is dominated by employees of the  
15 opposite sex or of a different race or national origin, for  
16 work on equivalent jobs.

17 2. An employer may pay different wage rates to employees  
18 where such payments are made pursuant to any of the following:

19 a. A bona fide seniority or merit system.

20 b. A system that measures earnings by quantity or quality  
21 of production.

22 c. A bona fide factor other than sex, race, or national  
23 origin. However, wage differentials based on varying market  
24 rates for equivalent jobs or based on the differing economic  
25 benefits to the employer of equivalent jobs shall not be  
26 considered to be based on a bona fide factor other than sex,  
27 race, or national origin.

28 3. An employer who is paying wages in violation of this  
29 section shall not, in order to comply with the provisions of  
30 this section, reduce the wage of any employee.

31 4. A labor organization or its agents representing  
32 employees of an employer having employees subject to any  
33 provision of this chapter shall not cause or attempt to cause  
34 such an employer to discriminate against an employee in  
35 violation of subsection 1.

1 5. The labor commissioner shall adopt rules specifying the  
2 criteria for determining whether a job is dominated by  
3 employees of a particular sex, race, or national origin.  
4 Criteria shall include, but not be limited to, factors such as  
5 whether the job has ever been formally classified as or  
6 traditionally considered to be a male or female or white or  
7 minority job; whether a history of discrimination based on  
8 sex, race, or national origin exists with regard to wages,  
9 assignment, or access to jobs, or other terms and conditions  
10 of employment; and the demographic composition of the  
11 workforce in equivalent jobs. The rules shall not include a  
12 list of jobs.

13 Sec. 3. NEW SECTION. 91F.3 OTHER PROHIBITED ACTS.

14 It shall be an unlawful employment practice in violation of  
15 this chapter for an employer to do any of the following:

16 1. Take adverse actions or otherwise discriminate against  
17 an individual because such individual has opposed any act or  
18 practice made unlawful by this chapter; has sought to enforce  
19 rights protected under this chapter; or has testified,  
20 assisted, or participated in any manner in an investigation,  
21 hearing, or other proceeding to enforce this chapter.

22 2. Discharge or in any other manner discriminate against,  
23 coerce, intimidate, threaten, or interfere with an employee or  
24 another person because the employee inquired about, disclosed,  
25 compared, or otherwise discussed the employee's wages or the  
26 wages of any other employee, or because the employee  
27 exercised, enjoyed, aided, or encouraged another person to  
28 exercise or enjoy any right granted or protected by this  
29 chapter.

30 Sec. 4. NEW SECTION. 91F.4 WAGE DISCLOSURE,  
31 RECORDKEEPING, AND REPORTING REQUIREMENTS.

32 1. Upon commencement of an individual's employment and at  
33 least annually thereafter, the individual's employer subject  
34 to this chapter shall provide to the employee a written  
35 statement sufficient to inform the employee of the employee's

1 job title, wage rate, and how the wage is calculated. This  
2 notice shall be supplemented whenever an employee is promoted  
3 or reassigned to a different position with the employer.  
4 However, the employer is not required to issue supplemental  
5 notifications for temporary reassignments that are no greater  
6 than three months in duration.

7 2. An employer subject to this chapter shall make and  
8 preserve records that document the wages paid to employees and  
9 that document and support the method, system, calculations,  
10 and other bases used to establish, adjust, and determine the  
11 wage rates paid to employees. An employer subject to this  
12 chapter shall preserve the records for such periods of time  
13 and shall make reports from the records as shall be prescribed  
14 by rules or orders of the labor commissioner.

15 3. The rules adopted under this chapter, relating to the  
16 form of reports required by subsection 2, shall provide for  
17 protection of the confidentiality of employees, and shall  
18 expressly require that reports shall not include the names or  
19 other identifying information from which readers could discern  
20 the identities of employees. The rules may also identify  
21 circumstances that warrant a prohibition on disclosure of  
22 reports or information identifying the employer.

23 4. The labor commissioner may use the information and data  
24 collected pursuant to subsection 2 for statistical and  
25 research purposes, and may compile and publish such studies,  
26 analyses, reports, and surveys based on the information and  
27 data, as appropriate.

28 Sec. 5. NEW SECTION. 91F.5 REMEDIES AND ENFORCEMENT.

29 1. a. In an action in which a court finds that an  
30 employer has engaged in acts that violate this chapter, the  
31 court shall award to an affected employee or employees  
32 monetary relief, including back pay in an amount equal to the  
33 difference between the employee's actual earnings and what the  
34 employee would have earned but for the employer's unlawful  
35 practices, and an additional amount in compensatory and

1 punitive damages, as appropriate.

2     b. In an action in which a court finds that an employer  
3 has engaged in acts that violate this chapter, the court shall  
4 enjoin the employer from continuing to discriminate against an  
5 affected employee or employees and shall direct the employer  
6 to comply with this chapter, and may order the employer to  
7 take such additional affirmative steps as are necessary,  
8 including reinstatement or reclassification of an affected  
9 employee or employees, to ensure an end to unlawful  
10 discrimination.

11     c. In an action in which an affected employee or employees  
12 prevail in their claims against an employer, the court shall,  
13 in addition to any judgment awarded to the plaintiffs, order  
14 the employer to pay a reasonable attorney fee, reasonable  
15 expert witness fees, and costs of the action.

16     2. a. An action to recover the damages or equitable  
17 relief prescribed in subsection 1 may be maintained against an  
18 employer in any court of competent jurisdiction by one or more  
19 employees or their representative on their own behalf or on  
20 their own behalf and on the behalf of other employees  
21 similarly situated.

22     b. (1) The labor commissioner shall receive, investigate,  
23 and attempt to resolve complaints of violations of this  
24 chapter.

25     (2) If the labor commissioner is unable to reach a  
26 voluntary resolution of a complaint, the labor commissioner  
27 may bring an action in any court of competent jurisdiction to  
28 recover the equitable and monetary relief described in  
29 subsection 1.

30     (3) Any sums recovered by the labor commissioner pursuant  
31 to this paragraph shall be paid directly to each employee  
32 affected by the employer's unlawful acts.

33     c. An action may be brought under this section not later  
34 than two years after the date of the last event constituting  
35 the alleged violation for which the action is brought.

