

# House Study Bill 234

HOUSE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON  
STATE GOVERNMENT BILL  
BY CHAIRPERSON MASCHER)

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

## A BILL FOR

1 An Act relating to public records and open meetings, including  
2 the creation of the public records, open meetings, and privacy  
3 advisory committee, and providing an effective date.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
5 TLSB 2139YC 83  
6 rh/rj/14

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1 1 Section 1. Section 8A.341, subsection 2, Code 2009, is  
1 2 amended to read as follows:  
1 3 2. If money is appropriated for this purpose, by November  
1 4 1 of each year supply a report which contains the name,  
1 5 gender, county, or city of residence when possible, official  
1 6 title, salary received during the previous fiscal year, base  
1 7 salary as computed on July 1 of the current fiscal year, and  
1 8 traveling and subsistence expense of the personnel of each of  
1 9 the departments, boards, and commissions of the state  
1 10 government except personnel who receive an annual salary of  
1 11 less than one thousand dollars. The number of the personnel  
1 12 and the total amount received by them shall be shown for each  
1 13 department in the report. All employees who have drawn  
1 14 salaries, fees, or expense allowances from more than one  
1 15 department or subdivision shall be listed separately under the  
1 16 proper departmental heading. On the request of the director,  
1 17 the head of each department, board, or commission shall  
1 18 furnish the data covering that agency. The report shall be  
1 19 distributed upon request without charge in an electronic  
1 20 medium to each caucus of the general assembly, the legislative  
1 21 services agency, the chief clerk of the house of  
1 22 representatives, and the secretary of the senate. Copies of  
1 23 the report shall be made available to other persons in an  
1 24 electronic medium upon payment of a fee, which shall not  
1 25 exceed the cost of providing the copy of the report. Sections  
1 26 22.2 through ~~22.6~~ 22.5 apply to the report. All funds from  
1 27 the sale of the report shall be deposited in the printing  
1 28 revolving fund established in section 8A.345.

1 29 Sec. 2. Section 8E.202, subsection 1, unnumbered paragraph  
1 30 1, Code 2009, is amended to read as follows:

1 31 The department and each agency shall provide for the widest  
1 32 possible dissemination of information between agencies and the  
1 33 public relating to the enterprise strategic plan and agency  
1 34 strategic plans, including but not limited to internet access.  
1 35 This section does not require the department or an agency to  
2 1 release information which is classified as a confidential  
2 2 record under this Code, ~~including but not limited to section~~  
~~2 3 22.7.~~

2 4 Sec. 3. Section 8E.202, subsection 3, Code 2009, is  
2 5 amended to read as follows:

2 6 3. A record which is confidential under this Code ~~-~~  
~~2 7 including but not limited to section 22.7,~~ shall not be  
2 8 released to the public under this section.

2 9 Sec. 4. Section 10B.5, subsection 2, Code 2009, is amended  
2 10 to read as follows:

2 11 2. Information provided in reports required in this  
2 12 chapter is ~~a~~ an optional confidential record as provided in  
2 13 section 22.7. The attorney general may have access to the  
2 14 reports, and may use information in the reports in any action  
2 15 to enforce state law, including but not limited to chapters  
2 16 9H, 9I, and 10C. The reports shall be made available to  
2 17 members of the general assembly and appropriate committees of

2 18 the general assembly in order to determine the extent that  
2 19 agricultural land is held in this state by corporations and  
2 20 other business and foreign entities and the effect of such  
2 21 land ownership upon the economy of this state. The secretary  
2 22 of state shall assist any committee of the general assembly  
2 23 studying these issues.

2 24 Sec. 5. Section 21.2, subsection 1, Code 2009, is amended  
2 25 by adding the following new paragraph:

2 26 NEW PARAGRAPH. i. An entity eligible to exercise  
2 27 tax-exempt bonding authority under chapter 7C, including a  
2 28 nonprofit tax-exempt bonding authority under chapter 7C  
2 29 designated by the state to serve as a secondary market for  
2 30 student loans and a nonprofit tax-exempt bonding authority  
2 31 under chapter 7C whose board of directors is appointed by the  
2 32 governor.

2 33 Sec. 6. Section 21.2, subsection 2, Code 2009, is amended  
2 34 to read as follows:

2 35 2. a. "Meeting" means a gathering in person or by  
3 1 electronic means, formal or informal, of a majority of the  
3 2 members of a governmental body where there is deliberation or  
3 3 action upon any matter within the scope of the governmental  
3 4 body's policy-making duties. A meeting includes a series of  
3 5 gatherings of members who constitute less than a majority of  
3 6 the members at each gathering, but who collectively constitute  
3 7 a majority of the members, where the series of gatherings  
3 8 includes deliberation or action upon any matter within the  
3 9 scope of the governmental body's policy-making duties.

3 10 b. ~~Meetings shall~~ A "meeting" does not include ~~a~~ any of  
3 11 the following:

3 12 (1) A gathering of members of a governmental body for  
3 13 purely ministerial or social purposes when there is no  
3 14 discussion of policy or no intent to avoid the purposes of  
3 15 this chapter.

3 16 (2) ~~Written electronic communications by one or more~~  
3 17 ~~members of a governmental body or by its chief executive~~  
3 18 ~~officer that are ordinarily preserved and are accessible and~~  
3 19 ~~that are sent to a majority of the members of the governmental~~  
3 20 ~~body, or a series of such written electronic communications~~  
3 21 ~~each sent only to a minority of the members of the~~  
3 22 ~~governmental body but that in the aggregate are sent to a~~  
3 23 ~~majority of its members that do both of the following:~~

3 24 (a) ~~Concern a particular matter within the scope of the~~  
3 25 ~~governmental body's policy-making duties.~~

3 26 (b) ~~Would otherwise constitute a meeting.~~

3 27 ~~However, this exclusion only applies if the written~~  
3 28 ~~electronic communications, to the extent such communications~~  
3 29 ~~are not exempt from disclosure pursuant to section 22.7 or~~  
3 30 ~~another statute, are either posted on the governmental body's~~  
3 31 ~~internet site or public bulletin board at least twenty-four~~  
3 32 ~~hours prior to the next regular meeting or copies are made~~  
3 33 ~~available for public inspection at least twenty-four hours~~  
3 34 ~~prior to the governmental body's next regular meeting. If a~~  
3 35 ~~special meeting is held on the subject matter of the~~  
4 1 ~~communications before the next regular meeting, the~~  
4 2 ~~communications shall be posted at least twenty-four hours~~  
4 3 ~~prior to the special meeting or made available for public~~  
4 4 ~~inspection at least twenty-four hours prior to that meeting.~~

4 5 Sec. 7. Section 21.4, subsections 1 and 3, Code 2009, are  
4 6 amended to read as follows:

4 7 1. ~~Except as provided in subsection 3, a governmental~~  
4 8 ~~body, except township trustees, shall give notice of the time,~~  
4 9 ~~date, and place of each meeting including a reconvened meeting~~  
4 10 ~~of the governmental body, and its the tentative agenda of the~~  
4 11 ~~meeting, in a manner reasonably calculated to apprise the~~  
4 12 ~~public of that information. Reasonable notice shall include~~  
4 13 ~~advising the news media who have filed a request for notice~~  
4 14 ~~with the governmental body and posting the notice on a~~  
4 15 ~~bulletin board or other prominent place which is easily~~  
4 16 ~~accessible to the public and clearly designated for that~~  
4 17 ~~purpose at the principal office of the body holding the~~  
4 18 ~~meeting, or if no such office exists, at the building in which~~  
4 19 ~~the meeting is to be held.~~

4 20 3. Subsection 1 does not apply to any of the following:

4 21 a. ~~A meeting reconvened within four hours of the start of~~  
4 22 ~~its recess, where an announcement of the time, date, and place~~  
4 23 ~~of the reconvened meeting is made at the original meeting in~~  
4 24 ~~open session and recorded in the minutes of the meeting and~~  
4 25 ~~there is no change in the agenda.~~

4 26 b. ~~A meeting held by a formally constituted subunit of a~~  
4 27 ~~parent governmental body may conduct a meeting without notice~~  
4 28 ~~as required by this section during a lawful meeting of the~~

4 29 parent governmental body, or during a recess in that meeting  
4 30 of up to four hours, or a meeting of that subunit immediately  
4 31 following ~~that the~~ meeting of the parent governmental body, if  
4 32 the meeting of ~~the~~ that subunit is publicly announced in open  
4 33 session at the parent meeting and the subject of the meeting  
4 34 reasonably coincides with the subjects discussed or acted upon  
4 35 by the parent governmental body.

5 1 Sec. 8. Section 21.5, subsection 1, paragraph j, Code  
5 2 2009, is amended to read as follows:

5 3 j. To discuss the purchase of particular real estate only  
5 4 where premature disclosure could be reasonably expected to  
5 5 increase the price the governmental body would have to pay for  
5 6 that property. The minutes and the ~~tape~~ audio recording of a  
5 7 session closed under this paragraph shall be available for  
5 8 public examination when the transaction discussed is  
5 9 completed.

5 10 Sec. 9. Section 21.5, subsection 4, Code 2009, is amended  
5 11 to read as follows:

5 12 4. A governmental body shall keep detailed minutes of all  
5 13 discussion, persons present, and action occurring at a closed  
5 14 session, and shall also ~~tape~~ audio record all of the closed  
5 15 session. The detailed minutes and ~~tape~~ audio recording of a  
5 16 closed session shall be sealed and shall not be public records  
5 17 open to public inspection. However, upon order of the court  
5 18 in an action to enforce this chapter, the detailed minutes and  
5 19 ~~tape~~ audio recording shall be unsealed and examined by the  
5 20 court in camera. The court shall then determine what part, if  
5 21 any, of the minutes should be disclosed to the party seeking  
5 22 enforcement of this chapter for use in that enforcement  
5 23 proceeding. In determining whether any portion of the minutes  
5 24 or recording shall be disclosed to such a party for this  
5 25 purpose, the court shall weigh the prejudicial effects to the  
5 26 public interest of the disclosure of any portion of the  
5 27 minutes or recording in question, against its probative value  
5 28 as evidence in an enforcement proceeding. After such a  
5 29 determination, the court may permit inspection and use of all  
5 30 or portions of the detailed minutes and ~~tape~~ audio recording  
5 31 by the party seeking enforcement of this chapter. A  
5 32 governmental body shall keep the detailed minutes and ~~tape~~  
5 33 audio recording of any closed session for a period of at least  
5 34 one year from the date of that meeting, except as otherwise  
5 35 required by law.

