



“Be sure you put your feet in the right place, then stand firm.” - Abraham Lincoln

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House Republican Talking Points

Inside this issue:

Budget Targets

As House Republicans begin rolling out our budget targets, we will craft a budget with job creators in mind. Our conservative approach will create stability and certainty for all Iowans.

Our Budget Returns to Commonsense Budgeting Principles

We will align ongoing spending with ongoing revenue. Iowans cannot afford a government that spends more money than it takes in. Anything less jeopardizes Iowa's long-term economic health.

We will end the practice of using one-time money for ongoing expenses. This is not how

Iowans balance their own checkbooks at home and it's not how House Republicans will balance the government checkbook

As economic uncertainty continues throughout the country, it is imperative that we take a conservative approach to the budget to give stability for Iowa's job creators. Controlling government spending by spending less than the government takes in demonstrates a commitment to commonsense budgeting and economic health that employers deserve. The threat of higher taxes kills job creation.

Our Plan Reflects Iowans' Priorities

- The House Republican 2012 Budget Targets Reflect a Long-Term Approach: The private sector isn't growing, family incomes aren't growing... government shouldn't be growing. House Republicans have continued their efforts of listening to Iowans and digging deep into the budgets, with a line by line review to cut out waste and find efficiencies. With Iowans help, we will once again create a state budget that is efficient and ef-

fective.

- The House Republicans will spend just 97 percent of ongoing revenue. By comparison, the Republican budget spends \$313 million less than Fiscal Year 2011, the Democrats' last budget. This is an efficient budget that funds Iowans' priorities. House Republican budget targets reflect a growth rate of just under 1%. For the first time since FY 2000, property tax credits are fully funded. House Republicans have included a provision requiring every state employee contribute at least \$200 a month to their health insurance. Many contribute zero right now. The ending balance of roughly \$300 million is deposited in the Taxpayer Trust Fund. Taxpayers can no longer afford to carry the full burden for every state employee's health insurance. Asking all employees, including state legislators, to contribute at least \$200 towards their own health care is the right thing to do. Now is not the time to increase spending. Any excess revenue is an overpayment by the taxpayers and should not be spent. As we operate under the threat of the federal government eliminating money sent to Iowa, we should be prepared for the worst. The Senate Democrats' have a history of increasing government spending and using budget tricks to spend

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more than the state has in ongoing revenue. These outdated practices mean we will back in a few years dealing with the same problems. House Republicans are committed to passing budgets that are fact-based and accountable to Iowans.

- In fiscal year 2007, the last budget Republicans approved prior to regaining the majority in the Iowa House, was just \$5.3 billion. Over the last 5 years state government grew too fast and spent too much. State government is still taking too much from Iowans and Iowa employers. Savings and efficiencies are necessary to provide the certainty needed for taxpayers to start investing and planning for the future instead of just treading water.

#### Jobs, Savings and Certainty

- The best way to help Iowa's employers to begin hiring people and investing in their businesses is to do two things: address property taxes and keep control of government spending.
- Property tax reform provides savings for individuals and businesses and it provides certainty for those same people as the plan for their futures.
- Controlling government spending by spending less than the government receives demonstrates a commitment to commonsense budgeting and economic health that employers deserve. The threat of higher taxes stops employers from hiring and investing.
- Iowa families and Iowa employers are struggling with high property taxes and government that is demanding more and more. This burden is impeding job growth and hurting the economic health of our communities.
- Our goal is to have a property tax system and state budget that contributes instead of takes away from economic, family and community health. Iowans deserve quality jobs that will develop into careers. They deserve the peace of mind to plan for their futures.

#### Property Tax Reform & Relief

- Over the last ten years, school rates have increased 60 percent, county rates have increased 64 percent and city rates have gone up 74 percent. Over the same time period, Iowans' personal income only grew by 46 percent. These kind of out-of-control tax hikes are not sustainable.
- If we do nothing, the hardworking Iowa taxpayers are looking down the barrel of a \$2.3 billion property tax increase over the next 10 years, with the majority of that falling to homeowners.
- Property tax reform affects Iowa's economy and jobs. High property taxes keep businesses of all sizes from expanding, hiring or even settling on Iowa.
- We must ensure that one group of taxpayers is not pitted against the other. ALL Iowans deserve to see relief in their tax bill. Additionally, we must not shift the burden to any class of property taxpayers to another.
- The House GOP plan is the only plan that addresses all classes of property. Leaving out residential property taxpayers locks in a shift that results in a significant property tax increase for homeowners. The House GOP plan provides certainty to taxpayers and allows long term planning by employers.
- The House GOP plan is the only plan that removes taxing authority. This has to happen in order to ensure real, genuine property tax relief. Otherwise, it is short term temporary patch and the Legislature will be back in the same place in a few years trying to address the same problem.
- Democrats' insistence on protecting local government revenues continues to be the major stumbling block in achieving any level of real, genuine property tax relief. In fact, the plan approved by the Senate Democrats last year leads to an increase in residential property taxes. We can do better than picking one set of winners in this effort.

#### Myth of the \$1 Billion Surplus

- The so-called "surplus" is actually:
  - \$600 million in one-time cash reserve funds (needed to help the state cash flow)
  - \$250 million in one-time ending balance from this year (FY 12)
  - \$200 million in on-going revenue growth for next year (FY 13)
- The state budget is really about \$12 billion. \$6 billion appropriated by the state and \$6 billion received from the federal government.
- State law requires that 10% of the budget be set aside in cash reserves and not spent on ongoing operations. This means the \$600 million is off-limits for existing and new spending.
- The Legislature can legally spend the \$250 million in one-time ending balance money from this year. However, this is a reckless and short-sighted budgeting practice because it builds \$250 million of spending the following year with no one-time money to pay for the new spending.
- While the Legislature can spend up to 99% of the projected revenue, it is not required to spend at the level. The economy, federal debt, and anticipated federal cuts that will impact the \$6 billion in federal funds receive by the state require commonsense and discipline.

#### Controlling Government Spending and Creating Jobs Go Hand in Hand

- Controlling government spending by spending less than the government receives demonstrates a commitment to commonsense budgeting and economic health that employers deserve. The threat of higher taxes needs to be removed.
- Our goal is to have a responsible state

budget that contributes instead of takes away from economic, family and community health. Iowans deserve quality jobs that will develop into careers. They deserve the peace of mind to plan for their futures.

