



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

Wednesday, March 24, 2010

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Republican Message Points

Democrat Budgets for FY 2010, FY 2011, FY 2012

- After supplemental appropriations, the FY 2010 budget appropriates \$6 billion -- \$5.3 billion in general fund spending, \$692 million in federal stimulus and funding from the Cash Reserve Fund for ongoing spending, leaving an ending balance of \$103 million.
Total appropriations for FY 2011 equal just under \$6 billion -- \$5.299 billion in general fund spending, \$657 million in one-time money (\$544 million in Health and Human Services, \$65 million from the CRF & \$48 million of remaining stimulus funds for ongoing spending). This leaves an ending balance of \$72 million.
The built-in spending for FY 2012 is just under \$1 billion -- \$657 million in one-time money, \$103 million in Medicaid growth, \$167 million for school aid and \$65 million for property tax credits -- It would take nearly 20 percent growth in general fund revenue to fund this level of spending.
The budget spends \$252 million from the Cash Reserve Fund - \$187 million

- for Medicaid, \$54.7 million for the property tax credits and \$10.6 million for performance of duty (FEMA matching funds)
If revenue meets the REC estimate in FY 2010 and FY 2011, the Cash Reserve Fund will have \$122 million in FY 2011 and the Economic Emergency Fund will have \$99 million for total reserves of \$221 million. (10 percent of the budget is \$543 million.)
The Democrats underfund K-12 by \$167 million, just above the \$170 million underfunding recommended by Governor Culver -- Because of 2 percent allowable growth, this can be made up for with remaining cash reserves, property tax hikes or cutting spending and firing teachers
Property tax credits funded at \$91.3 million from the general fund and \$54.1 million from the Cash Reserve Fund for a total of \$146 million -- same amount as FY 2010 after the 10 percent ATB cut.
No funding for state employee salary increases -- that means state agencies will have to fund the raises within their own budgets

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Appropriations

(Contact Lon Anderson at 1-5184.)

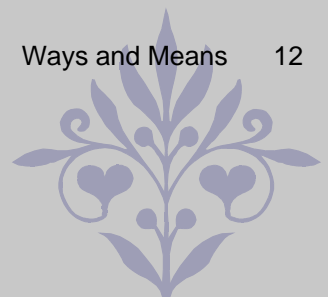
Built-In Spending Exceeds \$1 Billion

On Friday, March 19, the Democrats finally released a balance sheet showing all of the spending that will be approved during the 2011 session. The numbers paint a bleak picture -- according to the non-partisan Fiscal Services Division of LSA the built-in spending approved so far exceeds \$1 billion for FY 2012.

one-time funds for Medicaid and other human services programs. This includes a transfer of \$187.8 million from the Cash Reserve Fund for Medicaid. It also uses \$39 million from the Senior Living Trust Fund. This does not include a \$23 million supplemental need for Medicaid and estimated 6 percent growth for a total of \$103 million.

HF 2526, the Health and Human Services budget bill, uses \$545 million of

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HF 2519, the Federal Block Grant bill, appropriates \$47.9 million from the remaining unobligated federal stimulus funding to K-12 foundation aid. The general fund appropriation is reduced by a similar amount.

HF 2531, the Standing Appropriations bill, fails to appropriate \$13 million for instructional support. Unless the Legislature decides to continue the notwithstanding language in FY 2012, that will result in an increase of \$13 million next year. The bill also underfunds K-12 allowable growth by \$167 million. Unless the Legislature continues the cut next year, that will have to be made up for in FY 2012.

The Standings bill also appropriates funds from the Cash Reserve Fund as follows: \$54.7 million for property tax credits, \$10.6 million for performance of duty, \$5.3 million to DOM for operations and in case the \$83.8 million in savings from the state government reorganization does not materialize.

Finally, the bill underfunds the property tax credits by \$55 million. Property tax credits have been under-funded in the past but



they show up as a built-in expenditure in the following year.

**Here is the breakdown by Fiscal Services of the \$1.014 billion in built-in spending for FY 2012:**

- \$303.3 million to replace Cash Reserve Fund money for Medicaid plus growth
- \$243.7 million to replace one-time federal stimulus funds for Medicaid
- \$170.1 million to fully fund 2 percent allowable growth for K-12 education
- \$109.8 million to replace one-time funds for the property tax credits

- \$50 million to replace funding for Value Fund with general fund dollars
- \$47.9 million to replace one-time stimulus funds used for K-12 education
- \$44.5 million to replace other one-time funds in Health and Human Services
- \$27.3 million to replace funding for CAT, Technology Reinvestment Fund, college student aid
- \$18 million to fully fund instructional support, non-public transportation, at-risk programs

***“...the Democrats’ budget plan will spend more than the state takes in and raises property taxes...”***

Since the Democrats’ budget plan will spend more than the state takes in and raises property taxes, House Republicans cannot support it. In addition, House Republicans will continue to offer budget savings ideas. So far House Republicans have sponsored amendments to budget bills and the state government reorganization bill that would have saved taxpayers over \$600 million.

## Agriculture

(Contact Lew Olson at 1-3096.)

### Money Diverted to Fund Midwest Grape Wine Industry Institute

On Monday, March 22, 2010, the Senate passed House File 2525 on a party-line 30-17 vote. Among the changes that the Senate made to HF 252 was a reallocation of \$238,000 of the Iowa Department of Agriculture and Land Stewardship’s (IDALS) general fund appropriation to the Iowa State University for the Midwest Grape and Wine Industry Institute. If this provision is retained in the bill, and is enacted, it will probably result in the laying off of an additional 5-10 soil and water conservation district secretaries or technicians across the state. This would be in addition to the 30-40 further staff reductions that IDALS is apt to be forced to do because of the non-funding of the salary increases slated to go into affect in the next fiscal year when the temporary agreement between bargaining units and the Governor that allows furlough

days and to forgo scheduled contractual salary increases expires at the end of the current fiscal year.