6 1 Sec. 10. Section 21.6, subsection 3, paragraph a, Code  
6 2 2009, is amended to read as follows:

6 3 a. Shall assess each member of the governmental body who  
6 4 participated in its violation damages in the amount of not  
6 5 more than five hundred dollars ~~nor and not~~ less than one  
6 6 hundred dollars. However, if a member of a governmental body  
6 7 knowingly participated in such a violation, damages shall be  
6 8 in the amount of not more than two thousand five hundred  
6 9 dollars and not less than one thousand dollars. These damages  
6 10 shall be paid by the court imposing it to the state of Iowa,  
6 11 if the body in question is a state governmental body, or to  
6 12 the local government involved if the body in question is a  
6 13 local governmental body. A member of a governmental body  
6 14 found to have violated this chapter shall not be assessed such  
6 15 damages if that member proves that the member did any of the  
6 16 following:

6 17 (1) Voted against the closed session.

6 18 (2) Had good reason to believe and in good faith believed  
6 19 facts which, if true, would have indicated compliance with all  
6 20 the requirements of this chapter.

6 21 (3) Reasonably relied upon a decision of a court or a  
6 22 formal opinion of the attorney general or the attorney for the  
6 23 governmental body, given in writing, or as memorialized in the  
6 24 minutes of the meeting at which a formal oral opinion was  
6 25 given, or an advisory opinion of the attorney general or the  
6 26 attorney for the governmental body, given in writing.

6 27 Sec. 11. NEW SECTION. 22.0A PURPOSE.

6 28 The purpose of this chapter is to provide as much  
6 29 transparency in government operations as possible consistent  
6 30 with the need to avoid undue invasions of personal privacy and  
6 31 the need to avoid significant interference with the  
6 32 achievement of other important and legitimate state  
6 33 objectives.

6 34 Sec. 12. Section 22.1, Code 2009, is amended to read as  
6 35 follows:

7 1 22.1 DEFINITIONS.

7 2 1. "Confidential record" means a government record  
7 3 designated by statute as unavailable for examination and  
7 4 copying by members of the public.

7 5 ~~1- 2. The term "government~~ "Government body" means this  
7 6 state, or any county, city, township, school corporation,  
7 7 political subdivision, tax-supported district, nonprofit  
7 8 corporation other than a fair conducting a fair event as  
7 9 provided in chapter 174, whose facilities or indebtedness are  
7 10 supported in whole or in part with property tax revenue and  
7 11 which is licensed to conduct pari-mutuel wagering pursuant to  
7 12 chapter 99D, an entity eligible to exercise tax-exempt bonding  
7 13 authority under chapter 7C, including a nonprofit tax-exempt  
7 14 bonding authority under chapter 7C designated by the state to  
7 15 serve as a secondary market for student loans and a nonprofit  
7 16 tax-exempt bonding authority under chapter 7C whose board of  
7 17 directors is appointed by the governor, or other entity of  
7 18 this state, or any branch, department, board, bureau,  
7 19 commission, council, committee, official, or officer of any of  
7 20 the foregoing or any employeee delegated the responsibility for  
7 21 implementing the requirements of this chapter.

7 22 3. "Government record" means a record owned by, created  
7 23 by, in the possession of, or under the control of, any unit,  
7 24 division, or part of state or local government or the  
7 25 officials or employees of such public bodies in the course of  
7 26 the performance of their respective duties.

7 27 ~~2- 4. The term "lawful~~ "Lawful custodian" means the  
7 28 government body currently in physical possession of the public  
7 29 government record. The custodian of a public government  
7 30 record in the physical possession of persons outside a  
7 31 government body is the government body owning that government  
7 32 record. The government records relating to the investment of  
7 33 public funds are the property of the public body responsible  
7 34 for the public funds. Each government body shall delegate to  
7 35 particular officials or employees of that government body the  
8 1 responsibility for implementing the requirements of this  
8 2 chapter and shall publicly announce the particular officials  
8 3 or employees to whom responsibility for implementing the  
8 4 requirements of this chapter has been delegated. "Lawful  
8 5 custodian" does not mean an automated data processing unit of  
8 6 a public body if the data processing unit holds the government  
8 7 records solely as the agent of another public body, nor does  
8 8 it mean a unit which holds the government records of other  
8 9 public bodies solely for storage.

8 10 ~~3. As used in this chapter, "public records" includes all~~  
8 11 records, documents, tape, or other information, stored or  
8 12 preserved in any medium, of or belonging to this state or any  
8 13 county, city, township, school corporation, political  
8 14 subdivision, nonprofit corporation other than a fair  
8 15 conducting a fair event as provided in chapter 174, whose  
8 16 facilities or indebtedness are supported in whole or in part  
8 17 with property tax revenue and which is licensed to conduct  
8 18 pari-mutuel wagering pursuant to chapter 99D, or tax-supported  
8 19 district in this state, or any branch, department, board,  
8 20 bureau, commission, council, or committee of any of the  
8 21 foregoing.

8 22 "Public records" also includes all records relating to the  
8 23 investment of public funds including but not limited to  
8 24 investment policies, instructions, trading orders, or  
8 25 contracts, whether in the custody of the public body  
8 26 responsible for the public funds or a fiduciary or other third  
8 27 party.

8 28 5. "Optional confidential record" means a government  
8 29 record designated by statute as unavailable for examination  
8 30 and copying by members of the public unless otherwise ordered  
8 31 by a court, by the lawful custodian of the records, or by  
8 32 another person duly authorized to release such information.

8 33 6. "Public record" means a government record to which  
8 34 members of the public have an unqualified right to examine and  
8 35 copy and includes a government record not designated by  
9 1 statute as either a confidential record or an optional  
9 2 confidential record.

9 3 7. "Record" means information of every kind, nature, and  
9 4 form preserved or stored in any medium including but not  
9 5 limited to paper, electronic media, or film media.

9 6 Sec. 13. Section 22.2, subsection 2, Code 2009, is amended  
9 7 to read as follows:

9 8 2. A government body shall not prevent the examination or  
9 9 copying of a public record by contracting with a nongovernment  
9 10 body to perform any of its duties or functions. A record  
9 11 created by, in the possession of, or under the control of, any  
9 12 nongovernment body or person, which is a direct part of the  
9 13 execution or performance of duties imposed upon the  
9 14 nongovernment body or person by contract with a government  
9 15 body under which the nongovernment body or person performs a

9 16 function of the government body, is a government record. The  
9 17 lawful custodian of such a government record is the government  
9 18 body with whom the nongovernment body or person has executed  
9 19 the contract.

9 20 Sec. 14. NEW SECTION. 22.2A RECORD REQUESTS == TIME  
9 21 LIMITS.

9 22 1. Upon receipt of an oral or written request to examine  
9 23 or copy a public record, the lawful custodian shall, if  
9 24 feasible in the ordinary course of business, permit such  
9 25 examination or copying at the time of the request. If it is  
9 26 not feasible in the ordinary course of business to permit  
9 27 examination or copying of the public record at the time of the  
9 28 request, the lawful custodian shall immediately notify the  
9 29 requester, orally or in writing, when such examination or  
9 30 copying may take place, which shall be no later than five  
9 31 business days from the time of the request unless there is  
9 32 good cause for further delay. If further delay is necessary  
9 33 because of good cause in responding to a request to examine or  
9 34 copy a record the lawful custodian knows is a public record,  
9 35 the lawful custodian shall provide the requester with a  
10 1 written statement detailing the reason or reasons for the  
10 2 delay and the date by which the request will be satisfied.

10 3 2. If the lawful custodian is in doubt as to whether the  
10 4 record requested is a public record or whether the requester  
10 5 should be permitted to examine or copy an optional  
10 6 confidential record specified in section 22.7, the lawful  
10 7 custodian shall make that determination within ten business  
10 8 days from the date of the request unless further delay is  
10 9 necessary because of good cause, which is communicated in writing  
10 10 to the requester. Examination or copying of the government  
10 11 record shall be allowed within five business days from the  
10 12 date the lawful custodian makes the decision in such  
10 13 circumstances to permit examination or copying of the record  
10 14 unless there is good cause for further delay in fulfilling the  
10 15 request as provided in subsection 1.

10 16 3. If the lawful custodian denies a request to examine or  
10 17 copy a public record, the custodian must provide the requester  
10 18 at the time of the denial a written statement denying the  
10 19 request and detailing the specific reason or reasons for the  
10 20 denial.

10 21 4. If the lawful custodian does not fulfill a request to  
10 22 examine or copy a public record within the times prescribed in  
10 23 this section, the request shall be deemed denied and the  
10 24 requester shall be entitled to file a lawsuit against the  
10 25 lawful custodian pursuant to section 22.10.

10 26 Sec. 15. NEW SECTION. 22.2B PUBLIC RECORDS INFORMATION  
10 27 OFFICER.

10 28 1. Each government body shall designate and publicly  
10 29 identify a public records officer responsible for serving as a  
10 30 point of contact for members of the public requesting access  
10 31 to government records pursuant to this chapter. The public  
10 32 records officer shall oversee the government body's compliance  
10 33 with the public records disclosure requirements of this  
10 34 chapter. The public records officer shall also ensure the  
10 35 government body's record retention and destruction policies  
11 1 and procedures comply with the applicable law.

11 2 2. A public records officer shall complete at least four  
11 3 hours of training regarding the requirements of this chapter  
11 4 within six months of being designated the public records  
11 5 officer for the government body.