- Iowa's employers need a commitment from the Legislature to keep government from spending more than it takes in. Spending more than the state receives sets up individuals and employers for tax increases. They need the certainty that this will not happen.
- The benefit of an efficient and respon-

sible state budget is jobs, savings and certainty.

- In fiscal year 2007, the last budget Republicans approved prior to regaining the majority in the Iowa House, was just \$5.3 billion. State government is growing too fast and spending too much. State government is still taking too much from Iowans and Iowa employers. Savings and efficiencies are necessary to provide the certainty needed for taxpayers to start investing and planning for the future instead of just treading water.

#### DOT Savings

- This is what every department and every agency should be submitting to

Iowans, a plan to save money instead of plans to spend more their tax dollars.

- House Republicans commend Gov. Branstad and officials at the Department of Transportation for reviewing their department to find efficiencies. For those areas that require the legislature to act, we will begin the review right away.
- Iowans deserve an efficient and effective state government and House Republicans are going to continue to work hard to ensure taxpayer dollars dedicated to roads and bridges are being spent wisely.

## Appropriations

(Contact Lon Anderson at 1-5184.)

### House Republicans Propose Conservative Budget Blueprint

On Thursday, February 2, House Republicans announced targets for the FY 2013 budget. The budget targets fulfill the campaign promise of aligning ongoing spending with ongoing revenue. A stable and sustainable budget is a key to creating a climate that promotes job growth.

House Republicans have proposed a budget that is honest, transparent, and sustainable. The budget does not spend more than the state takes in, and will provide for priority services in the areas of education, health and human services, and public safety. It also does not use one-time money to balance the budget and it does not purposefully underfund commitments like the property tax credits.

The House Republican Budget proposal spends \$6.059 billion, or \$313 million less than the total overall spending for FY 2011 and \$59.9 million more than the FY 2012 budget. The increase is almost all due to \$55 million to fully fund the property tax credits. If enacted, this will be the first time the property tax credits have been fully-funded since FY 2000. Despite the increase to fund the property tax credits, it is still only a 1 percent budget growth over FY 2012.

A key component of the targets is \$42.9 million for state employees to contribute to the cost of their health insurance. This assumes that all state employees, including legislators, will pay at least \$200 per month for their premiums. This is a reasonable

thing to ask considering the private sector premiums.

Another key component is \$20 million in efficiency savings. The bill, which will originate in the State Government Committee, shows House Republicans are committed to the most efficient government possible. House Republicans will continue to find efficiencies that the taxpayers demand.

**“\$313 million less than the total overall spending for FY 2011.”**

The FY 2011 budget spent \$6.372 billion in total. This includes \$5.344 billion from the general fund, \$872 million in other funds used for ongoing spending and \$156 million of underfunded K-12 spending.

The FY 2012 budget spends \$6.137 billion in total. This includes \$5.999 billion from the general fund, \$106 million from the Health Care Trust Fund and \$32.5 million in commerce revolving fund. This is \$235 million less than total spending in FY 2011.

Under current law, LSA estimates the expenditure limitation is \$6.475 billion for FY 2013. However, this includes ending balance funds that should not be used to support ongoing spending. The Governor's budget recommendations appropriates \$6.244 billion in general fund spending and leaves an ending balance of \$296 million.

The Governor's budget aligns ongoing spending with ongoing revenue.

These targets will not be easily achieved without difficult work being done to eliminate unnecessary and duplicative programs and spending. But this work must be done in order to ensure the state has the ability to fund the priorities like taking care of the most needy and keeping the public safe.

The budget subcommittees will meet jointly until it is time to approve a bill. The House will start the following bills: Agriculture and Natural Resources, Economic Growth, Courts, Justice System, Health and Human Services and Standings. The Senate will start the remainder: Supplemental 1 (National Guard tuition), Supplemental 2 (prisons), Administration and Regulation, Education, Transportation, and RIF.

The budget subcommittees will have to approve the bills by February 9th and the House Appropriations Committee will approve House-originated bills by February 16th. The hope is that the Senate Appropriations Committee will approve Senate-originated bills by that date as well. Then after the first funnel the House and Senate will begin approving the budget bills on the floor.

House Republicans believe that ongoing spending must be aligned with ongoing revenue to ensure that the budget is sustainable in the future and to create a climate that encourages job creation.

## Agriculture

### DNR Notes Cold Weather Kicks in Limits on Winter Manure Application for Confinement

On Friday, January 26, 2012, the Iowa Department of Natural Resources issued a press release alerting livestock producers that winter regulation of manure application may be in effect. State law prohibits some producers from applying liquid manure on snow-covered ground after Dec. 21 and frozen ground after Feb. 1 unless it's an emergency. However, the law does not apply to manure from open feedlots or dry manure. The liquid manure provisions apply to confinement (totally roofed) facilities with liquid manure that have 500 or more animal units. Generally, 500 animal units would be 1,250 finishing hogs; 5,000 nursery pigs; 500 steers, immature dairy cows or other cattle; or 357 mature dairy cows.

In addition, the law limits liquid manure application from confinements from December 21 to April 1 if the ground is snow-covered. If manure can be injected or incorporated, it can be land applied during this time. Snow-covered ground is defined as soil having one inch or more of snow cover or one-half inch or more of ice cover. Starting February 1, confinement producers with 500 or more

animal units will also be limited to emergencies if applying liquid manure on frozen ground. Under those conditions, producers can apply only in emergency situations, defined in the law as unforeseen circumstances beyond the control of the producer such as natural disaster, unusual weather conditions, or equipment or structural failure.

Confinement producers must call the local DNR field office before they apply to report emergency applications. They can apply manure only to fields identified for emergency application in their manure management plans that have a Phosphorus Index of 2 or less. DNR field specialists will ask several questions about the application area and amount. They may have ideas or suggestions for producers who have questions about a specific site or risks. Field office locations and phone numbers are available at [www.iowadnr.gov/InsideDNR/DNRStaffOffices/EnvironmentalFieldOffices.aspx](http://www.iowadnr.gov/InsideDNR/DNRStaffOffices/EnvironmentalFieldOffices.aspx).

If the manure is surface applied, producers and commercial applicators need to ob-

serve the separation distances, generally applying at least:

- 750 feet from buildings such as residences, businesses and schools;
- 200 feet from environmentally sensitive areas such as a drinking water well, lakes, rivers, streams or ag drainage wells; and
- 800 feet from high quality water resources.

