



Representative Andrew Wenthe Statehouse News

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Capitol Comments

This week the Iowa House passed a bill that will make it illegal for employers to hire undocumented workers and will fine them if they do not comply with the law. Though I believe illegal immigration reform should be handled by our federal government, I voted for this immigration bill because the lack of federal action is forcing states to pass their own laws. If this bill is passed by the Senate and signed by the Governor it will require all employers to make sure that new employees have a valid photo ID and that they must fill out forms to that affect. If the employer falsifies the form, they can be charged with perjury.

The intent of this bill is to curb illegal immigration into Iowa, punish employers who knowingly break the law, and protect the human rights of those who are enticed into coming to Iowa to work for poverty wages. The many companies who play by the rules, providing their workers fair wages and benefits and pay their taxes, find themselves at a financial disadvantage to those employers who cheat undocumented workers out of decent pay while taking good-paying jobs away from Iowans.

This bill also makes it illegal to knowingly assist an illegal alien in obtaining false identification or to use a false or fictitious name to obtain a photo ID. An important aspect of this bill is that it outlaws a growing problem in the construction industry,

where company owners misclassify workers as independent contractors rather than as regular employees. This allows them to avoid paying high wages, workers' compensation, or providing health care and other benefits. Again, this misclassification puts these companies at a competitive advantage to companies that are responsible and pay workers fair wages and benefits.

2009 Budget Deliberations Continue

- Budget will fund Iowa's priorities with a responsible 3.7% increase
- Rainy Day funds will be filled to the highest level ever, over \$600 million, in the case of economic downturn
- Increased access to health-care for Iowa kids
- Funding for community colleges, higher teacher pay and tuition assistance

I know from having knocked thousands of doors over the past two years, and after hearing your concerns at dozens of forums in District 18, that illegal immigration is a huge concern to many of you, and for many reasons. If the federal government can not solve this problem that is truly their responsibility, than the state has no option but to act on their own. That is why I am pleased that we passed this legislation this week and we will

continue to look at ways we can do more.



It is tradition that the pages bring out each Representative's storage box and arrange them on the floor to signify that adjournment is near.

The House also passed a bill this week that will increase funding for the state's infrastructure. The recent Minneapolis bridge collapse and a brutal winter that has resulted in massive potholes have underlined the need for additional support. I drive along our roads and highways in District 18 every week as I travel to

and from Des Moines, and there is no question that Iowa needs to upgrade and fix our roads and bridges. The Department of Transportation has estimated that the State of Iowa has a \$1 billion shortfall in funding in coming years due to rising costs and aging roadways.

I understand this need, but I believe the bill in the Iowa House is the wrong approach. In this time of economic uncertainty, I don't believe we should raise taxes and fees on hard working Iowans at a time when they are already feeling an economic crunch. The bill, which I opposed, raises 15 different taxes and fees that will cost Iowans \$162 million a year. 30 Democrats and 23 Republicans supported this bipartisan measure. You can read more information about the bill, which may affect your vehicle registra-

tion fees in the upcoming year, later on in this newsletter.

In other news, I was proud to support Senate Joint Resolution 2002, which is the first step in providing a stable funding source for our natural resources. I've heard from many of you regarding this resolution this year and because of your input I supported this legislation. I know SJR 2002 is a top priority for many conservation, wildlife and environmental groups, as well as Iowa's sportsmen. I believe the resolution adopted last week is critical in protecting and enhancing water quality and natural areas, like parks, trails and wildlife habitat.

As always, please do not hesitate to contact me via email, phone or mail if you have any questions or concerns. I look forward to seeing you around the district soon!

Insurance Consumer Advocate

The House gave final approval to legislation creating an Insurance Consumer Advocate. House File 2555 will now go to the Governor for his signature. House File 2555 establishes a Consumer Advocate Bureau within the Division of Insurance.

The Insurance Commissioner, with the Governor's advice, must appoint an advocate knowledgeable in insurance and consumer protection. The Insurance Division is required to cooperate in fulfilling the consumer advocate's duties.

The Consumer Advocate Bureau is responsible for ensuring fair treatment of consumers by insurance companies and for preventing unfair or deceptive trade practices

in the insurance marketplace. The bureau must do the following:

- Investigate consumer complaints and if any insurance law was violated, including establishment of insurance rates.
- Request the Insurance Commissioner to hold hearings when necessary or appropriate to protect consumers or the public interest.
- Seek assistance from other federal or state agencies or private entities to assist consumers.

The Insurance Commissioner must also report annually to the Governor and Legislature regarding the activities of the consumer advocate, including:

- Statistics on complaints, their disposition, and the disposition of similar issues in other states.
- Any new protection functions that would be appropriate.
- Actions commenced by the consumer advocate.
- Education and outreach efforts.
- Recommendations from the commissioner and the advocate whether more funding, staffing, or legislation is needed.