11 6 Sec. 16. Section 22.3, subsection 2, Code 2009, is amended  
11 7 to read as follows:

11 8 2. All expenses of the examination and copying shall be  
11 9 paid by the person desiring to examine or copy. The lawful  
11 10 custodian may charge a reasonable fee for the services of the  
11 11 lawful custodian or the custodian's authorized designee in  
11 12 supervising the examination and copying of the records or in  
11 13 reviewing the records for optional confidential record

11 14 information or for confidential record information prior to  
11 15 release. If the lawful custodian is a state executive branch  
11 16 agency, the lawful custodian shall provide such services at no  
11 17 charge to a requester for up to three hours per month. If

11 18 copy equipment is available at the office of the lawful  
11 19 custodian of any public records, the lawful custodian shall  
11 20 provide any person a reasonable number of copies of any public  
11 21 record in the custody of the office upon the payment of a fee.  
11 22 The fee for the copying service as determined by the lawful  
11 23 custodian shall not exceed the actual cost of providing the  
11 24 service. Actual costs shall include only those expenses  
11 25 directly attributable to supervising the examination of and  
11 26 making and providing copies of public records. Actual costs

11 27 shall not include charges for ordinary expenses or costs such  
11 28 as employment benefits, depreciation, maintenance,  
11 29 electricity, or insurance associated with the administration  
11 30 of the office of the lawful custodian.

11 31 Sec. 17. Section 22.4, Code 2009, is amended to read as  
11 32 follows:

11 33 22.4 HOURS WHEN AVAILABLE.

11 34 The rights of persons under this chapter may be exercised  
11 35 at any time during the customary office hours of the lawful  
12 1 custodian of the government records. However, if the lawful  
12 2 custodian does not have customary office hours of at least  
12 3 thirty hours per week, such right may be exercised at any time  
12 4 from nine o'clock a.m. to noon and from one o'clock p.m. to  
12 5 four o'clock p.m. Monday through Friday, excluding legal  
12 6 holidays, unless the person exercising such right and the  
12 7 lawful custodian agree on a different time.

12 8 Sec. 18. Section 22.7, subsection 7, Code 2009, is amended  
12 9 to read as follows:

12 10 7. Appraisals or appraisal information concerning the  
12 11 purchase of real or personal property for public purposes,  
12 12 prior to ~~public announcement of a project~~ the submission of  
12 13 the appraisal to the property owner or other interest holders  
12 14 as provided in section 6B.45.

12 15 Sec. 19. Section 22.7, subsection 10, Code 2009, is  
12 16 amended by striking the subsection.

12 17 Sec. 20. Section 22.7, subsection 11, Code 2009, is  
12 18 amended to read as follows:

12 19 11. a. Personal information in confidential personnel  
12 20 records of public government bodies including but not limited  
12 21 to cities, boards of supervisors and school districts relating  
12 22 to identified or identifiable individuals who are officials,  
12 23 officers, or employees of the government bodies. However, the  
12 24 following information relating to such individuals contained  
12 25 in personnel records shall be public records:

12 26 (1) The name and compensation of the individual including  
12 27 any written agreement establishing compensation or any other  
12 28 terms of employment excluding any information otherwise  
12 29 excludable from public information pursuant to this section or  
12 30 any other applicable provision of law. For purposes of this  
12 31 paragraph, "compensation" means payment of, or agreement to  
12 32 pay, any money, thing of value, or financial benefit conferred  
12 33 in return for labor or services rendered by an officer,  
12 34 employee, or other person plus the value of benefits including  
12 35 but not limited to casualty, disability, life, or health  
13 1 insurance, other health or wellness benefits, vacation,  
13 2 holiday, and sick leave, severance payments, retirement  
13 3 benefits, and deferred compensation.

13 4 (2) The date the individual was employed by the government  
13 5 body.

13 6 (3) The positions the individual holds or has held with  
13 7 the government body.

13 8 (4) The educational institutions attended by the  
13 9 individual, including any diplomas and degrees earned, and the  
13 10 names of the individual's previous employers, positions  
13 11 previously held, and dates of previous employment.

13 12 (5) Any final disciplinary action taken against the  
13 13 individual that resulted in the individual's discharge.

13 14 b. Personal information in confidential personnel records  
13 15 of government bodies relating to student employees shall only  
13 16 be released pursuant to 20 U.S.C. } 1232g.

13 17 Sec. 21. Section 22.7, subsection 18, Code 2009, is  
13 18 amended to read as follows:

13 19 18. a. Communications not required by law, rule,  
13 20 procedure, or contract that are made to a government body or  
13 21 to any of its employees by identified persons outside of  
13 22 government, to the extent that the government body receiving  
13 23 those communications from such persons outside of government  
13 24 could reasonably believe that those persons would be  
13 25 discouraged from making them to that government body if they  
13 26 were available for general public examination. As used in  
13 27 this subsection, "persons outside of government" does not  
13 28 include persons or employees of persons who are communicating  
13 29 with respect to a consulting or contractual relationship with  
13 30 a government body or who are communicating with a government  
13 31 body with whom an arrangement for compensation exists.  
13 32 Notwithstanding this provision:

13 33 a- (1) The communication is a public record to the extent  
13 34 that the person outside of government making that  
13 35 communication consents to its treatment as a public record.

14 1 b- (2) Information contained in the communication is a  
14 2 public record to the extent that it can be disclosed without

14 3 directly or indirectly indicating the identity of the person  
14 4 outside of government making it or enabling others to  
14 5 ascertain the identity of that person.  
14 6 ~~e. (3) Information contained in the communication is a  
14 7 public record to the extent that it indicates the date, time,  
14 8 specific location, and immediate facts and circumstances  
14 9 surrounding the occurrence of a crime or other illegal act,  
14 10 except to the extent that its disclosure would plainly and  
14 11 seriously jeopardize a continuing investigation or pose a  
14 12 clear and present danger to the safety of any person. In any  
14 13 action challenging the failure of the lawful custodian to  
14 14 disclose any particular information of the kind enumerated in  
14 15 this paragraph, the burden of proof is on the lawful custodian  
14 16 to demonstrate that the disclosure of that information would  
14 17 jeopardize such an investigation or would pose such a clear  
14 18 and present danger.~~

14 19 b. This subsection does not apply to information relating  
14 20 to applications to a government body for employment.

14 21 Sec. 22. Section 22.7, subsections 40, 43, and 48, Code  
14 22 2009, are amended to read as follows:

14 23 40. The portion of a record request that contains an  
14 24 internet protocol number ~~which identifies the computer from  
14 25 which a person requests a record, whether the person using  
14 26 such computer makes the request through the IowaAccess network  
14 27 or directly to a lawful custodian. However, such record may  
14 28 be released with the express written consent of the person  
14 29 requesting the record.~~

14 30 43. Information obtained by the commissioner of insurance  
14 31 pursuant to section 502.607, subsection 2.

14 32 48. Sex offender registry records under chapter 692A-  
14 33 ~~except shall only be released~~ as provided in section 692A.13.

14 34 Sec. 23. Section 22.7, subsection 52, paragraphs a and c,  
14 35 Code 2009, are amended to read as follows:

15 1 a. ~~The following records relating to a charitable donation  
15 2 made to a foundation acting solely for the support of an  
15 3 institution governed by the state board of regents, to a  
15 4 foundation acting solely for the support of an institution  
15 5 governed by chapter 260C, to a private foundation as defined  
15 6 in section 509 of the Internal Revenue Code organized for the  
15 7 support of a government body, or to an endow Iowa qualified  
15 8 community foundation, as defined in section 15E.303, organized  
15 9 for the support of a government body:~~

15 10 (1) Portions of records that disclose a donor's or  
15 11 prospective donor's personal, financial, estate planning, or  
15 12 gift planning matters.

15 13 (2) Records received from a donor or prospective donor  
15 14 regarding such donor's prospective gift or pledge.

15 15 (3) Records containing information about a donor or a  
15 16 prospective donor in regard to the appropriateness of the  
15 17 solicitation and dollar amount of the gift or pledge.

15 18 (4) Portions of records that identify a prospective donor  
15 19 and that provide information on the appropriateness of the  
15 20 solicitation, the form of the gift or dollar amount requested  
15 21 by the solicitor, and the name of the solicitor.

15 22 (5) Portions of records disclosing the identity of a donor  
15 23 or prospective donor, including the specific form of gift or  
15 24 pledge that could identify a donor or prospective donor,  
15 25 directly or indirectly, when such donor has requested  
15 26 anonymity in connection with the gift or pledge. This  
15 27 subparagraph does not apply to a gift or pledge from a  
15 28 publicly held business corporation.

15 29 c. Except as provided in paragraphs "a" and "b", portions  
15 30 of records relating to the receipt, holding, and disbursement  
15 31 of gifts made for the benefit of regents institutions and made  
15 32 through foundations established for support of regents  
15 33 institutions, including but not limited to written  
15 34 fund-raising policies and documents evidencing fund-raising  
15 35 practices, shall be subject to this chapter. Unless otherwise  
16 1 provided, the lawful custodian of all records subject to this  
16 2 paragraph is the regents institution to be benefited by such  
16 3 gifts.

16 4 Sec. 24. Section 22.7, subsection 55, Code 2009, is  
16 5 amended to read as follows:

16 6 55. An intelligence assessment and intelligence data under  
16 7 chapter 692, ~~except shall only be released~~ as provided in  
16 8 section 692.8A.

16 9 Sec. 25. Section 22.7, Code 2009, is amended by adding the  
16 10 following new subsections:

16 11 NEW SUBSECTION. 62. PUBLIC EMPLOYMENT APPLICATIONS.

16 12 a. The identity and qualifications of an applicant for  
16 13 employment by a government body if the applicant requests

16 14 anonymity in writing and the government body determines that  
16 15 anonymity is necessary to induce the applicant to apply for  
16 16 the employment position. Such information shall be exempt  
16 17 from disclosure until an applicant is considered by the  
16 18 government body to be a finalist for the position. For  
16 19 purposes of this subsection, "finalist" means any applicant  
16 20 who is determined to be among those who are under final  
16 21 consideration for the position, and at least includes the five  
16 22 most qualified applicants as determined by the recommending or  
16 23 selecting authority. If there are five or fewer applicants  
16 24 for the particular position, all of the applicants shall be  
16 25 considered finalists for purposes of this subsection. The  
16 26 identities and qualifications of the finalists shall be made  
16 27 available for public inspection at least three business days  
16 28 prior to a final decision.

16 29 b. Documents relating to a government body's evaluation of  
16 30 the qualifications and merits of an applicant for employment  
16 31 by that government body.