More information on the protected areas is available at: [www.iowadnr.gov/portals/idnr/uploads/afo/sepdstb4.pdf](http://www.iowadnr.gov/portals/idnr/uploads/afo/sepdstb4.pdf)

Recommendations from the Iowa Manure Management Action Group about applying manure in winter are available at <http://www.agronext.iastate.edu/immag/pubs/imms/vol3.pdf>

## Commerce

(Contact Brad Trow at 1-3471.)

### House Passes Surplus Lines Insurance Bill

The House moved the first piece of legislation from the Commerce Committee this year when it addressed an issue hanging over from the 2011 legislative session – surplus lines insurance.

Many Iowans may not be familiar with surplus lines coverage. This is a type of property and casualty insurance that is offered by carriers who are not admitted to provide coverage in the state of Iowa. What they are insuring may be large businesses that have multiple locations in several states, or unique pieces of property whose characteristics make it difficult to get coverage for Iowa-based carriers. Surplus lines insurance is a major market in coastal states, but is not a significant part of coverage purchased by Iowans.

When Congress passed the Dodd-Frank financial regulation law in 2010, it pulled together a wide-ranging array of legislation regulating financial services. One such piece was the Non-admitted and Reinsur-

ance Reform Act. The bill required states to implement uniform standards for the oversight of surplus lines insurance. The other issue was the allocation of premium taxes.

A business has its headquarters in Iowa and also has facilities in South Dakota and Nebraska, and purchases its insurance coverage on all three from an surplus lines carrier. In theory, the carrier is to divide the premium tax based on the coverage and pay it to the respective state. The reality is that the tax is paid to the state where the coverage is purchased – Iowa. Dodd-Frank called on states to find a way to distribute the taxes the states where it is owed.

Both NAIC and NCOIL produced their own models for how this work, which has spawned a nasty fight between the two groups. A few states have adopted one of the two models, but most states have chosen to avoid the issue since there is not a consensus on how to handle this.

During 2011, the House Commerce Committee had subcommittee meetings on both models. In the end, it was decided to wait and see if the warring parties could come to a resolution. While at the national level the battle is still raging, those involved in the surplus lines coverage business in Iowa found common ground. Iowa would comply with the regulatory issues (which no one had a problem with), while setting aside the tax issue until resolution at the national level. The compromise became House File 2149.

With the House's unanimous passage of House File 2149, the Senate is expected to quickly follow suit.

**Economic Growth**

(Contact Louis Vander Streek 1-3626.)

**Economic Development Authority Board January Meeting**

The Iowa Economic Development Authority Board met on January 20 in Des Moines to take up a number of issues including amending existing contracts, making new awards, and receiving updates from IEDA staff.

The Board made three financial assistance awards to Iowa companies for job creation

and expansion projects. All combined, the three companies will be contracted to create 55 new jobs and to retain an additional 36 that would otherwise have been eliminated without the state assistance.

Camoplast Rockland in Peosta, Metal Tech Industries, Inc. in Iowa Falls, and Tactical 8 Technologies LLC in Cedar Falls were all

recipients of direct financial incentives in the form of loans and forgivable loans from the Authority. The cost to the state for all three awards totals \$333,000 and also represents a capital investment from the businesses of just over \$5 million.

**Education**

(Contact Jason Chapman at 1-3015.)

**Where does a dollar of Tuition go?**

If you've ever wondered how the breakdown of a tuition dollar looks, the following chart gives a good representation of that.

While not specific to tuition dollars, as they are co-mingled with state general university fund revenues, the chart shows what per-

centage of a dollar goes towards what expenditure by category at the universities.



Appropriations to the Regents have been a roller-coaster ride over the past 10 years. For FY12 they saw a decrease of \$20 million from \$542 million to \$522 million. The

Governor has recommended increasing that by \$20 million, back to \$542. The Regents have requested a \$40 million increase. Here is a complete picture of the last 5

years with a snapshot of 10 years and 20 years ago.

FY93	FY03	FY08	FY09	FY10	FY11	FY12
508,918,122	588,881,227	662,938,101	677,339,929	562,988,400	542,035,205	522,035,206

Tuition and fees at the University of Iowa for 2011/12 is \$7,765.

Tuition and fees at Iowa State University for 2011/12 is \$7,486.

Tuition and fees at the University of Northern Iowa for 2011/12 is \$7,350.

## Is NAEP An Effective Tool For Education Analysis?

The National Assessment for Educational Progress (NAEP) is mentioned all the time in discussions about educational achievement and reform. The test results that come from it are used often to lead discussion and policy. Governor Branstad opens his talks about the need for reform in Iowa based on our comparative ranking on the NAEP test. But NAEP receives its fair share of criticism for being used as a tool to lean on for these discussions. Is it a valid tool to keep using? Should we pay attention to what the test says?

NAEP was criticized at an education subcommittee meeting recently for testing too few students, when our state tests provide a better picture of student results, and when Iowa places at the top nationally in both the ACT and SAT tests. So why would we use NAEP?

One of the ways that NAEP differs from many other standardized tests is that it is designed to yield a much wider picture of the subject-matter knowledge the test is intended to measure. Many standardized tests are designed to provide an accurate picture of a particular child's performance. That isn't the purpose of NAEP. When every state sets their own standards and testing, how can one be compared to the other? Even if states have tests that can be compared on some level, proficiency is measured differently as well. It would be nearly impossible to make a comparison between several states, let alone all states.

And while the ACT and SAT are comparable, the population of students that take them is not. The ACT is mainly taken by states in the Midwest, while the SAT is taken largely by states on the coasts. So an accurate picture cannot be made. Yes, Iowa places high on both tests, but here are the details behind that.

On the SAT, Iowa placed third nationally. That's a ranking that Iowa can be proud of. But only 3% of juniors took the test. And given that the ACT is a more popular test with Midwest colleges, it's not out of the question to assume that the students taking the SAT in Iowa are likely some of Iowa's brightest students looking to take their education on the road to other states. The ACT is a similar story. Iowa placed 13<sup>th</sup> on the ACT in 2011. Again, a ranking of which to be proud. But again, only 60% of eligible students took the exam. A similar question can be asked; when the test is optional, is it fair to assume that students who don't perform well academically are opting not to take the test? Of our neighboring states, Iowa has the lowest percentage of participating students. Illinois and several other states require 100% participation on the ACT. On both the SAT and ACT, as participation goes up, rankings tend to go down. Neither of these would be reliable to compare states across the nation.