Other changes made by the Senate include:

1. striking provisions which provides that future use of REAP funds is not to be used to pay Honey Creek bond obligations;
2. including intent language that next year’s budget for this subcommittee will include within line-items for fish and game trust funds;
3. inserting language that directs the Leopold Center for Sustainable Agriculture to prepare a local food and farm plan containing policy and funding recommendations for supporting and expanding local food systems and for

assessing and overcoming obstacles necessary to increase locally grown food production;

4. adding new qualifying language to allow IDALS to use Conservation Reserve Enhancement Program appropriations to be used as cost-share match for USDA-NRCS wetlands reserve program funding available to Iowa;
5. attaching new, never discussed, 4-year appropriation of \$200,000 from the Solid Waste Account (SWAP) of the Groundwater Protection Fund to be used for illegal dumping and litter prevention and education; and
6. and appending a corrective fix to establish a fund in IDALS to receive fees collected pursuant to the “puppy mill” legislation, HF 2280.

## Commerce

(Contact Brad Trow at 1-3471.)

### Health Care Reform Starts Federal Tanning Tax

It didn't take long for President Obama to sign the Senate's version of health care reform into law. And it won't take long for him to continue breaking campaign promises.

With Tuesday's signing of the bill, provisions are beginning to go into effect. The first change some Americans will notice is, of all things, a new tax. Beginning Wednesday, March 24, 2010, those who choose to utilize indoor tanning salons will pay an additional 10 percent tax on this service. Apparently, the President's promise not to raise taxes on those Americans making less than \$200,000 does not apply to high school students getting ready for prom or college students preparing for spring break.

It did not take a long time for people to start spotting flaws in the final legislation. As late as last week, the President said "Starting this year, insurance companies will be banned forever from denying cover-

age to children with pre-existing conditions." Just one problem with that statement – the bill doesn't do that.

The *Associated Press* discovered that while the bill prevents insurers from applying pre-existing condition exclusions for children accepted for coverage, nothing requires the insurers to agree to cover a child with such a condition. That requirement does not go into effect until 2014. Instead, parents will be forced to enroll in high-risk plans until 2014. Administration officials said they were working on a regulatory fix. But the admission of this oversight is likely to be the first of many embarrassing discoveries for the White House and Congressional Democrats.

Congressional employees are finding out that there are two different classes of staff when it comes to insurance coverage. Both the House and Senate agreed that members of Congress and their staffs were to obtain their health insurance through the

same exchanges the public would use. But the Senate bill has an interesting definition of staff. Under their version of the bill, the only staff required to use this process are the staffers attached to the Member's office. Committee staff, administrative staff, and leadership staff were somehow exempted from this requirement. No one in the Senate is admitting to revising the definition, but it is creating a level of resentment amongst many staffers.

Many of these may have been corrected if the President had just followed another campaign promise. Candidate Obama told the American people that they would have five days to review any bill passed by Congress before he would sign it. But with many other bills enacted over the past year, President Obama couldn't wait that long as it was just 36 hours between passage and the signing ceremony. When it comes to health care reform, there will likely be many more broken promises to come.

## Economic Growth

(Contact Matt Hinch at 1-3298.)

### Economic Development Bill Passes Senate With Changes

On March 22, 2010, the Senate approved House File 2522, the Fiscal Year 2011 Economic Development Appropriations bill. The bill maintains a \$41.8 million general fund spending level and \$11.6 million in other funds to the Department of Cultural Affairs, Department of Economic Development, Board of Regents, Iowa Workforce Development and Public Employment Relations Board.

The bill increases spending by \$1 million above the FY10 amount. However, the Senate made some changes to the bill. Accordingly, the full House must approve the bill as amended.

The Senate made the following changes to the bill:

- Decreases funding to the Department of Workforce Development for the Workforce Development Board and
- New Iowans Centers by \$50,000.
- Increases funding to the Department of Workforce Development for the Employee Misclassification Program by \$50,000.
- Requires an out-of-state contractor to file a surety bond with the Department of Workforce Development Division of Labor Services in the amount of \$25,000 for a one year period or provide a statement to the Division that the contractor has prequalified to bid on Iowa Department of Transportation contracts.
- Transfers the \$100,000 of the Beer Gallonage Tax and Wine Gallonage Tax appropriated to the Department of Economic Development to the Midwest Grape and Wine Industry Institute at Iowa State University.
- Amends House File 681 to allow a collective bargaining agreement to supersede the definition of a part-time employee as defined in the bill. In addition, it reduces the required 30 day notice required of a business when closing or implementing mass layoffs by the number of days that severance payments or wages in lieu of are paid by the employer.

Regardless of the changes made by the Senate Amendment, the bill still spends more than \$1 million than it did last fiscal year. House Republicans remain concerned with the majority's practice of passing irresponsible and unsustainable budgets that spend more money than the state takes in. Just as Iowa families are being asked to tighten their belts and do more with less, their state government should be asked and required to do the same.

## Education

(Contact Ann McCarthy at 1-3015.)

### MOU gone, but Teachers Still Get Special Deal

This week the House debated SF 2376, the \$844 million Education appropriation bill. After five hours of spirited debate the bill passed on party line vote of 55-44.