16 32 NEW SUBSECTION. 63. TENTATIVE, PRELIMINARY, OR DRAFT  
16 33 MATERIALS. Tentative, preliminary, draft, speculative, or  
16 34 research material, created prior to its completion for the  
16 35 purpose for which it is intended and in a form prior to the  
17 1 form in which it is submitted for use or used in the actual  
17 2 formulation, recommendation, adoption, or execution of any  
17 3 official policy or action by a public official authorized to  
17 4 make such decisions for the government body. Such materials  
17 5 shall be treated as a public record at the time the materials  
17 6 are actually used for the final formulation, recommendation,  
17 7 adoption, or execution of any official policy or action of a  
17 8 government body.

17 9 Sec. 26. Section 22.8, subsection 1, Code 2009, is amended  
17 10 to read as follows:

17 11 1. The district court may grant an injunction restraining  
17 12 the examination, including copying, of a specific public  
17 13 record or a narrowly drawn class of public records. A hearing  
17 14 shall be held on a request for injunction upon reasonable  
17 15 notice as determined by the court to persons requesting access  
17 16 to the record which is the subject of the request for  
17 17 injunction. It shall be the duty of the lawful custodian and  
17 18 any other person seeking an injunction to ensure compliance  
17 19 with the notice requirement. Such an injunction may be issued  
17 20 only if the petition supported by affidavit shows and if the  
17 21 court finds ~~both~~ any of the following:

17 22 a. That the examination would clearly not be in the public  
17 23 interest because the potential harm to the public interest  
17 24 from disclosure of the particular information involved clearly  
17 25 outweighs any potential benefit to the public interest from  
17 26 disclosure.

17 27 b. That the examination would substantially and  
17 28 irreparably injure any person or persons because it would  
17 29 invade the personal privacy of the identified subject of the  
17 30 record and the harm to that person from such disclosure is not  
17 31 outweighed by the public interest in its disclosure.

17 32 c. That the record at issue is not a public record.

17 33 d. That the record at issue is a record exempt from  
17 34 mandatory disclosure pursuant to section 22.7 and that a  
17 35 determination by the custodian to permit inspection of the  
18 1 record by one or more members of the public is a violation of  
18 2 law or is arbitrary, capricious, unreasonable, or an abuse of  
18 3 discretion.

18 4 Sec. 27. Section 22.8, subsection 4, paragraphs c and d,  
18 5 Code 2009, are amended to read as follows:

18 6 c. To determine whether the government record in question  
18 7 is a public record, an optional confidential record, or a  
18 8 confidential record.

18 9 d. To determine whether ~~a~~ an optional confidential record  
18 10 should be available for inspection and copying to the person  
18 11 requesting the right to do so. A reasonable delay for this  
18 12 purpose shall not exceed ~~twenty calendar days and ordinarily~~  
18 13 ~~should not exceed~~ ten business days.

18 14 Sec. 28. Section 22.10, subsection 3, paragraph b, Code  
18 15 2009, is amended to read as follows:

18 16 b. Shall assess the persons who participated in its  
18 17 violation damages in the amount of not more than five hundred  
18 18 dollars ~~nor~~ and not less than one hundred dollars. However,  
18 19 if a member of a government body knowingly participated in  
18 20 such a violation, damages shall be in the amount of not more  
18 21 than two thousand five hundred dollars and not less than one  
18 22 thousand dollars. These damages shall be paid by the court  
18 23 imposing them to the state of Iowa if the body in question is  
18 24 a state government body, or to the local government involved



18 25 if the body in question is a local government body. A person  
18 26 found to have violated this chapter shall not be assessed such  
18 27 damages if that person proves that the person ~~either voted did~~  
18 28 any of the following:

18 29 (1) Voted against the action violating this chapter,  
18 30 refused to participate in the action violating this chapter,  
18 31 or engaged in reasonable efforts under the circumstances to  
18 32 resist or prevent the action in violation of this chapter~~+~~  
~~18 33 had.~~

18 34 (2) Had good reason to believe and in good faith believed  
18 35 facts which, if true, would have indicated compliance with the  
19 1 requirements of this chapter ~~or reasonably.~~

19 2 (3) Reasonably relied upon a decision of a court or ~~an a~~  
19 3 formal opinion of the attorney general or the attorney for the  
19 4 government body, given in writing, or as memorialized in the  
19 5 minutes of the meeting at which a formal oral opinion was  
19 6 given, or an advisory opinion of the attorney general or the  
19 7 attorney for the government body, given in writing.

19 8 Sec. 29. Section 22.10, subsection 5, Code 2009, is  
19 9 amended by striking the subsection.

19 10 Sec. 30. Section 22.13, Code 2009, is amended to read as  
19 11 follows:

19 12 22.13 SETTLEMENTS == ~~GOVERNMENTAL~~ GOVERNMENT BODIES.

19 13 1. A written summary of the terms of settlement, including  
19 14 amounts of payments made to or through a claimant, or other  
19 15 disposition of any claim for damages made against a  
19 16 ~~governmental government~~ body or against an employee, officer,  
19 17 or agent of a ~~governmental government~~ body, by an insurer  
19 18 pursuant to a contract of liability insurance issued to the  
19 19 ~~governmental government~~ body, shall be filed with the  
19 20 ~~governmental government~~ body and shall be a public record.

19 21 2. A final binding settlement agreement between any  
19 22 government body of this state or unit or official of such a  
19 23 government body that resolves a legal dispute between such a  
19 24 government body and another person or entity shall be filed  
19 25 with the government body. For each such settlement agreement,  
19 26 the government body shall prepare and file, together with the  
19 27 settlement agreement, a brief summary indicating the identity  
19 28 of the parties involved, the nature of the dispute, any  
19 29 underlying relevant facts, and the terms of the settlement.  
19 30 The settlement agreement and summary shall be available for  
19 31 public inspection.

19 32 Sec. 31. Section 22.14, subsection 3, Code 2009, is  
19 33 amended to read as follows:

19 34 3. If a fiduciary or other third party with custody of  
19 35 public investment transactions records fails to produce public  
20 1 records within a reasonable period of time as requested by the  
20 2 ~~public government~~ body, the ~~public government~~ body shall make  
20 3 no new investments with or through the fiduciary or other  
20 4 third party and shall not renew existing investments upon  
20 5 their maturity with or through the fiduciary or other third  
20 6 party. The fiduciary or other third party shall be liable for  
20 7 the penalties imposed under ~~section 22.6 statute, common law,~~  
20 8 ~~or contract~~ due to the acts or omissions of the fiduciary or  
20 9 other third party ~~and any other remedies available under~~  
20 10 ~~statute, common law, or contract.~~

20 11 Sec. 32. NEW SECTION. 22.15 JUDICIAL BRANCH == RULES.

20 12 This chapter does not apply to government records owned,  
20 13 created, possessed, or under the control of the judicial  
20 14 branch related to the performance by the courts of their  
20 15 judicial functions. The supreme court shall prescribe rules  
20 16 governing access to such government records consistent with  
20 17 the purposes of this chapter.

20 18 Sec. 33. NEW SECTION. 23.1 OPEN MEETINGS, PUBLIC  
20 19 RECORDS, AND PRIVACY ADVISORY COMMITTEE.

20 20 1. COMMITTEE ESTABLISHED. An open meetings, public  
20 21 records, and privacy advisory committee is established to  
20 22 serve as a resource for public access to government  
20 23 information in light of the policy of this state to provide as  
20 24 much public access to government information and proceedings  
20 25 as is consistent with the public interest and the need to  
20 26 protect individuals against undue invasions of personal  
20 27 privacy.

20 28 2. MEMBERSHIP.

20 29 a. The advisory committee shall consist of sixteen  
20 30 members, including twelve voting members and four nonvoting  
20 31 members.

20 32 (1) The voting members shall be the following:

20 33 (a) One member representing municipal interests, appointed  
20 34 by the governor.

20 35 (b) One member representing county or regional interests,

21 1 appointed by the governor.  
21 2 (c) One member representing school district interests,  
21 3 appointed by the governor.  
21 4 (d) One member representing law enforcement interests,  
21 5 appointed by the governor.  
21 6 (e) One member representing executive branch interests,  
21 7 appointed by the governor.  
21 8 (f) One member representing freedom of information  
21 9 advocacy group interests, appointed by the governor.  
21 10 (g) One member representing newspaper and broadcasting  
21 11 interests, appointed by the governor.  
21 12 (h) Two public members, appointed by the governor.  
21 13 (i) The attorney general or the attorney general's  
21 14 designee.  
21 15 (j) The citizens' aide or the citizens' aide's designee.  
21 16 (k) A representative from the department of administrative  
21 17 services with expertise in electronic records.  
21 18 (l) One member representing the judicial branch as  
21 19 designated by the chief justice of the supreme court.  
21 20 (2) The nonvoting members of the advisory committee shall  
21 21 be two state representatives, one appointed by the speaker of  
21 22 the house of representatives and one appointed by the minority  
21 23 leader of the house of representatives, and two state  
21 24 senators, one appointed by the majority leader of the senate  
21 25 and one appointed by the minority leader of the senate.  
21 26 b. A majority of the advisory committee members shall  
21 27 constitute a quorum.  
21 28 3. DUTIES. The advisory committee shall:  
21 29 a. Serve as the central coordinator of information about  
21 30 the public's right to access government information and  
21 31 proceedings. The advisory committee shall provide basic  
21 32 information about the requirements of chapters 21 and 22 and  
21 33 other relevant freedom of information laws and shall also  
21 34 provide information about best practices for state and local  
21 35 governments to comply with and to enforce such laws.  
22 1 b. Serve as a resource to support the establishment and  
22 2 maintenance of a central publicly accessible internet site  
22 3 that provides specific guidance to members of the public about  
22 4 utilizing the relevant law to be better informed and active  
22 5 participants in open government.  
22 6 c. Serve as a resource to support education and training  
22 7 about chapters 21 and 22 and other relevant freedom of  
22 8 information laws to lawful custodians and other persons  
22 9 subject to the requirements of such laws.  
22 10 d. Make recommendations to the governor and the general  
22 11 assembly by proposing legislation relating to public access to  
22 12 government information.  
22 13 e. Aid the general assembly in evaluating the impact of  
22 14 legislation affecting public access to government information.  
22 15 f. Conduct public hearings, conferences, workshops, and  
22 16 other meetings as necessary to address problems and suggest  
22 17 solutions concerning access to government information and  
22 18 proceedings.  
22 19 g. Review the collection, maintenance, and use of  
22 20 government records by lawful custodians to ensure that  
22 21 confidential records and information are handled to adequately  
22 22 protect personal privacy interests.  
22 23 h. Beginning January 10, 2010, and annually thereafter,  
22 24 prepare and transmit to the governor and general assembly a  
22 25 report relating to public access to government information.  
22 26 4. TERMS. The term of the members appointed by the  
22 27 governor shall be for three years, staggered by the governor,  
22 28 beginning upon the convening of a regular session of the  
22 29 general assembly and ending upon the convening of a regular  
22 30 session of the general assembly three years later. The terms  
22 31 of the members appointed by a member of the general assembly  
22 32 shall be as provided in section 69.16B.  
22 33 5. MEETINGS. The advisory committee shall elect a  
22 34 chairperson and vice chairperson. The committee shall meet at  
22 35 least three times per year but may meet as often as necessary.  
23 1 At least one of the meetings shall be held during the regular  
23 2 legislative session. Meetings may be called by the  
23 3 chairperson or at the request of four members. The advisory  
23 4 committee is subject to the open meetings requirements of  
23 5 chapter 21.  
23 6 6. EXPENSES OR COMPENSATION.  
23 7 a. A member of the general assembly shall be paid, in  
23 8 accordance with section 2.10, per diem and necessary travel  
23 9 and actual expenses incurred in attending meetings of the  
23 10 advisory committee.  
23 11 b. Public members appointed by the governor shall receive