So that leaves us with the NAEP. Just over 3,000 students take the 90 to 120 minute NAEP test in Iowa every three years. The students are randomly selected to represent different demographics to provide a fair and accurate snapshot. Not every student is given a test with the same questions, so it is unlikely that scores can be inflated and a wide range of knowledge can be tested. It is widely acknowledged as the gold standard of the testing industry and is called the Nation's Report Card because of its use at the federal level for comparative results. It is the largest continuing and nationally representative assessment of what our nation's students know and can do in core subjects.

Given that information, it seems fair to use the NAEP to assess how Iowa is doing. It doesn't provide district level or student level

data, but that isn't its intent. It is meant to capture a snapshot of states education success. How does Iowa compare?

We're right in the middle of the pack. Iowa over the last decade has stayed flat. And while it is good that we have not declined in scores, what's troubling is that the rest of the nation has simply passed us by. Whereas we once ranked towards the top, we're now sitting just above the national average across the board. And if the trend continues, the national average will pass us by as well.

It's this reason that Director Glass in November called Iowa's NAEP scores a call to action:

- ◇ Average score in fourth-grade reading (221) is lower than the state's score in 1992 (225) and is unchanged from the state's score in 2009 (221).
- ◇ Iowa has posted a two-point gain in eighth-grade mathematics since 1992, the smallest increase in the country. The largest gains have been made in North Carolina (28 points) and in Texas and Massachusetts (26 points).
- ◇ Iowa's white students rank in the bottom 10 percent of states and jurisdictions nationally in eighth-grade reading and in the bottom 25 percent in fourth-grade reading, fourth-grade math and eighth-grade math.
- ◇ The gap in achievement between students in Iowa with and without disabilities is among the worst in the nation.

## Allowable Growth for FY14 and Beyond

Discussion is starting to gain steam about Allowable Growth for FY 14. Under Iowa Code 257.8, both the state percent of growth and the categorical state percent of growth are supposed to be set by the General Assembly each year within 30 days following the submission of the Governor's budget. We're nearing that 30 day deadline.

Last year was an interesting year for the Allowable Growth debate. In the previous year, the legislature passed a bill delaying setting an Allowable Growth figure to the following year. This was the first time this occurred since taking Allowable Growth off an automatic pilot in 1993.

The reason this was done was because economic conditions were uncertain enough at that time to make a promise to school districts. It was lesson learned the hard way. When the state overpromised with a high Allowable Growth figure nearly 2 years out, an economic downturn caused the Governor to issue a 10% across the board

cut, impacting not only school budgets, but the budgets of cities, counties, and other agencies.

***"...does not lending itself to stable budgets."***

That's a lesson that shouldn't be taken lightly now. Economic times remain uncertain. There have been across the board reductions in FY02, FY04, FY09, and FY10. We've seen school aid appropriation caps in FY03, FY09, and FY10. It's becoming evident that setting an increase in state aid to schools 2 years out with no certainty of incoming revenue the following year does not lending itself to stable budgets.

In the past, legislation has been discussed and even passed (it was vetoed by the Governor) to change when Allowable Growth is set to the year it occurs instead of 18 months out. That discussion has been resurrected this year.

The House Education committee will be discussing a bill that makes a concession in that debate. Following on the Governor's announcement that he does not plan to set Allowable Growth for FY 14 this year, the bill coming before the committee will require that Allowable Growth be set for 2 years in the first year of each general assembly. It's a practice the Legislature engaged in last year.

It allows a bit more stability to a budget that is subject every year to economic uncertainty. Every two years, starting the first year of a general assembly, the legislature will set two years of Allowable Growth that coincide with the two-year budgeting process that is being established. Schools will have two years' worth of growth to accommodate their budgets.

## Environmental Protection

(Contact Lew Olson at 1-3096.)

### DNR Moving to Revised Compliance and Enforcement Procedures Administrative Code Chapter

On Tuesday, January 17, 2012, the Iowa Environmental Protection Commission (EPC) was presented a notice of intended action to adopt a new Iowa Administrative Code subchapter 9A (IAC 567-9A) that the Iowa Department of Natural Resources (DNR) intends to bring before the EPC at its February meeting for its consideration. The purpose of this proposed rulemaking is to formalize DNR's current compliance and enforcement options that may be used prior to, or in lieu of, assessing the administrative penalties specified in 567 IAC Chapter 10. This rule making is intended to meet the Department's responsibility to protect public health and the environment, while, at the same time, providing regulated entities and the public with transparency, clarity, consistency and fairness in addressing potential violations of Iowa's environmental statutes and rules. DNR remains committed to working openly, cooperatively and fairly with regulated entities to ensure that Iowa's public health and air, water and land resources are protected and maintained. DNR

achieves this mandate by issuing permits and adopting administrative rules, coaching for compliance, and duly enforcing these permits and rules. When violations do occur, the Department's primary objective is for the responsible party to return to compliance quickly and to remain in compliance in the future.

The proposed rulemaking that will be presented to the EPC at its monthly February meeting will affirm the variety of compliance and enforcement options the DNR may consider in responding to possible violations of environmental statutes, rules, permits, licenses, certifications, and plans. The Department has used these or similar procedures for many years, and this rule making simply formalizes this practice. DNR now believes that this approach will result in increased and improved cooperation with the regulated community, prompt and effective resolution of violations, and reduced and prevented occurrences of environmental noncompliance.

DNR has analyzed and reviewed this rule making, and believes no adverse impact on jobs exists; but rather the proposed changes will promote collaboration with the business industry and Department by ensuring rules and regulations are complied with in the least restrictive means as possible. The rule changes will provide a benefit to regulated entities by affirming the variety of compliance and enforcement options that the Department may consider in responding to possible violations. While serious violations of rules, regulations and permits may result in administrative penalties, many activities by regulated entities may not rise to the level of requiring such formal enforcement action. In some instances, development of additional facts is appropriate and in others, notification of the nature of the violation with an opportunity to correct the violation may be sufficient.

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The following compliance and enforcement procedures are available and may be considered in those instances where it is necessary to undertake a compliance or enforcement initiative in the following escalating manner:

**Informal meeting--** DNR staff may attempt to resolve a potential violation or obtain additional information with an informal meeting. This meeting may be at the facility where the inspection took place. The discussion will usually focus on corrective actions to be taken, and in most instances, only department staff and the facility representative are present.