The good news is that on a bi-partisan vote the House repealed the controversial Race-to-the-Top Memorandum of Understanding (MOU). The controversial law passed in the first week of session. Since then, Iowa failed the first round of competition.

As you recall, the MOU mandates that the teacher's union and school board negotiate how to turn around a failing school. 140 Iowa school districts opted out of Race to the Top because of this provision.

Another bi-partisan effort failed, however, by one vote. Amendment H-8522 failed by a record roll call vote of 49-50. The amendment would have eliminated the provision in SF 2376 that exempts teachers from any future across the board (ATB) cut. Fierce floor debate brought to light the fact that exempting teachers from any future cut shows favoritism over all other school employees and over other critical areas of the state budget including public safety, child support and seniors.

All legislators agreed they value Iowa's teachers yet this ATB exemption creates inequities, interrupts ongoing litigation and puts additional pressure on a district's

property tax funded cash reserves. At the end of this article you'll find formal talking points on this issue.

Partisan politics came into play regarding the immediate disclose the name of a person who complains against a teacher. On a party line vote of 44-55, House Democrats voted to immediately give out the name of a person who complains against a teacher. House Republicans sided with the 32 other licensing boards in this state who keep the identity confidential unless or until it is a founded complaint.

***“House Democrats voted to immediately give out the name of a person who complains against a teacher.”***

The House did come together and unanimously approved Amendment H-8533 which makes the Iowa School Board Association and all other nonprofit corporations operated by elected officials subject to Iowa's open meeting and open records law.

SF 2376 now goes back to the Senate for that chamber's consideration of the House amendments.

#### Talking points on exempting teachers from any future pay cut

- Favors teachers over all other school employees
- Favors teachers over all other areas of the state budget – public safety, child support, seniors
- Spending authority left in tact. This means that the full ATB is applied to the rest of a district's foundation aid. This reduces the amount of money districts are able to spend on other necessary expenditures to help educate our students.
- Increases the demand on a district's cash reserves which are 100% property tax funded.
- Carving out exceptions to an ATB takes elected officials out of the very decision making that Iowans elected them to do. Our state law currently allows the governor to call the legislature into special session at any time to do select budget cuts.
- There are equity concerns as every district's per pupil supplement is different. This bill won't have the same impact on every district.
- This issue is currently in litigation in Polk County district court. Oral arguments are set for May 7, 2010, at 1:30 p.m.

### Student Achievement Slips Again

More bad news for the Culver administration. Today we learned that under Culver's watch Iowa's 2009 student achievement scores fell from its 2007 level. The results are from the National Assessment for Education Progress (NAEP), the only test taken in all fifty states.

Today's release of 2009 NAEP results show that Iowa's reading scores continue to lag.

Iowa's 4th grade reading scores slipped from 225 in 2007 to a score of 221 in 2009. This means that the fourth graders in 28

states meet or beat Iowa's fourth graders

Iowa's 8th grade reading scores slipped from 267 in 2007 to a score of 265 in 2009. Thirty states meet or beat Iowa's 8th graders in reading.

## Environmental Protection

(Contact Lew Olson at 1-3096.)

### Watershed Planning Measure Returns to House with WMA Language

On Thursday, March 18, 2010, the Senate passed House File 2496 by a 47-0. House

File 2459, as passed by the House, established a watershed planning advisory coun-

cil. The Senate amended the bill with lan-

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guage from Senate File 2317 including language of the three House amendments that were filed to that bill.

This modified SF 2317 language is different from SF 2317 in two important ways. First of all it doesn't include language that allowed a WMA to charge "dues" to participating governmental entities for WMA expenses and programs. Secondly, it includes explicit language prohibiting a WMA from acquiring property through eminent domain processes. The Senate amendment authorizes at least one watershed demonstration pilot project involving DNR, IDALS, in collaboration with USDA-NRCS and the Iowa Flood Center in cooperation with Watershed Resources Coordinating

Council.

The details of the WMA language are as follows. Two or more cities, counties, and soil and water conservation districts are allowed to create a WMA. The participating cities, counties, and soil and water conservation districts must be located in the same United States HUC- 8 watershed. A county or a soil and water conservation district may participate in more than one WMA, but a political subdivision is not required to participate. The language gives permission for a WMA to assess the flood risks in the watershed, assess the water quality in the watershed, assess options for reducing flood risk and improving water quality in the watershed, monitor federal flood risk planning and activities, educate the residents of the watershed area regard-

ing water quality and flood risks, allocate moneys made available to the authority for purposes of water quality and flood mitigation, make and enter into contracts and agreements. However, a WMA may not acquire property through eminent domain. H-8464 additionally provides that a WMA shall be governed by a board of directors and each participating soil & water conservation shall have at least one director. The measure provides that in all activities of a WMA, the authority shall coordinate and cooperate with the Department of Natural Resources, the Department of Agriculture and Land Stewardship, councils of governments, public drinking water utilities, and soil and water conservation districts.

## Government Oversight

(Contact Jason Chapman at 1-3440.)

### Oversight Continues IASB Hearings, Granted Subpoena Power



The Government Oversight Committee convened two more meetings looking into the scandal at the Iowa Association of School Boards (IASB) this week. Monday's meeting consisted of testimony from Jon Muller, former CFO of the IASB, and Wednesday's meeting saw the board of directors of IASB before the committee answering questions before the board.

Jon Muller served as the CFO for IASB until April of 2009. He was with the IASB in some capacity since 2001, coming on full-time in 2004. After he left in April of 2009, he remained in a consultant position until June or July of 2009. His leaving, he stated, was a mutual agreement caused by a difference of opinion between then-Executive Director Ron Rice and himself.