23 12 reimbursement for actual and necessary expenses incurred while  
23 13 serving in their official capacity.

23 14 7. FUNDING. The advisory committee may seek grants,  
23 15 appropriations, and outside funding to fund the costs of  
23 16 public hearings, conferences, workshops, and other activities  
23 17 of the committee. Contributions to support the work of the  
23 18 committee shall not be accepted from a political party with a  
23 19 pecuniary or other vested interest in the outcome of the  
23 20 issues considered by the committee.

23 21 8. STAFFING. The legislative services agency shall  
23 22 provide staffing and administrative support for the advisory  
23 23 committee. In addition, the committee may contract for  
23 24 administrative, professional, and clerical services subject to  
23 25 the availability of funding.

23 26 Sec. 34. Section 34A.7A, subsection 4, Code 2009, is  
23 27 amended to read as follows:

23 28 4. The amount collected from a wireless service provider  
23 29 and deposited in the fund, pursuant to section 22.7,  
23 30 subsection 6, information provided by a wireless service  
23 31 provider to the program manager consisting of trade secrets,  
23 32 pursuant to section 22.7, subsection 3, and other financial or  
23 33 commercial operations information provided by a wireless  
23 34 service provider to the program manager, shall be ~~kept~~

~~23 35 confidential~~ an optional confidential record as provided under  
24 1 section 22.7. This subsection does not prohibit the inclusion  
24 2 of information in any report providing aggregate amounts and  
24 3 information which does not identify numbers of accounts or  
24 4 customers, revenues, or expenses attributable to an individual  
24 5 wireless communications service provider.

24 6 Sec. 35. Section 68B.32B, subsection 11, Code 2009, is  
24 7 amended to read as follows:

24 8 11. A complaint shall be a public record, but some or all  
24 9 of the contents may be treated as an optional confidential  
24 10 record under section 22.7, subsection 18, to the extent  
24 11 necessary under subsection 3 of this section. Information  
24 12 informally reported to the board and board staff which results  
24 13 in a board-initiated investigation shall be a public record  
24 14 but may be treated as an optional confidential ~~information~~  
24 15 record consistent with the provisions of section 22.7,  
24 16 subsection 18. If the complainant, the person who provides  
24 17 information to the board, or the person who is the subject of  
24 18 an investigation publicly discloses the existence of an  
24 19 investigation, the board may publicly confirm the existence of  
24 20 the disclosed formal complaint or investigation and, in the  
24 21 board's discretion, make the complaint or the informal  
24 22 referral public, as well as any other documents that were  
24 23 issued by the board to any party to the investigation.  
24 24 However, investigative materials may be furnished to the  
24 25 appropriate law enforcement authorities by the board at any  
24 26 time. Upon the commencement of a contested case proceeding by  
24 27 the board, all investigative material relating to that  
24 28 proceeding shall be made available to the subject of the  
24 29 proceeding. The entire record of any contested case  
24 30 proceeding initiated under this section shall be a public  
24 31 record.

24 32 Sec. 36. Section 76.11, Code 2009, is amended to read as  
24 33 follows:

24 34 76.11 CONFIDENTIALITY OF BOND HOLDERS == EXCEPTIONS.

24 35 Records of identity of owners of public bonds or  
25 1 obligations maintained as provided in section 76.10 or by the  
25 2 issuer of the bonds are optional confidential records ~~entitled~~  
~~25 3 to protection~~ under section 22.7, subsection 17. ~~However, and~~  
25 4 the issuer of the bonds or a state or federal agency may  
25 5 obtain information as necessary.

25 6 Sec. 37. Section 124.553, subsection 3, Code 2009, is  
25 7 amended to read as follows:

25 8 3. Information contained in the program and any  
25 9 information obtained from it, and information contained in the  
25 10 records of requests for information from the program, is  
25 11 privileged and strictly confidential information. Such  
25 12 information is ~~a~~ an optional confidential ~~public~~ record  
25 13 pursuant to section 22.7, and is not subject to discovery,  
25 14 subpoena, or other means of legal compulsion for release  
25 15 except as provided in this division. Information from the  
25 16 program shall not be released, shared with an agency or  
25 17 institution, or made public except as provided in this  
25 18 division.

25 19 Sec. 38. Section 135.43, subsection 7, Code 2009, is  
25 20 amended to read as follows:

25 21 7. a. The Iowa department of public health and the  
25 22 department of human services shall adopt rules providing for

25 23 disclosure of optional confidential record information which  
~~25 24 is confidential~~ under chapter 22 or any confidential record  
~~25 25 information under any~~ other provision of state law, to the  
25 26 review team for purposes of performing its child death and  
25 27 child abuse review responsibilities.

25 28 b. A person in possession or control of medical,  
25 29 investigative, assessment, or other information pertaining to  
25 30 a child death and child abuse review shall allow the  
25 31 inspection and reproduction of the information by the  
25 32 department upon the request of the department, to be used only  
25 33 in the administration and for the duties of the Iowa child  
25 34 death review team. Except as provided for a report on a child  
25 35 fatality by an ad hoc child fatality review committee under  
26 1 subsection 4, information and records produced under this  
26 2 section which are optional confidential records under section  
26 3 22.7 and confidential records under chapter 235A, and  
26 4 information or records received from the confidential records,  
26 5 remain confidential under this section. A person does not  
26 6 incur legal liability by reason of releasing information to  
26 7 the department as required under and in compliance with this  
26 8 section.

26 9 Sec. 39. Section 147A.26, subsection 2, Code 2009, is  
26 10 amended to read as follows:

26 11 2. The data collected by and furnished to the department  
26 12 pursuant to this section are optional confidential records of  
26 13 the condition, diagnosis, care, or treatment of patients or  
26 14 former patients, including outpatients, pursuant to section  
26 15 22.7. The compilations prepared for release or dissemination  
26 16 from the data collected are not confidential under section  
26 17 22.7, subsection 2. However, information which individually  
26 18 identifies patients shall not be disclosed and state and  
26 19 federal law regarding patient confidentiality shall apply.

26 20 Sec. 40. Section 202A.2, subsection 3, paragraph b, Code  
26 21 2009, is amended to read as follows:

26 22 b. The department, in consultation with the office of  
26 23 attorney general, shall designate information in purchase  
26 24 reports that reveals the identity of a packer or livestock  
26 25 seller as optional confidential records pursuant to section  
26 26 22.7.

26 27 Sec. 41. Section 232.149, subsection 2, Code 2009, is  
26 28 amended to read as follows:

26 29 2. Records and files of a criminal or juvenile justice  
26 30 agency concerning a child involved in a delinquent act are  
26 31 public records, except that release of criminal history data,  
26 32 intelligence data, and law enforcement investigatory files is  
26 33 subject to the provisions of section 22.7 and chapter 692, and  
26 34 juvenile court social records, as defined in section 232.2,  
26 35 subsection 31, shall be deemed an optional confidential record  
27 1 criminal identification files under section 22.7, subsection  
27 2 9. The records are subject to sealing under section 232.150  
27 3 unless the juvenile court waives its jurisdiction over the  
27 4 child so that the child may be prosecuted as an adult for a  
27 5 public offense.

27 6 Sec. 42. Section 252B.24, subsection 3, Code 2009, is  
27 7 amended to read as follows:

27 8 3. The records of the state case registry are optional  
27 9 confidential records pursuant to chapter 22 and may only be  
27 10 disclosed or used as provided in section 252B.9.

27 11 Sec. 43. Section 252G.5, unnumbered paragraph 1, Code  
27 12 2009, is amended to read as follows:

27 13 The records of the centralized employee registry are  
27 14 confidential records pursuant to ~~sections 22.7 and section~~  
27 15 252B.9, and may be accessed only by state agencies as provided  
27 16 in this section and section 252B.9. When a state agency  
27 17 accesses information in the registry, the agency may use the  
27 18 information to update the agency's own records. Access to and  
27 19 use of the information contained in the registry shall be  
27 20 limited to the following:

27 21 Sec. 44. Section 321.189A, subsection 6, Code 2009, is  
27 22 amended to read as follows:

27 23 6. The department shall keep ~~as confidential public~~  
~~27 24 records under section 22.7~~, all records regarding licenses  
27 25 issued under this section as optional confidential records  
~~27 26 under section 22.7~~.

27 27 Sec. 45. Section 452A.33, subsection 1, paragraph d, Code  
27 28 2009, is amended to read as follows:

27 29 d. The information included in a report submitted by a  
27 30 retail dealer is deemed to be a trade secret, ~~protected as a~~  
~~27 31 confidential record and is an optional confidential record~~  
27 32 pursuant to section 22.7.