**Letter of Inquiry (LOI)--** If an informal meeting is not practical or is insufficient, DNR may issue a Letter of Inquiry (LOI). The purpose of the LOI is to allow the regulated entity the opportunity to provide information that would be helpful for a determination of whether a violation has occurred. The letter should be labeled "Letter of Inquiry" and should, to the extent possible, seek specific information that will aid in the enforcement review.

**Letter of Non-Compliance (LNC)--** If the information available to DNR indicates a violation has occurred, the department may issue a Letter of Non-Compliance (LNC). This letter is used to address violations of a less significant nature, such as a single incident of late reporting. A LNC will most often be used when no environmental harm or threat to human health or safety has occurred or is imminent, the regulated entity is not a repeat offender, the corrective action is not deemed an emergency, or any time the violation is considered insignificant. The letter is similar to a Notice of Violation but is captioned "Letter of Non-Compliance" and is intended to provide the regulated entity with an opportunity to correct the identified deficiencies prior to further en-

forcement activity. In the LNC, the department also may suggest remedial measures and set a date for returning to compliance. The department will usually request a response from the regulated entity within a specific time period as to how the identified problems will be resolved. The LNC will frequently be followed by a Notice of Violation if the regulated entity does not respond.

**Notice of Violation (NOV)--** When the other compliance and enforcement activities described previously are not appropriate for the violation, or when the regulated entity has not returned to compliance, DNR may issue a Notice of Violation (NOV). A NOV will most often be used when environmental harm or a threat to human health or safety has occurred or is imminent, the regulated entity is a repeat offender, the corrective action is deemed an emergency, or any time the violation is considered significant. The NOV identifies the nature of the violation and any corrective action being required of the regulated entity.

**Option to respond--** Upon receiving a written inquiry, letter, or notice from DNR as described, the regulated entity has the option to respond to the department even if a response is not specifically requested. A Letter of Non-Compliance (LNC) or Notice of Violation (NOV) will typically suggest a written response and corrective action from the regulated entity within a specified time period. In responding to a LNC or NOV, the regulated entity should, as appropriate, clearly outline any disagreements with the department's LNC or NOV, provide any pertinent, additional information, describe any current or planned corrective action, and provide a schedule for returning to compliance. DNR will review written information submitted in response to the compliance and enforcement procedures described in this chapter, and will include this information in the file of record.

**Department discretion--** At DNR's sole

discretion, it may follow the compliance and enforcement procedures described in this chapter, commence with an LNC or NOV, forego these options and commence with an administrative action (Chapter 10), or the department may request referral to the Attorney General. The procedures in this chapter are intended to inform the regulated community of possible forms of compliance and enforcement procedures available to the department.

Presuming that the EPC approves the notice of public rule making at its February meeting, the rule will most likely be published in the Iowa Administrative Rules Bulletin in March with public hearing and opportunity to comment occurring two to six weeks after publication (late March through April), but no specific schedule will be made until the February EPC meeting. The rule making is probably a reaction to growing public perception over the last decade that some DNR enforcements seemed overly harsh considering the circumstance and facts of some cases, perhaps ensnared by Governor Vilsack's agreement with certain state agency that afforded them "Charter Agency Status" that included DNR. Part of the price that the Vilsack DNR agency agreed to pay for its Charter Agency status that exempted it from any across-the-board budget cuts was that it agreed to substantially increase the amount of civil penalties it collected for environmental violations and with a matter of several years, the penalty for late filing of certain annual permit updates, such as annual manure management plan updates went from \$150-\$300 to \$1,500 and then to \$3,000. While animal administrative penalties for livestock operations were by Code deposited with DNR for purposes of DNR livestock regulations (at least through 6-30-2012), other areas of regulatory fines covering air, water and solid waste are deposited into the state General fund.

## Government Oversight

(Contact Jill Jennings at 1-3440.)

### Mystery Hot Lotto Winner

"Hot lotto" is a lottery game that is made up of players in 15 different states. In 2011, three Iowa players bought winning tickets, however only two of those were claimed. The winner who purchased a ticket at a Quick Trip on East 14th street on December 23rd, 2010 is still unknown. I

owa Lottery CEO Terry Rich, and spokeswoman Mary Neubauer spoke to the Gov-

ernment Oversight committee on Tuesday, January 31, 2012 about questions relating to the missing ticket. Here is a timeline of the purchase and claim for the ticket:

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*December 23<sup>rd</sup> 2010:* A \$10 Hot Lotto ticket is purchased at Quick Trip with two plays for five consecutive drawings

*December 29<sup>th</sup> 2010:* One of the plays on the ticket matches all six numbers selected in that night's Hot Lotto drawing to win the jackpot of 16.5 million in annuity.

Throughout 2011 the lottery issues reminders that the unclaimed winning ticket has a deadline of December 29<sup>th</sup>, 2011 at 4:00p.m.

(Having not been claimed in over a year, annuity falls to 14.3 million for the ticket)

*December 29<sup>th</sup> 2011:* Hexam Investments Trust lawyers from the Davis Brown law firm call the Iowa lottery and state the ticket will be delivered signed via FedEx. The winning ticket is presented at lottery headquarters in Des Moines with less than two hours of the deadline, signed by lawyer, Crawford Shaw. No member of Hexam Investments Trust, the entity who is claiming the prize, is present. The two lawyers presenting the ticket on behalf of Hexam Investments Trust did not have the answers to standard security questions and details sought by the lottery. Standard questions such as who bought the ticket, where was the ticket bought and when.

*January 17<sup>th</sup> 2012:* Crawford Shaw meets with lottery officials. He states he misspelled the name of the trust and it is actually "Hexham" Investments Trust. Some documents relating to the trust are presented, but not the details sought by the lottery. Shaw tells officials he is not the prize winner, did not purchase the winning ticket, and does not know the details being asked by lottery officials.

*January 23, 2012:* The Iowa Lottery sets a deadline of 3 p.m. Jan. 27, 2012, for the requested information to be provided or the jackpot claim would be denied.

*January 25, 2012:* Hexam Investments Trust makes an offer to the lottery that if the lottery will pay the prize, the entire prize winnings will be given to charity. The necessary information asked by the lottery is still not provided.

*January 26, 2012:* The lottery denies the offer made by Hexam Investments Trust because of legality of the purchase, possession and presentation of the ticket. The Iowa Lottery continues to seek the information it has requested. At 6:05 p.m., the lottery receives confirmation that the jackpot claim has been withdrawn.