Some of the questions from lawmakers attempted to help clear the confusion surrounding Muller's time at the IASB. While he served as CFO for the board, he also served as the president of one of IASB's

business spin-offs, Local Government Services, Inc.

LGS was created to house IASB's profit-making activities to shield the IASB, a not-for-profit, from activities which would put its not-for-profit status in jeopardy. If 30% of a corporation's revenues come in from profit-making activities, the IRS may reevaluate its not-for-profit status. IASB was generating revenue by selling services and products to Iowa schools, and schools in other states, so they moved those activities under LGS.

So did Muller work for IASB or LGS? Both, he claimed. He stressed that IASB and LGS are one and the same. LGS is a 100% wholly-owned and controlled subsidiary of IASB. There was no distinction between them as you moved about the office. His salary, just under \$200,000, was set by the Board of directors of the IASB, but he was paid by LGS. LGS had a contract with the IASB for LGS to provide services to IASB. When questioned whether there were defined job details for both of positions, he was unsure. But, he stated that he operated on a day to day basis the same as he would have whether LGS ex-

isted or not. Those day to day operations for him consisted of managing all IT for the IASB, managing human resources, software development, building and operations, rental agreements, IASB's insurance pool which schools are a part of, and the natural gas pool, part of the IASB's IJUMP program.

Muller was questioned about finance troubles and improper dealings that might have been occurring during his tenure with the IASB. He stated that he knows of nothing improper that took place. He believes the finances were in order and that the businesses and programs created by IASB were for the benefit of schools and students in Iowa. As for claims of nepotism, Muller stated that employed at the IASB were his wife's sister and his wife's sister's husband. But he believes there was no problem with this as it was fully disclosed, they never reported to each other and they never set each other's salaries or anything else improper. His wife's sister holds an administrative assistant position, while his wife's sister's husband is a marketer for IASB's Payscale program.

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There remain questions on whether Muller conducted in improper conduct while managed the IASB's IJUMP. IJUMP is the Iowa Joint Utility Management Program, which helps school districts manage their budgets and increase savings for energy costs and fuel management. Muller stated that he did hedge natural gas prices, but there was nothing wrong with what he was

doing.

One interesting piece to note is that Muller stated the spin-offs that IASB was creating were done so to provide valuable services to schools and they were put in separate businesses and programs to decrease liability to IASB. While the programs might be saving money for school districts, is that really what the IASB should be doing and is it beyond the scope of the intend of what

the IASB should be?

Oversight plans to meet beyond the session and to continue to call in school board members, current employees and past employees. At Wednesday's meeting the chairs asked for, and were granted, subpoena power. The intent is to call in those who were asked to testify and have not responded. The chairs plan to meet more times over the next four to six weeks.

## Human Resources

(Contact Brad Trow at 1-3471.)

### Senate to Pass Hospital Tax

Just when the House Ways and Means Committee thought they had completed their work, word comes that the Iowa Senate will be passing a new revenue idea. The Senate is expected to release, move through committee, and pass in one day a bill that creates a new provider assessment on hospitals.

Before the Legislature convened in January, the Iowa Hospital Association proposed that the state implement a provider assessment on selected hospitals in the state in order to provide funding for increased Medicaid reimbursement to the same hospitals. The proposal creates a three year pilot program where the state would assess a 1.26 percent levy on non-Medicare net patient revenue. This assessment would generate \$40 million in revenue to the state.

The funds generated would serve as the state match for a Medicaid plan amendment that would raise the reimbursements for some Iowa hospitals to the maximum amount allowed, known as the upper payment limit. Additionally, the plan would

generate \$19 million in new Medicaid funding for the state. The amount of the funding to the state would go down in year 2 and 3, as the state would implement rebasing of Medicaid hospital reimbursements.

***“This assessment would generate \$40 million in revenue to the state.”***

While some may think this idea is similar to the nursing home quality assurance assessment adopted last year, there are two significant differences between the two ideas. The biggest difference between these two plans is who is subject to the assessment. Under the nursing home assessment, virtually all nursing homes in the state pay in. But under the hospital provider tax, over 70 percent of Iowa hospitals would not be participating.

In 1999, the Iowa Legislature made the decision to implement the Critical Access Hospital program. This idea, pushed by

Senator Grassley, allows smaller hospitals in the state to recover their full costs for Medicaid and Medicare services. In exchange, these hospitals limit the services they provide and the duration of stay for patients. According to the Department of Public Health, there are 82 critical access hospitals in Iowa. Under the Senate proposal, critical access hospitals will not pay the tax nor will it receive any funding from the tax. Most of the hospitals that would be subject to the assessment would be from urban areas.

Another difference is where the initial payment of the assessment comes from. When the Legislature enacted the nursing home assessment last year, funding was appropriated so that nursing homes were given funding to pay for the first quarter's assessment. Therefore, the imposition of the assessment would not be a reason for nursing homes to raise their rates. Under the Hospital Assessment, participating hospitals would put up their own funds for the first quarterly payment. According to the Hospital Association, the payments will come from hospital operation revenues.

## Judiciary

(Contact Tony Phillips at 1-3026.)

### Health Care Lawsuits Likely to Hinge on Commerce Clause

America is a nation founded on principles of limited government and personal responsibility. Many Americans worry that the health care bill passed by Democrats threatens those principles. To that end, some are asking whether the bill is consti-

tutional.

What appears to be the most likely legal challenge to the bill is the contention that the federal government cannot force someone to purchase insurance. Whether that

argument succeeds or fails will likely hinge on whether Congress is considered to be violating the Commerce Clause.