27 33 Sec. 46. Section 452A.33, subsection 2, paragraph c, Code

27 34 2009, is amended to read as follows:

27 35 c. The report shall not provide information regarding  
28 1 motor fuel or biofuel which is sold and dispensed by an  
28 2 individual retail dealer or at a particular retail motor fuel  
28 3 site. The report shall not include a trade secret ~~protected~~  
~~28 4 as a confidential record pursuant as referred to in section~~  
28 5 22.7.

28 6 Sec. 47. Section 455K.4, subsection 4, Code 2009, is  
28 7 amended to read as follows:

28 8 4. Information that is disclosed under subsection 2,  
28 9 paragraph "b", is confidential and is not subject to  
28 10 disclosure under chapter 22. ~~A governmental entity,~~  
~~28 11 governmental employee, or governmental official who discloses~~  
~~28 12 information in violation of this subsection is subject to the~~  
~~28 13 penalty provided in section 22.6.~~

28 14 Sec. 48. Section 476.74, subsection 4, Code 2009, is  
28 15 amended to read as follows:

28 16 4. VERIFIED COPIES REQUIRED. Every public utility shall  
28 17 file with the board a verified copy of the contract or  
28 18 arrangement referred to in this section, or a verified summary  
28 19 of the unwritten contract or arrangement, and also of all the  
28 20 contracts and arrangements or a verified summary of the  
28 21 unwritten contracts or arrangements, whether written or  
28 22 unwritten, entered into prior to July 1, 1989, and in force  
28 23 and effect at that time. Any contract or agreement determined  
28 24 by the board to be ~~a~~ an optional confidential record pursuant  
28 25 to section 22.7 shall be returned to the public utility filing  
28 26 the ~~confidential~~ record within sixty days after the contract  
28 27 or agreement is filed.

28 28 Sec. 49. Section 477A.7, subsection 3, paragraph b, Code  
28 29 2009, is amended to read as follows:

28 30 b. For purposes of this subsection, the number of  
28 31 customers of a cable service provider or video service  
28 32 provider shall be determined based on the relative number of  
28 33 subscribers in that municipality at the end of the prior  
28 34 calendar year as reported to the municipality by all incumbent  
28 35 cable providers and holders of a certificate of franchise  
29 1 authority. Any records showing the number of subscribers  
29 2 shall be considered optional confidential records pursuant to  
29 3 section 22.7. The incumbent cable provider shall provide to  
29 4 the municipality, on an annual basis, the maintenance and  
29 5 support costs of the institutional network, subject to an  
29 6 independent audit. A municipality acting under this  
29 7 subsection shall notify and present a bill to competitive  
29 8 cable service providers or competitive video service providers  
29 9 for the amount of such support on an annual basis, beginning  
29 10 one year after issuance of the certificate of franchise  
29 11 authority. The annual institutional network support shall be  
29 12 due and paid by the providers to the municipality in four  
29 13 quarterly payments, not later than forty-five days after the  
29 14 close of each quarter. The municipality shall reimburse the  
29 15 incumbent cable provider for the amounts received from  
29 16 competitive cable service providers or competitive video  
29 17 service providers.

29 18 Sec. 50. Section 507.14, subsections 2, 3, 5, and 6, Code  
29 19 2009, are amended to read as follows:

29 20 2. A report of an examination of a domestic or foreign  
29 21 insurer which is preliminary under the rules of the division  
29 22 is ~~a~~ an optional confidential record under chapter 22 except  
29 23 when sought by the insurer to which the report relates or an  
29 24 insurance regulator of another state, and is privileged and  
29 25 confidential in any judicial or administrative proceeding.

29 26 3. All work papers, notes, recorded information,  
29 27 documents, market conduct annual statements, and copies  
29 28 thereof that are produced or obtained by or disclosed to the  
29 29 commissioner or any other person in the course of analysis by  
29 30 the commissioner of the financial condition or market conduct  
29 31 of an insurer are optional confidential records under chapter  
29 32 22 and shall be privileged and confidential in any judicial or  
29 33 administrative proceeding except any of the following:

29 34 a. An action commenced by the commissioner under chapter  
29 35 507C.

30 1 b. An administrative proceeding brought by the insurance  
30 2 division under chapter 17A.

30 3 c. A judicial review proceeding under chapter 17A brought  
30 4 by an insurer to whom the records relate.

30 5 d. An action or proceeding which arises out of the  
30 6 criminal provisions of the laws of this state or the United  
30 7 States.

30 8 5. A financial statement filed by an employer  
30 9 self-insuring workers' compensation liability pursuant to

30 10 section 87.11, or the working papers of an examiner or the  
30 11 division in connection with calculating appropriate security  
30 12 and reserves for the self-insured employer are optional  
30 13 confidential records under chapter 22 except when sought by  
30 14 the employer to which the financial statement or working  
30 15 papers relate or an insurance or workers' compensation  
30 16 self-insurance regulator of another state, and are privileged  
30 17 and confidential in any judicial or administrative proceeding.  
30 18 The financial information of a nonpublicly traded employer  
30 19 which self-insures for workers' compensation liability  
30 20 pursuant to section 87.11 is protected as proprietary trade  
30 21 secrets to the extent consistent with the commissioner's  
30 22 duties to oversee the security of self-insured workers'  
30 23 compensation liability.

30 24 6. Analysis notes, work papers, or other documents related  
30 25 to the analysis of an insurer are optional confidential  
30 26 records under chapter 22.

30 27 Sec. 51. Section 507A.4, subsection 10, paragraph b, Code  
30 28 2009, is amended to read as follows:

30 29 b. The sponsor of the health benefit plan shall file an  
30 30 application for waiver from the provisions of this chapter  
30 31 with the commissioner as prescribed by the commissioner and  
30 32 shall file periodic statements and information as required by  
30 33 the commissioner. The commissioner shall adopt rules pursuant  
30 34 to chapter 17A implementing this subsection. All statements  
30 35 and information filed with or disclosed to the commissioner  
31 1 pursuant to this subsection are optional confidential records  
31 2 pursuant to chapter 22.

31 3 Sec. 52. Section 507E.5, subsection 1, Code 2009, is  
31 4 amended to read as follows:

31 5 1. All investigation files, investigation reports, and all  
31 6 other investigative information in the possession of the  
31 7 bureau are confidential records ~~under chapter 22~~ except as  
31 8 specifically provided in this section and are not subject to  
31 9 discovery, subpoena, or other means of legal compulsion for  
31 10 their release until opened for public inspection by the  
31 11 bureau, or upon the consent of the bureau, or until a court of  
31 12 competent jurisdiction determines, after notice to the bureau  
31 13 and hearing, that the bureau will not be unnecessarily  
31 14 hindered in accomplishing the purposes of this chapter by  
31 15 their opening for public inspection. However, investigative  
31 16 information in the possession of the bureau may be disclosed,  
31 17 in the commissioner's discretion, to appropriate licensing  
31 18 authorities within this state, another state or the District  
31 19 of Columbia, or a territory or country in which a licensee is  
31 20 licensed or has applied for a license.

31 21 Sec. 53. Section 515.103, subsection 6, paragraph b, Code  
31 22 2009, is amended to read as follows:

31 23 b. Information filed with the commissioner of insurance  
31 24 pursuant to this subsection shall be considered a confidential  
31 25 record and be recognized ~~and protected~~ as a trade secret  
31 26 pursuant to section 22.7, subsection 3.

31 27 Sec. 54. Section 523A.204, subsection 3, Code 2009, is  
31 28 amended to read as follows:

31 29 3. All records maintained by the commissioner under this  
31 30 section shall be optional confidential records pursuant to  
31 31 section 22.7, subsection 58, and shall not be made available  
31 32 for inspection or copying except upon the approval of the  
31 33 commissioner or the attorney general.

31 34 Sec. 55. Section 523A.502A, subsection 2, Code 2009, is  
31 35 amended to read as follows:

32 1 2. All records maintained by the commissioner under this  
32 2 section shall be optional confidential records pursuant to  
32 3 section 22.7, subsection 58, and shall not be made available  
32 4 for inspection or copying except upon the approval of the  
32 5 commissioner or the attorney general.

32 6 Sec. 56. Section 523C.23, subsection 1, paragraph c,  
32 7 unnumbered paragraph 1, Code 2009, is amended to read as  
32 8 follows:

32 9 Information obtained in the course of an investigation ~~is~~  
~~32 10 confidential shall be treated as an optional confidential~~  
32 11 record as provided in section 22.7. However, upon a  
32 12 determination that disclosure of the information is necessary  
32 13 or appropriate in the public interest or for the protection of  
32 14 consumers, the commissioner may do any of the following:

32 15 Sec. 57. Section 556.24A, subsection 2, Code 2009, is  
32 16 amended to read as follows:

32 17 2. Notwithstanding any other provision of law, any other  
32 18 identifying information set forth in any report, record,  
32 19 claim, or other document submitted to the treasurer of state  
32 20 pursuant to this chapter concerning unclaimed or abandoned

32 21 ~~property is a confidential~~ shall be treated as an optional  
32 22 ~~confidential~~ record as provided in section 22.7 and shall be  
32 23 made available for public examination or copying only in the  
32 24 discretion of the treasurer.

32 25 Sec. 58. Section 692.8A, subsection 4, Code 2009, is  
32 26 amended to read as follows:

32 27 4. An intelligence assessment and intelligence data shall  
32 28 be deemed a confidential record of the department ~~under~~  
32 29 ~~section 22.7, subsection 55,~~ except as otherwise provided in  
32 30 this subsection. This section shall not be construed to  
32 31 prohibit the dissemination of an intelligence assessment to  
32 32 any agency or organization if necessary for carrying out the  
32 33 official duties of the agency or organization, or to a person  
32 34 if disseminated for an official purpose, and to a person if  
32 35 necessary to protect a person or property from a threat of  
33 1 imminent serious harm. This section shall also not be  
33 2 construed to prohibit the department from disseminating a  
33 3 public health and safety threat advisory or alert by press  
33 4 release or other method of public communication.

33 5 Sec. 59. Section 692A.13, subsection 8, Code 2009, is  
33 6 amended to read as follows:

33 7 8. Sex offender registry records are confidential records  
33 8 ~~pursuant to section 22.7~~ and shall only be released as  
33 9 provided in this section.