In the 26-year history of the Iowa Lottery this is the first claim to be withdrawn. Local attorneys involved met with lottery officials and provided legal documentation stating that the claim was being withdrawn. Without the binding legal document stating the claim was being withdrawn, the lottery would have continued its investigation or have to decide to pay out the prize. Immediately following, the Iowa Attorney General's Office and Iowa Division of Criminal Investigation issue a joint statement announcing that they have begun an investigation into the matter.

Iowa Code (99G.3) states that there must be a series of security tests done to verify the purchaser and winner. What the lottery does know about this ticket is that the ticket had not been mechanically checked by the lottery, until they did so when it was presented on December 29<sup>th</sup>, 2011. The Iowa Lottery and the DCI both have images of the purchaser at the time it was sold from security cameras at that specific Quick Trip.

The Iowa Lottery has handled what they can in accordance to Iowa code and the investigation is now turned over to the DCI and Attorney General's office for further investigation.

There is no incentive to the lottery for an unpaid prize, internal security checks have been done and a ticket was not "recreated." If a lottery winner purchases a ticket and then passes away, the winnings are considered part of their estate. A lottery ticket is disqualified if it is sold from the original purchaser to another purchaser. A lottery ticket is disqualified if it is purchased by someone underage. A lottery ticket is not disqualified if purchased by an illegal alien. If an unsigned (bare instrument) lottery ticket is lost and then found, should the finder sign the ticket and claim the prize they could be charged with fraud should the original purchaser (with proof such as surveillance video) prove they purchased the ticket.

Spokeswoman Mary Neubauer said typically all security info is confirmed within 4 hours and for winnings over 1 million a video surveillance of the winner purchasing the ticket is provided within 24-hours.

Terry Rich emphasized the importance of lottery players signing their ticket as soon as it's purchased. As far as where the money will now go, each of the 15 states participating in Hot Lotto will receive their amount per percentage of tickets sold in each state. Iowa's amount is 1.3 million, which will be put back into a lottery game or promotion for lottery players in Iowa with all unclaimed lottery money equaling 1.9 million.

Last year the Iowa Lottery made 68 million dollars, with 3 million going to the Iowa Veterans Trust Fund.

## Oversight Questions Coralville for use of TIF Funds

Coralville City Administrator Kelly Hayworth testified before the House Government Oversight committee last Thursday January 26th. Committee members raised questions regarding the way the city is using tax increment financing in its Iowa River Landing commercial development. Spokespeople and lawyers for private builders were also called before the committee

Retail growth in Coralville has seen significant growth since the city began using TIF in 1998 to develop land that is now Coral Ridge Mall.

Currently, Coralville is using TIF to finance its Iowa River Landing commercial project. Concerns were raised last fall when the project added a Von Maur department store. The retail store was largely subsidized with TIF and lured from Iowa City.

An attorney for the builders argued that the city's ability to provide a grant to private development partner Oliver McMillan to buy the Von Maur for site for \$1.4 million with an agreement that it sell the land to Von Maur for a certain amount violates the intended purpose of the state's economic development grant law.

Tax Increment Financing is a system under Iowa law that cities and counties can use to finance public improvement projects and to fund economic, housing and residential development incentives. TIF is based on the idea that the improvements will increase the local government property tax base, and that the increment (difference) between the original tax base and post-development tax base, can be used to finance the cost of the improvement. Local governments create a special district meeting criteria for the TIF program. Local governments and schools receive property taxes based on the original

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property tax valuation and funds from the increment are set aside to pay back bonds used to finance improvements. Backers say the system helps cities develop areas that might otherwise remain run-down, while those critical of TIF say cities can abuse the system to pay for projects that should be left for the private sector.

Hayworth presented information on the Coralville's use of TIF to redevelop industrial brownfields in Iowa River Landing which has lured over 1,000 jobs to the University of Iowa's Oakdale Research Park and facilitated the headquarters of Integrated DNA Technologies. Hayworth stated that Johnson, Scott and Linn County continued to have retail sales growth during the city's period of TIF-financed retail projects. He

said the controversial Coralville Marriott Hotel and Convention Center is a success for the community by keeping University of Iowa-related conferences in Iowa. TIF backers for Coralville argue this use is a job investment and that it's a fair exchange for other local taxing bodies such as schools and counties. However, many businesses are concerned about the TIF use to fund projects that compete with private developers.

Kevin O'Brien of the Citizens or Responsible Growth in Taxation presented on behalf of private builders. He urged that the use is unfavorable to the taxpayers and surrounding competing businesses. Those critical of the city's use claim Coralville has \$11,049 in TIF debt per person. They stated the city-owned and TIF-financed Coralville Marriott Hotel and convention center actually lost

\$3.4 million in years ended June 30, 2009 and June 30, 2010.

TIF is a concern for the superintendent of Clear Creek-Amana Community School District, Denise Schares, who was also present before the House Government Oversight committee last Thursday. Schares stated she began hearing concerns weekly about the effects of Coralville's TIF use on district. TIF use in Johnson County diverted \$2,974 per child in property tax revenue in the last year of tax collections. The superintendent says the state makes up the shortfall to 87.5 percent

The introduction of a TIF reform bill is expected in the Ways and Means committee this session. [HSB 540](#) would set an end date for almost all of the TIF districts in the state.

## Human Resources

(Contact Brad Trow at 1-3471.)

### Human Services Moves Child Abuse Registry Reforms

The House Human Resources Committee continued its work to balance the due process rights of Iowans while protecting Iowa's children with the discussion of House Study Bill 510.

During the 2011 session, the Legislature passed legislation calling for steps to be taken by state agencies to speed up appeals for those challenging placement on the state's child abuse registry. One of these efforts was the creation of a work group to examine many of the concerns people had about the registry process.

The group brought together state agencies as well as child protection advocates and those representing people accused of abuse. The group met through the fall and identified a series of issues related to the speed of appeals, the parties that have the right to appeal child abuse assessment decisions, and how to handle those who are on the Registry now but should not be on there for the full ten years. A number of items have already been implemented by the Department of Human Services, Attor-

ney General's office, and Department of Inspections and Appeals that have significantly sped up placement appeals. These steps have enabled the Department of Inspections and Appeals to hear an appeal within 6 weeks of a party receiving notice.

