

Senate File 2044 - Introduced

SENATE FILE 2044

BY JOHNSON

A BILL FOR

1 An Act relating to taxation by providing for the protection
2 from disallowance of tax benefits to private nonprofit
3 educational institutions because of certain religious
4 beliefs and moral convictions, and including effective date
5 provisions.

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

1 Section 1. FINDINGS. The general assembly finds all of the
2 following:

3 1. Private nonprofit educational institutions play a vital
4 role in providing formal education in society, and the United
5 States and Iowa support and recognize these institutions in
6 part by providing important and necessary tax benefits.

7 2. The United States and Iowa have a long, honorable history
8 of accommodating religious exercise and establishing conscience
9 protections based on religious and moral convictions.

10 3. Protecting the tax benefits available to private
11 nonprofit educational institutions from being denied based
12 on religious or moral convictions is a state interest of the
13 highest order. The state is obligated to take measures that
14 advance this interest by remedying, deterring, and preventing
15 government interference with religious exercise in a way that
16 complements the protections mandated by the Constitution of the
17 State of Iowa and the Constitution of the United States.

18 4. In 2015, during the course of oral argument at the United
19 States Supreme Court, in *Obergefell v. Hodges*, 135 S. Ct.
20 2584 (2015), when Justice Alito asked whether an institution
21 could lose its tax-exempt status for maintaining the view that
22 marriage is the union of one man and one woman, the solicitor
23 general of the United States admitted it was "going to be an
24 issue".

25 5. In the *Obergefell v. Hodges* opinion, the United States
26 Supreme Court held same-sex couples have a right to marry, but
27 also noted, "Many who deem same-sex marriage to be wrong reach
28 that conclusion based on decent and honorable religious or
29 philosophical premises, and neither they nor their beliefs are
30 disparaged here".

31 6. In the wake of the *Obergefell v. Hodges* decision, leading
32 legal scholars concur that conflict between same-sex marriage
33 and religious liberty are inevitable and, therefore, should be
34 addressed through legislation.

35 7. The state of Iowa has an obligation to refrain from

1 discriminating against those who maintain a belief that
2 marriage is the union of one man and one woman based on
3 religious and moral convictions.

4 8. Laws that protect important and necessary tax benefits
5 from being denied because of the free exercise of religious
6 beliefs and moral convictions about marriage will encourage
7 private citizens and institutions to demonstrate tolerance for
8 those beliefs and convictions and therefore contribute to a
9 more respectful, diverse, and peaceful society.

10 Sec. 2. NEW SECTION. **421.62 Private educational institution**
11 **tax benefits — protection of the free exercise of religious**
12 **beliefs and moral convictions.**

13 1. For purposes of this section, unless otherwise required
14 by the context:

15 a. "*Private educational institution*" includes a private
16 elementary or secondary school in the state, or a private
17 postsecondary educational institution in the state.

18 b. "*Tax benefit*" means an exclusion from the operation
19 or collection of a tax imposed in this state, including tax
20 credits, exemptions, deductions, rebates, and refunds.

21 2. Notwithstanding any other provision of state law to
22 the contrary, if a provision of the Code grants a tax benefit
23 that applies to, or is dependent upon, a private educational
24 institution that is recognized as nonprofit, or exempt from
25 federal taxation under section 501(a) of the Internal Revenue
26 Code, such tax benefit shall not be disallowed on or after the
27 effective date of this Act because the private educational
28 institution believes, acts, or teaches in accordance with a
29 religious belief or moral conviction that marriage is or should
30 be recognized as the union of one man and one woman, or that
31 sexual relations are properly reserved to such marriage, or
32 because the private educational institution was disallowed a
33 tax exemption under section 501(a) of the Internal Revenue Code
34 on the basis of those beliefs, acts, or teachings.

35 3. The protection of tax benefits provided in this section

1 applies to but is not limited to the following provisions:

2 *a.* The redevelopment tax credits under sections 15.291
3 through 15.295.

4 *b.* The workforce housing tax incentives under sections
5 15.351 through 15.356.

6 *c.* The exemption from the fee for new registration under
7 section 321.105A, subsection 2, paragraph "*c*", subparagraphs
8 (1) and (21), and subsection 3, paragraph "*f*".

9 *d.* The historic preservation and cultural and entertainment
10 district tax credit under chapter 404A.

11 *e.* The charitable contribution deduction in section 422.9,
12 subsection 2. The amount of contributions that would have been
13 deductible as a charitable contribution under section 170 of
14 the Internal Revenue Code but for the fact that the private
15 educational institution that was the recipient or beneficiary
16 of the contribution was disallowed a tax exemption under
17 section 501(a) of the Internal Revenue Code for the reason
18 described in subsection 2 of this section, shall be allowed
19 as a deductible charitable contribution under section 422.9,
20 subsection 2.

21 *f.* The school tuition organization tax credit under section
22 422.11S.

23 *g.* The charitable conservation contribution tax credit under
24 sections 422.11W and 422.33, subsection 25.

25 *h.* The tuition tax credit under section 422.12, subsection
26 2, paragraph "*b*".

27 *i.* The exemption from corporate income tax under section
28 422.34, subsection 2.

29 *j.* The charitable contribution deduction in determining
30 federal taxable income of a corporation or financial
31 institution for purposes of the net income computation under
32 section 422.35 or 422.61, as applicable. A corporation or
33 financial institution is allowed an additional subtraction
34 in computing net income equal to the amount of contributions
35 that would have been deductible as a charitable contribution

1 under section 170 of the Internal Revenue Code for purposes
2 of computing federal taxable income but for the fact that the
3 private educational institution that was the recipient or
4 beneficiary of the contribution was disallowed a tax exemption
5 under section 501(a) of the Internal Revenue Code for the
6 reason described in subsection 2 of this section.