33 10 Sec. 60. Section 708.2B, unnumbered paragraph 2, Code  
33 11 2009, is amended to read as follows:

33 12 District departments or contract service providers shall  
33 13 receive upon request peace officers' investigative reports  
33 14 regarding persons participating in programs under this  
33 15 section. The receipt of reports under this section shall not  
33 16 waive the confidentiality of the reports ~~under section 22.7.~~

33 17 Sec. 61. Section 716.6B, subsection 1, paragraph a, Code  
33 18 2009, is amended to read as follows:

33 19 a. An aggravated misdemeanor if computer data is accessed  
33 20 that contains ~~a~~ an optional confidential record, as defined in  
33 21 section 22.7, operational or support data of a public utility,  
33 22 as defined in section 476.1, operational or support data of a  
33 23 rural water district incorporated pursuant to chapter 357A or  
33 24 504, operational or support data of a municipal utility  
33 25 organized pursuant to chapter 388 or 389, operational or  
33 26 support data of a public airport, or a trade secret, as  
33 27 defined in section 550.2.

33 28 Sec. 62. Section 907.4, Code 2009, is amended to read as  
33 29 follows:

33 30 907.4 DEFERRED JUDGMENT DOCKET.

33 31 A deferment of judgment under section 907.3 shall be  
33 32 entered promptly by the clerk of the district court, or the  
33 33 clerk's designee, into the deferred judgment database of the  
33 34 state, which shall serve as the deferred judgment docket. The  
33 35 docket shall contain a permanent record of the deferred  
34 1 judgment including the name and date of birth of the  
34 2 defendant, the district court docket number, the nature of the  
34 3 offense, and the date of the deferred judgment. Before  
34 4 granting deferred judgment in any case, the court shall search  
34 5 the deferred judgment docket and shall consider any prior  
34 6 record of a deferred judgment against the defendant. The  
34 7 permanent record provided for in this section is ~~a~~ an optional  
34 8 confidential record exempted from public access under section  
34 9 22.7 and shall be available only to justices of the supreme  
34 10 court, judges of the court of appeals, district judges,  
34 11 district associate judges, judicial magistrates, clerks of the  
34 12 district court, judicial district departments of correctional  
34 13 services, county attorneys, and the department of corrections  
34 14 requesting information pursuant to this section, or the  
34 15 designee of a justice, judge, magistrate, clerk, judicial  
34 16 district department of correctional services, or county  
34 17 attorney, or department.

34 18 Sec. 63. Section 915.90, unnumbered paragraph 1, Code  
34 19 2009, is amended to read as follows:

34 20 A person in possession or control of investigative or other  
34 21 information pertaining to an alleged crime or a victim filing  
34 22 for compensation shall allow the inspection and reproduction  
34 23 of the information by the department upon the request of the  
34 24 department, to be used only in the administration and  
34 25 enforcement of the crime victim compensation program.  
34 26 Information and records which are optional confidential  
34 27 records under section 22.7 and information or records received  
34 28 from ~~the confidential~~ such information or records remain  
34 29 confidential under this section.

34 30 Sec. 64. Section 22.6, Code 2009, is repealed.

34 31 Sec. 65. EFFECTIVE DATE. This Act takes effect July 1,

34 32 2010.

34 33 EXPLANATION

34 34 This bill relates to Iowa's Open Meetings Law (Code chapter  
34 35 21) and Iowa's Public Records Law (Code chapter 22) and  
35 1 creates the public records, open meetings, and privacy  
35 2 advisory committee.

35 3 DEFINITION OF MEETING. The bill expands the definition of  
35 4 "meeting" under the open meetings law to include serial  
35 5 gatherings of members of a governmental body who constitute  
35 6 less than a majority of the members at each gathering, but who  
35 7 collectively constitute a majority of the members, where the  
35 8 series of gatherings includes deliberation or action upon any  
35 9 matter within the scope of the governmental body's  
35 10 policy-making duties. The bill specifies that a "meeting"  
35 11 does not include written electronic communications by one or  
35 12 more members of a governmental body or by its chief executive  
35 13 officer that are ordinarily preserved and are accessible and  
35 14 that are sent to a majority of the members of the governmental  
35 15 body, or a series of such written electronic communications  
35 16 each sent only to a minority of the members of the  
35 17 governmental body but that in the aggregate are sent to a  
35 18 majority of the members, that both concern a particular matter  
35 19 within the scope of the governmental body's policymaking  
35 20 duties and would otherwise constitute a meeting, if the  
35 21 written electronic communications, to the extent such  
35 22 communications are not exempt from disclosure, are either  
35 23 posted on the governmental body's internet site or public  
35 24 bulletin board prior to the next regular meeting or copies are  
35 25 made available for public inspection at the governmental  
35 26 body's next meeting. If a special meeting is held on the  
35 27 subject matter of the communications before the next regular  
35 28 meeting, the communications shall be posted prior to the  
35 29 special meeting or made available for public inspection at  
35 30 that meeting.

35 31 The bill provides that except as otherwise provided, a  
35 32 reconvened meeting of a governmental body is also subject to  
35 33 the meeting notice requirements pursuant to Code section 21.4.  
35 34 This requirement does not apply to a meeting of a governmental  
35 35 body that is reconvened within four hours of the start of its  
36 1 recess, where an announcement of the time, date, and place of  
36 2 the reconvened meeting is made at the original meeting in open  
36 3 session and recorded in the minutes of the meeting and there  
36 4 is no change in the agenda. The notice requirement also does  
36 5 not apply to a meeting held by a formally constituted subunit  
36 6 of a parent governmental body during a lawful meeting of the  
36 7 parent governmental body or during a recess in that meeting of  
36 8 up to four hours, or a meeting of that subunit immediately  
36 9 following the meeting of the parent governmental body, if the  
36 10 meeting of the subunit is publicly announced in open session  
36 11 at the parent meeting and the subject of the meeting  
36 12 reasonably coincides with the subjects discussed or acted upon  
36 13 by the parent governmental body. The bill also changes all  
36 14 references relating to "tape" recordings of closed meetings to  
36 15 "audio" recordings.

36 16 CIVIL AND CRIMINAL PENALTY PROVISIONS. The bill increases  
36 17 the civil penalty damage amounts for violations of the open  
36 18 meetings and public records laws for each member of the  
36 19 governmental body or each person who knowingly participated in  
36 20 the violation from not less than \$100 and not more than \$500  
36 21 to not less than \$1,000 and not more than \$2,500 subject to  
36 22 the existing defenses contained in Code sections 21.6 and  
36 23 22.10. The bill retains the current civil penalty damage  
36 24 amounts for such violations for each member of the  
36 25 governmental body or each person who participated in the  
36 26 violation (\$100 to \$500).

36 27 The bill repeals the criminal penalty provision for knowing  
36 28 violations or attempts to violate any provisions of the public  
36 29 records law.

36 30 PUBLIC RECORDS == CHAPTER PURPOSE. The bill provides a  
36 31 purpose provision in the public records chapter. The bill  
36 32 provides the purpose of the public records law is to provide  
36 33 as much transparency in government operations as possible  
36 34 consistent with the need to avoid undue invasions of personal  
36 35 privacy.

37 1 RECORDS DEFINITIONS. The bill amends the terms used to  
37 2 identify records and different classes of records under the  
37 3 public records law.

37 4 The bill defines a "record" under Code chapter 22 to mean  
37 5 information of every kind, nature, and form preserved or  
37 6 stored in any medium including but not limited to paper,  
37 7 electronic media, or film media. The bill also designates the



37 8 following categories of records in Code chapter 22:

37 9 1. "Government record" means a record owned by, created  
37 10 by, in the possession of, or under the control of, any unit,  
37 11 division, or part of state or local government or the  
37 12 officials or employees of such bodies in the course of the  
37 13 performance of their respective duties.

37 14 2. "Public record" means a government record which a  
37 15 member of the public has an unqualified right to examine and  
37 16 copy and includes a government record not designated by  
37 17 statute as either a confidential record or an optional  
37 18 confidential record.

37 19 3. "Confidential record" means a government record  
37 20 designated by statute as unavailable for examination and  
37 21 copying by a member of the public.

37 22 4. "Optional confidential record" means a government  
37 23 record designated by statute as unavailable for examination  
37 24 and copying by a member of the public unless otherwise ordered  
37 25 by a court, by the lawful custodian of the records, or by  
37 26 another person duly authorized to release such information.

37 27 The bill makes conforming changes throughout the Code based  
37 28 upon the new identification terms for various classes of  
37 29 records established in the bill for Code chapter 22. The  
37 30 conforming terminology changes provide for a continuation of  
37 31 the current public disclosure status of records. Additional  
37 32 conforming changes to these and other Code provisions may be  
37 33 necessary to fully implement the new identification terms for  
37 34 various classes of records established by the bill.

37 35 RECORDS ACCESS == GOVERNMENT BODY CONTRACTS WITH  
38 1 NONGOVERNMENT BODY. Current law provides that a government  
38 2 body may not avoid application of the public records law by  
38 3 contracting out any of its functions to a nongovernment person  
38 4 or entity. The bill provides that a record created by, in the  
38 5 possession of, or under the control of, any nongovernment body  
38 6 or person which is a direct part of the execution or  
38 7 performance of duties imposed upon the nongovernment body or  
38 8 person by contract with a government body under which the  
38 9 nongovernment body or person performs a function of the  
38 10 government body is a government record. The lawful custodian  
38 11 of such a government record is the government body with whom  
38 12 the nongovernment body or person has executed the contract.  
38 13 Consistent with this change, the bill makes a conforming  
38 14 amendment relating to records involving charitable donations  
38 15 and specifies that, unless otherwise provided, the lawful  
38 16 custodian of all records relating to the receipt, holding, and  
38 17 disbursement of gifts made for the benefit of regents  
38 18 institutions and made through foundations established for the  
38 19 support of regents institutions is the regents institution to  
38 20 be benefited by such gifts.

38 21 RECORDS REQUESTS == TIME LIMITS. The bill provides that  
38 22 upon receipt of an oral or written request to examine or copy  
38 23 a public record, the lawful custodian shall, if feasible in  
38 24 the ordinary course of business, permit such examination or  
38 25 copying at the time of the request. If it is not feasible in  
38 26 the ordinary course of business to permit examination or  
38 27 copying of the public record at the time of the request, the  
38 28 lawful custodian shall immediately notify the requester,  
38 29 orally or in writing, when such examination or copying may  
38 30 take place which shall be no later than five business days  
38 31 from the time of the request unless there is good cause for  
38 32 further delay. If further delay is necessary because of good  
38 33 cause, the lawful custodian shall provide the requester with a  
38 34 written statement detailing the reason or reasons for the  
38 35 delay and the date by which the request will be satisfied.