***"... significantly sped up placement appeals."***

The group also identified a series of actions that they felt would improve the Registry, but required legislative action. These recommendations have become House Study Bill 510. Among these are clarifying who has a right to appeal a child abuse assessment decision, ensuring people have the right to provide information to DHS on their case, and the ability to hold off Registry decisions if there is an ongoing court case.

Currently, a person who is found to have committed child abuse is placed on the Registry for 10 years. There is no distinction for the circumstances of the case,

meaning a mother whose child slipped out of their apartment to play in the sandbox outside is on the Registry as long as a person who commits sexual abuse. The group felt DHS should be given the authority to remove people from the Registry prior to passage of the ten years when the Department feels it would be prudent to do so. The bill requires DHS to come forward with a plan for implementing this by December 2012.

The bill also calls on the Department to study changing Iowa's child abuse assessment system to create a differential response where cases would be triaged at intake and those that are do not rise to a level are not placed on the Registry. The federal Department of Health and Human Services is encouraging states to consider this change. Finally, the bill requires DHS to report back to the Legislature on the impact the proposed and implemented changes have had on the timeliness of appeals.

## Judiciary

(Contact: Amanda Freal, 1-5230)

### Judiciary Committee Adds Additional Domestic Abuse Protection for Iowans

The House Judiciary Committee Voted to move Senate File 93 to the House Floor for debate this week. Senate File 93 enhances the penalty for certain domestic abuse as-

saults where the offender knowingly strangles another person.

During the subcommittee and committee

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meeting, Representatives heard from speakers representing the Attorney General's Office, The Coalition Against Domestic Violence, and the Iowa Coalition Against Sexual Assault, all of whom testified that strangulation is one of the most lethal forms of domestic violence. A batterer who chokes their victim, and does not kill them, is more likely to kill their victim in the future. The Journal of Emergency Medicine reported in 2008 that 43% of women who were murdered in a domestic assault and 45% who were victims of attempted murder had been choked in the past year by their male partners. In Iowa, strangulation is the 2<sup>nd</sup> leading cause of death due to domestic

violence.

***"2nd leading cause of death due to domestic violence."***

Senate File 93 allows police officers to charge a batterer with an aggravated misdemeanor if they commit domestic abuse assault by choking their victim or obstructing the nose or mouth of the victim, even if there is no bodily injury. However, if bodily injury is found to be present the batterer can be charged with a class "D" felony. Many times in cases of choking or attempt-

ed suffocation the visible injury may be very minimal, although the internal damage may be greater, including; nausea, miscarriages, memory loss, trouble swallowing and difficulty breathing. A person convicted of an aggravated misdemeanor could be sentenced to up to two years in prison and a fine between \$625 and \$6,750. If a person is convicted of a class "D" felony, they must pay a fine of at least \$750 but not more than \$7,500 and could serve up to five years in prison.

Senate File 93 is expected to be debated on the House Floor sometime in the next week. If the bill is signed by the governor, Iowa will join the majority of states who provide this type of protection for domestic abuse victims.

**Labor** (Contact Louis Vander Streek 1-3626.)

**Iowa's Unemployment Rate Drops to 5.6% in December**

Iowa Workforce Development announced last week that Iowa's unemployment rate had dipped to 5.6% in the month of December. This marks the second month in a row that the rate has dropped. In October, Iowa's unemployment rate was at 6.0% and in November it had dropped to 5.7%. The drop in to December places Iowa as the state with the 6<sup>th</sup> lowest unemployment rate in the nation. The national average also fell to 8.5% for the month of December.

Despite the percentage drop, nonfarm employment actually fell from 1,487,100 to 1,482,400, a net loss of 4,700. The sector reflecting the biggest drop was 'leisure and hospitality', while the 'manufacturing' sector actually saw an increase of 800 jobs.

***"...6th lowest unemployment rate in the nation."***

For the whole of 2011, the state's unemployment rate dropped .5% and the state saw nonfarm employment increase by a net of 9,000. The sectors most responsible for the increases were 'manufacturing' (+8,500) and 'educational and health' (+3,900). Over the last year the sectors that saw the largest decreases in employment were 'government' (-3,000) and 'financial activities' (-1,800).

**Natural Resources** (Contact Dustin Blythe 1-3452.)

**HJR 2001 – Rule Nullification of Lead Shot**

The House Natural Resources Committee voted in bipartisan fashion, 17-4, to nullify an administrative rule of the Natural Resource Commission prohibiting the use of lead shot for hunting mourning doves.

Last year the Legislature not only approved mourning dove hunting, but voted down an amendment that banned the use of lead shot in hunting mourning doves. Despite the Legislatures clear intent, the Natural Re-

***"...created rules to the contrary."***

source Commission created rules to the contrary.

HJR 2001 was introduced in bipartisan fashion from the joint Administrative Rules Review Committee. The chief objection of the ARRC is the overreach by the executive

branch. The Legislature writes and passes law, not the Natural Resources Commission. If the NRC is allowed to write and implement rules that do not and/or conflict with the will of the Legislature it could lead to a dramatic expansion of bureaucratic power.

HJR 2001 will now move to the House floor for a full up or down vote.

**Public Safety** (Contact: Amanda Freel 1-5230)

**Public Safety Committee Passes Stand Your Ground Legislation with Bi-Partisan Support**



The House Public Safety Committee held a meeting on Tuesday and voted to send HF 573 to the house floor for debate. House File 573 gives lowans the right to use justifiable, reasonable force to defend themselves and others, should the need arise. By a vote of 14-7, Republicans and Democrats on the Public Safety Committee approved HF 573. While this bill was discussed last year, amendments were brought forward from the subcommittee to clarify language and create a stronger bill for law abiding lowans.

House File 573, often referred to as the "Stand your Ground" bill, allows law abiding lowans to protect themselves and their loved ones in three ways. First, the bill allows lowans to defend their home, business and occupied vehicle. The bill establishes the presumption that when a criminal forcefully enters your home, business or occupied vehicle, they are there to cause serious bodily harm and possibly death. In this situation, HF 573 would allow lowans to use

**"...it got \$24 million more."**

reasonable force, up to and including deadly force, to protect themselves and their loved ones. Second, the bill allows lowans to stand their ground if they are attacked in a location they have a legal right to be. Law abiding citizens will no longer be required to run when attacked by criminals, instead they can meet force with force, if they reasonably believe it is necessary to prevent death or serious bodily injury to themselves or others. Finally, the bill increases protection for lowans, who use legal force, from criminal and civil prosecution. If, after an investigation, it is determined that a person used reasonable force, they are protected from criminal and civil charges.