7 *k.* The sales tax exemptions in section 423.3, subsections
8 17, 78, 80, and 89.

9 *l.* The sales tax refunds in section 423.4, subsections 1
10 and 6.

11 *m.* The property tax exemptions in section 427.1, subsections
12 7 and 8.

13 *n.* The inheritance tax exemption in section 450.4,
14 subsection 2. Property that passes for a purpose that would
15 have qualified as a charitable, educational, or religious
16 purpose as defined in sections 170(c) and 2055 of the Internal
17 Revenue Code but for the fact that the private educational
18 institution that was the recipient or beneficiary of the
19 property was disallowed a tax exemption under section 501(a)
20 of the Internal Revenue Code for the reason described in
21 subsection 2 of this section shall be considered exempt from
22 inheritance tax under section 450.4, subsection 2.

23 4. This section shall be construed in favor of a broad
24 protection of free exercise of religious beliefs and moral
25 convictions, to the maximum extent permitted by the terms of
26 this section and the Constitution of the State of Iowa and the
27 Constitution of the United States.

28 5. The protection of free exercise of religious beliefs
29 and moral convictions afforded by this section are in addition
30 to the protections provided under federal law, state law, and
31 the Constitution of the State of Iowa and the Constitution of
32 the United States. This section shall not be construed to
33 preempt or repeal any state or local law that is equally or
34 more protective of free exercise of religious beliefs or moral
35 convictions, and this section shall not be construed to narrow

1 the meaning or application of any state or local law protecting
2 free exercise of religious beliefs or moral convictions.

3 6. If any provision of this section or the application
4 thereof to any person or circumstances is held invalid, the
5 invalidity shall not affect other provisions or applications
6 of this section which can be given effect without the invalid
7 provisions or application and, to this end, the provisions of
8 this section are severable.

9 Sec. 3. EFFECTIVE UPON ENACTMENT. This Act, being deemed of
10 immediate importance, takes effect upon enactment.

11 EXPLANATION

12 The inclusion of this explanation does not constitute agreement with
13 the explanation's substance by the members of the general assembly.

14 This bill protects tax benefits of private nonprofit
15 educational institutions from being disallowed because of
16 certain religious beliefs and moral convictions. The bill also
17 makes several findings, including but not limited to findings
18 related to the state interest in protecting tax benefits of
19 private nonprofit educational institutions, and in protecting
20 and promoting the free exercise of religious beliefs and moral
21 convictions about marriage.

22 The bill provides that notwithstanding any other provision
23 of state law to the contrary, if a tax benefit is available
24 under Iowa law that applies to, or is dependent upon, a private
25 educational institution that is recognized as nonprofit, or
26 exempt from federal taxation under Internal Revenue Code (IRC)
27 §501(a), such tax benefit shall not be disallowed on or after
28 the effective date of the bill because the private educational
29 institution believes, acts, or teaches in accordance with a
30 religious belief or moral conviction that marriage is or should
31 be recognized as the union of one man and one woman, or that
32 sexual relations are properly reserved to such marriage, or
33 because the private educational institution was disallowed a
34 tax exemption under IRC §501(a) on the basis of those beliefs,
35 acts, or teachings. "Private educational institution" and "tax

1 benefit" are both defined in the bill.

2 The bill provides a nonexhaustive list of tax benefits to
3 which the protection from disallowance applies and in certain
4 cases provides for how those tax benefits shall be administered
5 when the protection from disallowance becomes applicable.

6 The nonexhaustive list includes the redevelopment tax
7 credits, the workforce housing tax incentives, several
8 exemptions from the fee for new registration, the historic
9 preservation and cultural and entertainment district tax
10 credit, the school tuition organization tax credit, the
11 charitable conservation contribution tax credit, the tuition
12 tax credit, the exemption from the corporate income tax,
13 several sales tax exemptions and refunds, several property tax
14 exemptions, the charitable contribution deductions under the
15 individual and corporate income tax and franchise tax, and the
16 charitable contribution exemption under the inheritance tax.
17 With regard to charitable contributions, the bill provides
18 that contributions or bequests that would have qualified as
19 tax-deductible charitable contributions under the IRC but for
20 the fact that the private educational institution that was the
21 recipient or beneficiary of the property was disallowed a tax
22 exemption under IRC §501(a) for believing, acting, or teaching
23 in a way described in the bill, shall be considered deductible
24 contributions under the individual and corporate income tax
25 and franchise tax, and shall be considered exempt under the
26 inheritance tax.

27 The bill is to be construed in favor of a broad protection
28 of free exercise of religious beliefs and moral convictions,
29 to the maximum extent permitted by the terms of the bill and
30 the Constitutions of the State of Iowa and of the United
31 States. The protection of free exercise of religious beliefs
32 and moral convictions afforded by the bill are in addition to
33 the protections provided under federal law, state law, and the
34 Constitutions of the State of Iowa and of the United States,
35 and the bill is not to be construed to preempt or repeal any

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1 state or local law that is equally or more protective of free
2 exercise of religious beliefs or moral convictions or to narrow
3 the meaning or application of any state or local law protecting
4 free exercise of religious beliefs or moral convictions.

5 The provisions of the bill are severable. The bill takes
6 effect upon enactment.