39 1 If the lawful custodian is in doubt as to whether the  
39 2 record requested is a public record or whether the requester  
39 3 should be permitted to examine or copy a record specified in  
39 4 Code section 22.7, the lawful custodian shall make that  
39 5 determination within 10 business days from the date of the  
39 6 request unless further delay is necessary. Examination or  
39 7 copying of the record shall be allowed within five business  
39 8 days from the date the lawful custodian makes the decision to  
39 9 permit examination or copying of the record unless there is  
39 10 good cause for further delay in fulfilling the request. If  
39 11 the lawful custodian denies a request to examine or copy a  
39 12 record, the custodian must provide the requester at the time  
39 13 of the denial a written statement denying the request and  
39 14 detailing the specific reason or reasons for the denial. If  
39 15 the lawful custodian does not fulfill a request to examine or  
39 16 copy a public record within the time frames prescribed, the  
39 17 request shall be deemed denied and the requester shall be  
39 18 entitled to file a lawsuit against the lawful custodian

39 19 pursuant to Code section 22.10.  
39 20 PUBLIC RECORDS INFORMATION OFFICER. The bill provides that  
39 21 a government body shall designate and publicly identify a  
39 22 public records officer as a point of contact for the public  
39 23 requesting access to a government record. The public records  
39 24 officer shall also ensure the government body's record  
39 25 retention and destruction policies and procedures comply with  
39 26 the applicable law.

39 27 SUPERVISION == FEES. The bill provides that a lawful  
39 28 custodian may charge a reasonable fee for reviewing records  
39 29 for optional confidential or confidential record information  
39 30 prior to release. If the lawful custodian is a state  
39 31 executive branch agency, the lawful custodian shall provide  
39 32 such services without charge to the requester for up to three  
39 33 hours per month.

39 34 APPRAISAL INFORMATION. Current law provides that appraisal  
39 35 or appraisal information concerning the purchase of real or  
40 1 personal property for public purposes, prior to public  
40 2 announcement of a project, shall be confidential. The bill  
40 3 amends this law to provide that such information shall remain  
40 4 confidential prior to the submission of the appraisal to the  
40 5 property owner or other interest holders as provided in Code  
40 6 section 6B.45.

40 7 PERSONAL INFORMATION IN CONFIDENTIAL PERSONNEL RECORDS.  
40 8 Current law provides that personal information in confidential  
40 9 personnel records of government bodies shall be confidential,  
40 10 unless otherwise ordered by a court, by the lawful custodian,  
40 11 or by another duly authorized person to release such  
40 12 information. The bill specifies that the name and  
40 13 compensation of the individual, the date the individual was  
40 14 employed by the government body, the positions the individual  
40 15 holds or has held with the government body, the individual's  
40 16 qualifications for the position that the individual holds or  
40 17 has held including but not limited to educational background  
40 18 and work experience, and any final disciplinary action taken  
40 19 against the individual that resulted in the individual's  
40 20 discharge shall be public records. Personal information in  
40 21 confidential personnel records of government bodies relating  
40 22 to student employees shall only be released pursuant to the  
40 23 requirements of the Federal Family Educational Rights and  
40 24 Privacy Act (FERPA).

40 25 PUBLIC EMPLOYMENT APPLICATIONS. The bill provides that  
40 26 identity and qualifications of an applicant for employment by  
40 27 a government body if the applicant requests anonymity in  
40 28 writing and the government body determines that anonymity is  
40 29 necessary to induce the applicant to apply for the public  
40 30 employment position shall be confidential unless otherwise  
40 31 ordered by a court, by the lawful custodian, or by another  
40 32 duly authorized person. Such information shall be exempt from  
40 33 disclosure until an applicant is considered by the government  
40 34 body to be a finalist for a position in public employment.  
40 35 "Finalist" means a person who is one of five or fewer  
41 1 applicants under final consideration for a public employment  
41 2 position. If there are five or fewer applicants for the  
41 3 particular position, all of the applicants shall be considered  
41 4 finalists. The identities and qualifications of the finalists  
41 5 shall be made available for public inspection at least three  
41 6 business days prior to the final decision. Documents relating  
41 7 to a government body's evaluation of the qualifications and  
41 8 merits of an applicant for employment by a government body are  
41 9 also confidential records unless otherwise released by the  
41 10 appropriate person.

41 11 TENTATIVE, PRELIMINARY, OR DRAFT MATERIALS. Tentative,  
41 12 preliminary, draft, speculative, or research material, created  
41 13 prior to its final completion for the purpose for which it is  
41 14 intended and in a form prior to the form in which it is  
41 15 submitted for use in the final formulation, recommendation,  
41 16 adoption, or execution of any official policy or action by a  
41 17 public official authorized to make such decisions for the  
41 18 government body, are confidential unless ordered otherwise by  
41 19 the appropriate official. Such materials shall be treated as  
41 20 public record at the time they are actually used as the basis  
41 21 for the final formulation, recommendation, adoption, or  
41 22 execution of any official policy or action of a government  
41 23 body.

41 24 INJUNCTION RESTRAINING EXAMINATION OF PUBLIC RECORDS.  
41 25 Current law provides that, under specified circumstances, a  
41 26 district court may grant an injunction restraining the  
41 27 examination, including copying, of a specific public record or  
41 28 a narrowly drawn class of public records. Such an injunction  
41 29 may be issued only if the petition supported by affidavit

41 30 shows and if the court finds that the examination would  
41 31 clearly not be in the public interest and that the examination  
41 32 would substantially and irreparably injure any person or  
41 33 persons. The bill amends this provision to provide that the  
41 34 district court may grant an injunction upon a finding that the  
41 35 examination would clearly not be in the public interest  
42 1 because the potential harm to the public interest from  
42 2 disclosure of the particular information involved clearly  
42 3 outweighs any potential benefit to the public interest from  
42 4 disclosure, or that the examination would substantially and  
42 5 irreparably injure any person or persons because it would  
42 6 invade the personal privacy of the identified subject of the  
42 7 record and the harm to that person from such disclosure is not  
42 8 outweighed by the public interest in its disclosure, or that  
42 9 the record at issue is not a public record, or that a  
42 10 determination by the custodian to permit inspection of an  
42 11 optional public record by one or more members of the public is  
42 12 a violation of law or is arbitrary, capricious, unreasonable,  
42 13 or an abuse of discretion.

42 14 SETTLEMENT AGREEMENTS. Code chapter 22 currently provides  
42 15 that a written summary of the terms of settlement or other  
42 16 disposition of any claim for damages made against any  
42 17 government body or against an employee, officer, or agent of a  
42 18 government body, by an insurer pursuant to a contract of  
42 19 liability insurance issued to the government body, shall be  
42 20 filed with the government body and shall be a public record.  
42 21 The bill provides that all final binding settlement agreements  
42 22 between any government body of this state or other unit or  
42 23 official of such a government body that resolves a legal  
42 24 dispute between such a government body and another person or  
42 25 entity shall be filed with the government body together with a  
42 26 brief summary indicating the identity of the parties involved,  
42 27 the nature of the dispute, any underlying relevant facts, and  
42 28 the terms of the settlement. The settlement agreement and  
42 29 summary shall be available for public inspection.

42 30 TAX-EXEMPT BONDING AUTHORITY == CODE CHAPTER 7C == MEETINGS  
42 31 AND RECORDS. The bill provides that an entity eligible to  
42 32 exercise tax-exempt bonding authority under Code chapter 7C  
42 33 designated by the state to serve as a secondary market for  
42 34 student loans and a nonprofit tax-exempt bonding authority  
42 35 under Code chapter 7C whose board of directors is appointed by  
43 1 the governor is subject to the provisions of the open meetings  
43 2 and public records laws.

43 3 JUDICIAL BRANCH == RULES. The bill provides that Code  
43 4 chapter 22 does not apply to government records owned,  
43 5 created, possessed, or under the control of the judicial  
43 6 branch related to the performance by the courts of their  
43 7 judicial functions. The bill provides the supreme court shall  
43 8 prescribe rules governing access to such records consistent  
43 9 with the purposes of Code chapter 22.

43 10 OPEN MEETINGS, PUBLIC RECORDS, AND PRIVACY ADVISORY  
43 11 COMMITTEE. The bill creates an open meetings, public records,  
43 12 and privacy advisory committee to serve as a resource for  
43 13 public access to government information in light of the policy  
43 14 of the state to provide as much public access to government  
43 15 information and proceedings as is consistent with the public  
43 16 interest and the need to protect individuals against undue  
43 17 invasions of personal privacy. The advisory committee shall  
43 18 consist of 16 members, including 12 voting members and four  
43 19 nonvoting, legislative members. The advisory committee shall  
43 20 serve as the central coordinator of information about the  
43 21 public's right to access government information and  
43 22 proceedings. The advisory committee shall provide basic  
43 23 information about the requirements of Code chapters 21 and 22  
43 24 and other relevant freedom of information laws, shall provide  
43 25 information about best practices for state and local  
43 26 governments to comply with and to enforce such laws, shall  
43 27 serve as a resource to support the establishment and  
43 28 maintenance of a central publicly accessible internet site and  
43 29 to support education and training about Code chapters 21 and  
43 30 22 and other relevant freedom of information laws to lawful  
43 31 custodians and other persons subject to the requirements of  
43 32 such laws, shall submit a report and make recommendations to  
43 33 the governor and the general assembly by evaluating and  
43 34 proposing legislation relating to public access to government  
43 35 information, shall conduct public hearings, conferences,  
44 1 workshops, and other meetings as necessary to address problems  
44 2 and suggest solutions concerning access to government  
44 3 information and proceedings, and shall review the collection,  
44 4 maintenance, and use of government records by lawful  
44 5 custodians to ensure that confidential records and information

44 6 are adequately protecting personal privacy interests.  
44 7 EFFECTIVE DATE. The bill takes effect July 1, 2010.  
44 8 LSB 2139YC 83  
44 9 rh/rj/14