The Commerce Clause is an enumerated

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power contained in Article 1, Section 8 of the United States Constitution. It states that Congress shall have the power “to regulate Commerce with foreign Nations, and among the several States, and with the Indian tribes.”

The argument that the health care mandate unconstitutionally extends Congress’ power beyond the Commerce Clause is simple. Someone who decides not to purchase something, is not participating in interstate commerce. In the absence of that individuals participation in commerce, Congress has no authority to compel them to purchase health insurance.

While that argument is clear, the law surrounding the Commerce Clause is anything but. The Supreme Court case that may best exemplify how far the Court has been willing to allow Congress to extend the Commerce Clause is *Wickard v. Fillburn* [317 U.S. 111 (1942)]. In that case, Congress was being challenged for having set quotas on the amount of wheat that could be raised on each farm. Congress not only set a quota on wheat produced for the market, but also on wheat that would be consumed on the farm it was raised.

In *Wickard*, the plaintiff challenged a quota on wheat production as unconstitutional. He never intended to sell his wheat, rather he would consume all that he produced. How could he be considered to be participating in interstate commerce when no wheat left his farm?

The Court unanimously found that the even

if the plaintiff’s action is trivial, if you consider this “taken together with that of many others similarly situated, it is far from trivial.” Thus, the Court found *Wickard*’s lack of participation to have a “cumulative effect” on the market as a whole. Congress could regulate his home production of wheat.

For decades following the *Wickard* decision, there seemed to be nearly no limit on Congress’ power to regulate commerce. However, recent court decisions have signaled a willingness to place some limitations on that power. This is what some consider a hope for a positive outcome to a challenge to health care legislation.

The modern decisions of the Supreme Court may prove to offer little help in the health care battle. In *U.S. v. Lopez* [514 U.S. 549 (1995)], the Court struck down a law banning guns in school zones. In a similar case, *U.S. v. Morrison* [529 U.S. 598 (2000)], the Court struck down a violence against women law. However, these two cases invalidate Congressional action because Congress was attempting to regulate non-economic activity.

A more recent indication of how the Court may decide a health care lawsuit based on the commerce clause comes from a 2005 case, *Gonzales v. Raich* (545 U.S. 1). In that case, the Court indicated that *Wickard* is still valid and that even purely non-commercial, intrastate activity could be regulated “if it concludes that failure to regulate that class of activity would undercut the regulation of the interstate market in

that commodity.”

These modern cases seem to outline two separate hurdles. Under the *Lopez* rationale, successfully overturning the health care mandate appears to rest on a finding that not purchasing health care is non-economic. Under the *Raich* rationale, it may be necessary to prove that allowing people to not purchase health insurance does not undercut attempts to offer affordable health care to everyone else.

Ultimately, a successful challenge to the health care bill’s mandate may rest on the Court’s willingness to reexamine the Commerce Clause, and formulate an approach to what limitation it places on Congress’ power. In the eyes of many who consider Congress’ current power unchecked, such an approach would symbolize a return to the federalist system intended by the Constitution.

**“To date, 14 states have filed suits against the health care bill.”**

To date, 14 states have filed suits against the health care bill. In Iowa, the Attorney General has indicated he will not be pursuing such action. However, section 13.2(1) (b) of the Iowa Code compels the Attorney General to act if the Governor, Executive Council, or General Assembly direct him to.

## Labor

(Contact Lon Anderson at 1-5184.)

### Unions Dealt Defeat on Several Bills

As the second session of the 83rd General Assembly nears its conclusion, it appears Iowans have prevailed and several pro-union bills will not be debated or become law.

First, House File 2485, the non-controversial Chapter 20 changes bill, was sent to the Governor without the controversial “open scope negotiations” language

added to it. The Governor vetoed open scope collective bargaining language in 2008 and apparently wasn’t willing to sign it this year either.

Second, House File 2382, doctor shopping for police and fire personnel, died in the second funnel. The bill was attempt to get a limited version of employee choice of doctor into the Code with the thought of

coming back later to expand its coverage. Thanks to a loud outcry by the cities and the business community, the bill was never brought up for debate or referred to Appropriations or Ways and Means.

Finally, House File 2420, fair share fees and HF 2421, prevailing wage, were both sent to the Ways and Means Committee.

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This maneuver kept both bills alive until the end of session. However, the chair of the committee announced on March 23 that the

committee would not meet again for the remainder of the session. If that's the case, both HF 2420 and HF 2421 will die once session ends.

House Republicans are proud to have stood with lowans in opposing these four controversial Labor bills. Hopefully the end of session will mean that these bills are dead for once and for all.

## Local Government

(Contact Ann McCarthy at 1-3015.)

### Check list for Government Efficiencies

As money gets tight and looks to stay tight for the next several years local governments are becoming true believers in the buzz words "reform" and "restructure." Local officials cautiously navigate reform options by weighing the high political costs versus the distractions it can cause to service delivery.

Textbooks abound describing the successful corporate merger but successful public agency mergers are often uncharted territory.

Public management expert Peter Frumkin cautions against a merger that comes across as an acquisition. Instead, he examined a series of government reorganizations and identified five critical areas that can improve the likelihood of success:

- *Choosing targets wisely.* The mission of the two agencies must be compatible. There has to be a fit between culture and competencies. Frumkin warns that culture mismatch is often the number one reason why government mergers fail.
- *Communicating effectively.* Mergers create anxiety among employees and stakeholders. Communicating the new mission clearly helps people make sense out of the changes and keeps them focused on what they need to do.
- *Implementing quickly* Frumkin says that experience shows that moving forward quickly with important operational changes is critical to building momentum and moving toward normalization.
- *Creating new culture* Mergers are not simply an addition or deletion of func-

tions. A new culture is created and that means breaking away from existing routines, traditions and customs by selecting different element from each organization.