Those opposed to the legislation argued that this bill allows gang members to shoot

each other and claim self-defense. Representative Matt Windschitl, who managed the bill, explained that if a person is engaged in illegal activity, this bill does not protect them. If a person is legally barred from owing a weapon they could not use it to defend themselves and expect the law to protect them. Additionally, this law would not protect anyone engaged in any crime or who instigated an attack. Others opposed to the legislation created "scenarios" and asked if they could shoot someone "if this happened..." Rep. Windschitl reiterated that if a person reasonably believes that force is necessary to protect themselves or another and if the force used was appropriate in the given situation, then the person would be protected under this bill.

The ability for law abiding lowans to protect themselves and their loved ones from violent attacks is important. House File 573 is a major step to giving law abiding lowans the power to protect themselves from those who may wish to do them harm.

**State Government** (Contact: Kristi Kielhorn, 2-5290.)

**With No Likely Transfers to IPERS Reserve Account—FED Will End**

Recently the Favorable Experience Dividend (FED) went out to IPERS retirees along with their regular monthly benefit payment. For several years, IPERS has been communicating that the fund that pays out the FED will be exhausted soon.

IPERS retirees do not receive a traditional cost-of-living-adjustment (COLA), however the FED is similar to a traditional COLA. The FED is issued in January to all IPERS members who retired after June 30, 1990. The FED fund (Reserve Account) has about

the equivalent of two more years of FED payments in it. It is unlikely that any additional transfer of funds to the Reserve Account will occur (before it is empty) because before that can happen, the IPERS Trust Fund must be funded at 100 percent. The Reserve Account has not received a transfer from the IPERS Trust Fund since 2001. As of the close of fiscal year 2011, the Trust Fund was slightly under 80 percent funded.

The November Dividend is also like a COLA. It is paid to IPERS retirees who retired

June 30, 1990 or before. It is included in the retirees November benefit. The November dividend is protected by law and will not end as the FED likely will.

More information on the FED payment can be found at: [http://www.ipers.org/newsroom/announcements/2011\\_2.html](http://www.ipers.org/newsroom/announcements/2011_2.html)

More information on the November Dividend can be found at: [http://www.ipers.org/newsroom/announcements/2011\\_1.html](http://www.ipers.org/newsroom/announcements/2011_1.html)

**Transportation** (Contact: Kristi Kielhorn, 2-5290.)

**Commercial Driver's License Renewal and Application Changes**

Earlier this week the Iowa Department of Transportation started to implement new federally required rules that alter the way a person applies for and renews a commercial driver's license (CDL). The new rules require that drivers fill out a form that declares the type of commercial motor vehicle

driving they intend to perform. Depending on what type the person declares, they may have to file a copy of their current Medical Examiner's Certificate before receiving their CDL. Although compliance with the new rules began this week, they will not be fully imple-

mented for all drivers until January 30, 2014. A person with a CDL that expires between January 30, 2012 and January 30, 2014 can fill out the declaration form and their current Medical Examiner's Certificate (if required) when their CDL is up for renew-

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al. They will not need to do this in advance of their CDL expiration to comply with the new rules. However, if a CDL holder has a license that expires after January 30, 2014, they must visit a licensing station before January 30, 2014 and complete the re-

quired declaration form and, if necessary, file their Medical Examiner's Certificate. The penalty for non-compliance is a downgrade from a CDL to a non-commercial driver's license.

More information on these changes can be found at: [www.iowadot.gov/mvd/ods/MCRforCDL.html](http://www.iowadot.gov/mvd/ods/MCRforCDL.html)

## Veterans Affairs

(Contact: Jill Jennings, 1-3440.)

### IVH to Open New Buildings in March

David Worley, commandant of the Iowa Veterans Home, visited the committee on Tuesday, January 31, 2012 to update lawmakers on the current progress on the veterans home as well as future goals.

In March of this year there will be a ribbon cutting for the opening of new buildings housing 180 beds that are divided to 15

households. These new homes will be used to care for memory loss patients, and will be secure buildings. The Scheeler building which currently is housing to memory loss patients will be vacant when new buildings open. Worley expressed the need for a "dual diagnosis" center. This would be a center for those veterans who suffer from PTSD as well as a substance abuse illness.

The 5- year goal of the IVH is to have 525 patients in single rooms (with the exception of the couples).

Currently the home has 608 residents and 104 in residential care.

## Ways and Means

( Contact: Dustin Blythe, 1-3452.)

### Ways and Means Update

#### House Study Bill 543

The Streamline Sales Tax bill provides legislative changes recommended by the Department of Revenue. These changes are needed to maintain Iowa's compliance with the Streamlined Sales Tax Governing Board Agreement. Iowa's participation in the streamlined projects brings in approximately \$13 million a years in sales and use tax revenue collected from remote retailers.

The measure passed the full House Ways and Means Committee on a vote of 23-1-1 and now moves to the House floor for consideration.

#### House File 2086

Exempts from the individual income tax all pay received by a taxpayer for military service performed in support of the National Guard pursuant to 32 U.S.C. 502 (f) , 709 (a) and (b). This exempts certain income

received by active duty and reserve personnel, certain operational support personnel, and certain dual-status federal technicians.

Last year when the legislature passed the active duty military income tax exemption the definition of "active duty" didn't apply to a number of job classifications that were intended to receive the benefit. This bill fixes that problem.

The bill started in Veterans Affairs and was passed unanimously on January 18. It passed the House Ways and Means Committee with a vote of 25-0 and now moves to the House floor.

#### House File 2150

Updates the Iowa Code references to the Internal Revenue Code to make federal income tax revisions enacted by Congress in 2011 applicable for Iowa income tax purposes. The bill updates the provisions in

the Iowa Code for the Iowa research activities credit to include revisions in the federal research credit, which is the basis for the Iowa research activities credits. The Iowa code sections which define the Internal Revenue Code for Iowa income tax purposes are also updated so that all of the 2011 federal changes which affect the computation of Iowa net income for individuals, corporations and financial institutions are adopted.

No significant federal tax legislation was enacted by Congress in 2011, and this bill has no fiscal impact.

The bill passed the House Ways and Means committee unanimously and now moves to the House floor for consideration.