- *Adjusting over time* Think beyond the first 100 days. Effective mergers oftentimes take several years to solidify. After the initial implementation comes learning from unforeseen events and long-term selling of the merger to the public and stakeholders

Gaining stakeholder buy-in from the beginning is a clear asset says Frumkin. When that's not possible the local government should clearly communicate that customer satisfaction will be the primary measure of success. As customer satisfaction increases so will support.

## Natural Resources

(Contact Lew Olson at 1-3096.)

### DNR Touts Shade Tree Distribution Programs Planned for Spring

On Tuesday, March 23, 2010, the Iowa Department of Natural Resources (DNR) announced that residential customers of MidAmerican Energy who live in Iowa can reduce future energy use and at the same time landscape their homes. The Plant some shade® residential tree-planting program is a partnership initiative to aid long-term energy and natural resources conservation. The program is being funded by MidAmerican and administered by DNR's Bureau of Forestry. The bureau has eight

local partners, including the Carroll County Conservation Board, City of Cedar Rapids, Polk County Conservation Board, Pottawatomie County Conservation Board, Scott County Conservation Board, Warren County Conservation Board, City of Waterloo and the Webster County Conservation Board.

Plant some shade®, enables Mid-American's residential customers to purchase up to two, 3 to 8-foot landscaping

trees for just \$30 each. Each project has a variety of trees available and typically includes two or three shade trees, a low-growing ornamental and a conifer. Spring projects will take place in Carroll, Cedar Rapids, Council Bluffs, Davenport, Des Moines, Fort Dodge, Indianola and Waterloo. Advanced orders for Plant some shade are required. Order forms can be obtained by visiting [www.midamericanenergy.com/ee/ia\\_res\\_shade.aspx](http://www.midamericanenergy.com/ee/ia_res_shade.aspx). Orders will be accepted until all trees have been sold.

### Sustainable Natural Resources Funding Allocation Plan Finalized

On Monday, March 22, 2010, the House and passed Senate File 2310. A day later, the Senate concurred with the House

amendment (S-5305) and passed the bill by unanimously. During House consideration of the bill, language was removed that

would have allowed Natural Resources Account monies to be used for mainte-

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nance purposes in state parks, state preserves, wildlife areas, wildlife habitat, native prairies, and wetlands and added state forest establishment, enhancement and restoration. The House deleted a provision that would have allowed Natural Resources Account moneys to be used for state conservation law enforcement. The House restructured public participation by creating a new subsection in which IDALS, DNR and DOT are to cooperate, prepare and publish a listing of how moneys from the Trust fund are being spent and to post such

list on an internet site operated by the departments. The House also removed a reference in the bill to the—“tax imposed on certain retail sales of tangible personal property and services” and replaced it with a more general description of state funds involved “...to dedicate a portion if state revenue for the benefit of the state’s natural resources...”

SF 2310 codifies an allocation of revenue from a 3/8th of a penny sales and use tax revenue that may happen in the future.

This legislation is triggered and contingent upon passage of a Iowa Constitutional

amendment that is on the ballot this fall that dedicates 3/8th of a penny sales tax revenue into a constitutionally protect Natural Resources and Outdoor Recreation Trust fund from which monies can only be used for natural resources and conservation purposes. This legislation will only become effective after a subsequent increase in the sales and use tax which occurs after the constitutional amendment is approved by the electorate and funds are generated for deposit into the Trust Fund. The bill would allocate Natural Resources and Outdoor Recreation Trust fund monies as specified in the table below.

SF 2310 Allocation of Natural Resources & Outdoor Recreation Fund

Account	Description of use of allocated fund	Proportion
Natural Resource Account	Provides DNR with additional funds for establishment, restoration and enhancement of parks, preserves, state forests, wildlife areas, wildlife habitats, native prairies, state forests, and wetlands.	23%
Soil Conservation & Water Protection Account	Provide additional funds to IDALS for support soil conservation and watershed protection, including support of division and commissioners with emphasis on erodible lands, and incentives for biomass for biofuel refineries.	20%
Watershed Protection Account	Provide funds to for joint use by DNR & IDALS to support DNR water resource projects that protect, restore and enhance water quality through the provision of financial assistance to communities for impairment based, locally directed projects.	14%
REAP	Provides additional funds to REAP for further allocation per current law	13%
Local Conservation Partnership Account	Provides DNR with funds to allocate moneys for local communities’ initiatives involving parks, preserves, wildlife areas, wildlife habitats, native prairies and wetland; wildlife diversity programs, recreational purposes, improvement of water trails, rivers and streams, education and outreach programs concerning natural history, outdoor safety	13%
Trails Account	Provides additional funds for DOT and DNR to support land trail initiatives related to design, establishment, maintenance, improvement and expansion of land trails for equestrian use, bicycles, walking, hiking, nature study or cross country skiing. In addition, such funds maybe used to support water trails design, establishment, main-	10%
Lake Restoration Account	Provides additional funds to DNR to support public lake restoration initiatives that improves a lake’s recreational, environmental, aesthetic, ecological and social value.	7%

## Rebuild Iowa

(Contact Tony Phillips at 1-3026.)

### Business Assistance Programs Modified

As the recovery from the 2008 floods continues, programs aimed at assisting residents and businesses are continually evaluated to ensure those programs are addressing the needs of those parties.

Recently, officials from the Iowa Department of Economic Development and the Rebuild Iowa Office met with Cedar Rapids city officials to address continued unmet needs of businesses still recovering.

Through that discussion, it was realized that modifications should be made to both the Business Rental Assistance Program and the Loan Interest Expense Program. According to a release from the Rebuild

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Iowa Office, “the changes to the business assistance programs will be funded through \$85 million of the state’s \$800 million in CDBG funds from HUD.”

The Business Rental Assistance Program previously provided business owners up to \$50,000 to be used for lease payments for up to 6 months or to replace damaged machinery, office furniture, supplies and other

equipment. The modified program will allow a business to use up to \$50,000 for lease payments and additionally receive up to 75% reimbursement of the replacement costs for damaged equipment, not to exceed \$75,000.

The Loan Interest Expense Program helps businesses handle the new debt many assumed as a result of the disasters. The program provides up to \$50,000 to businesses to pay for interest on a SBA loan or

private loan that was secured for disaster recovery. The modified program will extend the date a disaster loan must be closed from June 1, 2009 to June 30, 2010.

The release from the Rebuild Iowa Office is careful to point out that “funds are awarded on a first-come, first-served basis.” Businesses that are interested in applying for or updating an application for assistance should contact their local Council of Government or Entitlement City.

## State Government

(Contact Kristi Kielhorn at 2-5290.)

### State Government Policy Issues Resurface in Standings Bill

Several policy pieces from the House State Government committee reappeared in House File 2531 (Standings). All three were stand-alone bills that passed out of committee, but were never debated on the floor.

Section 80 of House File 2531 deals with fiber optics and directs that facilities with sufficient capacity as determined by the commission must be leased. Currently, the state leases all fiber optic cable facilities or those facilities with DS-3 capacity for Part III connections that receive state funds. This section deletes any references to specific capacity and instead provides that any facilities with sufficient capacity are to be leased. It specifies that when making the sufficiency determination, the Iowa Telecommunications and Technology Commission must consult with the agencies associ-

ated with the connections. **(Formerly Senate File 2353)**

Section 80 of House File 2531 expands who is eligible to run bingo games. It strikes the references to organizations exempt from income tax under certain federal tax code sections and inserts that a person can conduct bingo if the requirements are met. The requirements are currently in law and include:

- Participants are not charged to enter the place where the bingo game is conducted.
- Participants are not charged to play bingo.
- All prizes are donated.
- The bingo game is not for fund-raising purposes.

**(Formerly Senate File 2161)**

#### Section 86—Raffles

Section 86 of House File 2531 authorizes a participant in a raffle conducted by an eligible qualified organization to purchase raffle tickets by personal check, money order, bank check, cashier’s check, electronic check, or debit card for one raffle per calendar year. The section defines an eligible qualified organization as a qualified organization that has conducted a raffle during the previous eight consecutive calendar years in which the net proceeds are distributed to a museum. That museum being the National Motorcycle Museum in Anamosa. The department of inspections and appeals is directed to adopt rules that ensure compliance with applicable federal law and with regard to the protection of personal information consistent with payment card industry regulations. **(Formerly Senate File 2217)**

## Transportation

(Contact Kristi Kielhorn at 2-5290.)

### Texting Prohibition Adopted

The long awaited texting bill has finally meet its fate. A conference committee comprised of Senators Danielson, Rielly, Heckroth, Reynolds, and Kapucian and Representatives Hanson, R. Olson, Lykam, Tjepkes, and Hagenow met last week and subsequently filed a conference committee report this past Monday. The conference committee report includes the compromise that follows. The committee report and House File 2456 were both passed in both

chambers on Tuesday.

***“This means that minors with special permits cannot talk on their cell phones while driving.”***

The first sections of House File 2456 cover

minors. Minors who have special permits (work, school, intermediate, and instruction) are prohibited from using electronic communication devices or electronic entertainment devices unless their vehicle is at a complete stop off the traveled portion of the highway. This means that minors with special permits cannot talk on their cell phones (electronic communication device) while driving. This prohibition does not apply if

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the equipment is permanently installed in the vehicle, or operated through permanently installed equipment. The prohibition is a moving violation, enforceable as a primary offense, and carries a fine of \$30.

The prohibition in House File 2456 is much narrower for adult drivers. Adults cannot use a hand held electronic communication device to read, write or send a text message while driving a vehicle, unless that vehicle is at a complete stop off the roadway. A hand held electronic communication device includes a mobile telephone or other portable electronic communication device capable of text messaging. Also included are devices which are temporarily mounted inside the vehicle, unless the device is voice-operated or hands-free. A hand held electronic communication device does not include: voice-operated or hands-free device which allows the user to text message without the use of either hand except to activate or deactivate a feature or function. It is still permissible to use a global positioning or navigational system, to manually enter a telephone number to place a call, or to talk on your cell phone

while driving. Officers will not be permitted to confiscate cell phones during stops.

Due to concerns brought forth by the commercial truck driving industry, emergency workers, and other public safety officials – several exemptions were inserted in the conference committee report with regard to the reading prohibition. Those exempt from the reading prohibition include: a member of a public safety agency performing official duties (fire fighting, law enforcement, ambulance, medical, or other emergency services), health care professionals in the course of an emergency, and persons receiving safety-related information including emergency, traffic, or weather alerts.

The enforcement of the new adult texting prohibition has changed significantly from the versions previously passed by both chambers. A violation of the prohibition is now only enforceable as a secondary offense. This means that a police officer cannot stop someone just for texting – the citation must be accompanied by a stop for some other traffic violation. A person found in violation of the ban is guilty of a non-moving violation classified as a simple misdemeanor and will be punished by a sched-

uled fine of \$30.

Both the prohibition for minors and adults carry harsher penalties if someone is injured or dies as a result of a violation. In the case of a serious injury, a court can impose an additional fine of \$500 or suspend the person's driver's license for not more than 90 days, or both. If a violation causes a death, a court could impose an additional fine of \$1,000 or suspend the person's driver's license for not more than 180 days, or both.

House File 2456 preempts any ordinance passed or previously enacted by any local, county, or municipal ordinance regarding anything covered by this new law. It also preempts any county or municipality from adopting or continuing in effect any ordinance regarding electronic communications devices or electronic entertainment devices.

For both adults and minors only warnings will be issued between July 1, 2010 and June 30, 2011. After that warning period, citations can be issued.

## Veterans Affairs

(Contact Jason Chapman at 1-3440.)

### Veterans Affairs FY11 Budget

The Health and Human Services Appropriation Bill (HF 2526) passed the House last week. It contains the appropriations for the Department of Veterans Affairs (DVA) and the Iowa Veterans Home (IVH).

#### Department of Veterans Affairs

For reference, the FY10 appropriations to the DVA were \$1,067,170 to the department for general administration, \$22,944 to the War Orphans Educational Assistance fund and \$1,000,000 to the Veterans County Grant program. After the Governor's 10% across the board cut (ATB) late last year, the department was less \$106,717, the War Orphan fund was less \$10,213, the Injured Veterans Grant Program was less \$128,145, and the County Grant fund was less \$10,000.

This year's appropriations bill, for FY11, kept the same level as the ATB from last year for the DVA's general administration budget at \$960,453. It also keeps the same level for appropriations to the War Orphans fund, at \$12,731. It funds \$90,000 less to the County Grant fund at \$900,000. And it refills the \$128,145 hole that the ATB cut put in the Injured Veterans Grant Fund.

The County Grant fund is used to appropriate \$10,000 to each of Iowa's 99 counties. At \$900,000 appropriated for FY11, it is \$90,000 short. The bill fills this hole by appropriating \$90,000 from the Merchant Marine Fund, under the DVA. This leaves roughly \$46,000 in the Merchant Marine Fund.

Last year with the ATB, the DVA had to eliminate 2 FTEs. This brought the total FTEs from 17.20 to 15.20, which was maintained going forward into FY11.

#### Iowa Veterans Home

For reference, the Iowa Veterans Home had an appropriation of \$11,326,650 for FY10. They also had a \$5,631,389 carry-forward from FY09, for a total of \$16,958,039. The ATB cut last year cut \$1,695,804 from their budget, leaving the IVH with \$9,630,846 appropriated and a \$5,068,250 carry-forward.

The FY11 appropriation maintains their FY10 ending level, by appropriating \$9,630,846. From the carry-forward, the

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IVH is required to transfer \$1,000,000 of the FY2010 funds to the DHS for field operations for FY2011.

The state appropriated money makes up roughly 11% of the IVH's overall budget, which is over \$70 million. The remaining bulk of that being federal money and Medicaid money.

For FTEs, the ATB eliminated 11.8 positions last year at the IVH. The FY11 appropriation bill provides for 949.27 FTEs, which is 23.44 less than the FY10's post-ATB amount.

## Ways and Means

(Contact Matt Hinch at 1-3298.)

### Standings Bill Increases Taxes

Despite promises made by Governor Culver and the majority party that they will balance the budget without raising taxes, for the second week in a row legislation has passed to increase taxes on hardworking Iowans.

On March 23, 2010, the House Ways and Means Committee approved House File 2531, the Fiscal Year 2011 Standing Appropriations Bill, on a party line vote. In addition to the various appropriations and other policy matters addressed under the bill, HF 2531 seeks to increase the amount of tax a city and county can levy on individuals who occupy hotel and motel rooms. The bill now awaits further consideration by the full House.

Current law allows cities and counties to levy a 7% tax on the price of hotel and motel rooms. Accordingly, cities are only able to levy the tax in their own incorporated areas, and counties are only able to levy their tax in the unincorporated areas within the county boundaries. In order to impose

or increase the tax, the city council or county board of supervisors must approve an ordinance and the ordinance then must be approved by a vote of the people.

HF 2531 would allow cities to increase their hotel and motel tax from 7% to 9% and permits counties to increase their hotel and motel tax from 7% to 8%. The bill also authorizes a county that has an 8% tax rate to impose 1% of its rate on incorporated areas of the county. Under this scenario, a city that has a maximum hotel and motel tax rate of 9% could jump to 10%.

The bill also requires cities and counties to establish a Citizen Advisory Review Committee. The committee must be composed of residents of the taxing authority and are tasked with submitting recommendations on how the revenue generated from the hotel and motel tax should be spent in accordance with current law.

Proponents of increasing the hotel and motel tax argue that the majority of the tax

applies to non-Iowa residents. However, this is not the case. According to the Iowa Lodging Association, 70% of all guests of Iowa lodging businesses are in fact Iowans. Iowans from Charles City who travel to Des Moines for the state wrestling tournament. Iowans who travel from Dubuque to attend the state fair. Iowans who travel from Davenport to attend the girls and boys high school state basketball tournament. Or, Iowans who have been pinched financially and are unable to vacation outside state lines and instead visit Okoboji or Clear Lake for a weekend get-a-way.

House Republicans remain opposed to tax increases, whether they're imposed directly by the state or imposed by local governments at the direction of the state. House Republicans believe strongly that now is not the time to be increasing taxes on struggling Iowa families. Unfortunately for Iowans, the Democrats are in control of the Governor's office and the legislature, and they disagree.