TIME-21 Road Proposal Passes House and Senate

The House and Senate approved funding proposals to address the recommendations of the TIME-21 interim committee on how to cover the shortfall in road and bridge repair and construction funding. TIME-21 was the short name of a study done by the Iowa Department of Transportation. Officially, it is the Transportation Investment Moves the Economy in the Twenty-first century report.

In 2007, the Legislature created a TIME-21 fund but did not allocate any funding for the fund. Instead, the interim committee was established to recommend ways to provide the additional \$200 million needed annually. To address this shortfall, the House and Senate decided to raise additional road money through registration fee adjustments for cars and multipurpose vehicles, truck registrations, special truck registrations, trailer registrations, and title fees. This should bring in about \$138 million per year by 2012.

Motor Vehicles and Trucks

Senate File 2420 first creates a "business-trade truck" class. "Business-trade trucks" are owned or leased by a farmer or an individual with a business or trade that utilizes the truck in that business or trade.

Trucks that are 10,000 pounds or less that are not "business-trade trucks" would be valued under the weight plus value formula similar to the formula utilized for cars. "Business-trade trucks" would be valued on a flat fee as truck registrations are currently valued.

The bill would also increase the time before registration fees decrease for cars, trucks and SUVs from 5 to 7 model years for 75% of the rate, from 6 to 9 model years for 50% of the rate, and to more than 12 model years for an increased flat fee of \$50.

Senate File 2420 increases the annual registration fee for special trucks and for truck tractors, road tractors, and motor trucks that exceed certain weights.

In total, these changes create approximately \$119 million annually in new revenue by 2012 for Iowa's roads.

Title Fees

Senate File 2420 increases the fees for motor vehicle certificates of title; commercial vehicle titles; specially constructed, reconstructed or foreign vehicle titles; destroyed certificate of title, new registrations and new titles; title transfers; salvage certificates; and non-resident

certificate of title for a motor vehicle purchase. The fees for certificates of title are increased from \$5 to \$10 per each category. The title fee changes in Senate File 2420 will amount to approximately \$8.8 million annually in new revenue by 2012 for Iowa's roads.

Trailer Registration Fees

This legislation increases the registration fees on trailers. Flat fees on trailers will be increased based on the weight of the trailer, with fee differences between trailers weighing more than 2,000 pounds and less than 2,000 pounds. The trailer registration fee increases in Senate File 2420 will create approximately \$10 million annually in new revenue by 2012 for Iowa's roads.

The new fees in the bill will not go into effect until January 1, 2009. In addition, Senate File 2420 includes extensive grandfathering of any new or increased fee. Generally, owners will not have to pay more than what they paid in a previous year, and many of the increases will only affect Iowan's when they purchase a new vehicle or trailer.

Long-Term-Care Insurance Reform

A House committee unanimously passed legislation designed to reform the long-term-care (LTC) insurance industry. House File 2694 will now go to the full house for its consideration.

The bill is intended to protect the public from unfair or deceptive sales practices, establish standards, and ensure availability of LTC insurance. The new law would apply to policies issued on or after July 1, 2008.

The bill funds a new Senior Health Insurance Information Program, which will provide objective material to help older Iowans make prudent choices when considering insurance for their health care needs.

Prominent Disclosure

At the same time as the initial solicitation, an outline of coverage must be provided including:

- A description of benefits, exclusions, reductions, and limits.
- The terms for continuing or discontinuing the policy, including any ability to change the premium.
- The terms under which the policy may be returned and premium refunded.
- A brief description of how cost of care relates to benefits.

Preexisting Conditions

An insurance company can not exclude coverage for a preexisting condition or physical conditions after coverage has been in effect six months.

Other Protections

- Cannot cancel, non-renew, or terminate due to age or deterioration of mental or physical health.
- Cannot have a new waiting period after policy conversion or replacement with the same company, unless the policyholder selects higher benefits.
- Cannot cover only skilled nursing home care or more coverage for skilled care than provided for lower levels of care.
- A policy may be returned within 30 days of delivery if not satisfied for any reason, with the premium refunded within 30 days.

- The company cannot contest a policy after two years, unless the policyholder intentionally misrepresented facts relating to health.

The Insurance Commissioner must adopt rules to define what timely payment is and insurers must pay 10% interest on late claims.

Independent Review

LTC policies list certain events that “trigger” benefits, such as functional or cognitive impairment. If the insurer denies benefits because the insured person does not meet the criteria for the trigger, the person may appeal the decision to the company. If the company turns down the appeal, then the person has the right to an independent review of the denial.

The policyholder must file a request for an independent review with the Insurance Commissioner within 60 days of final denial. A

\$25 filing fee is refunded if the policyholder wins the appeal and the insurer pays all other costs. Reviews are conducted by independent review entities that must be certified by the Insurance Commissioner every two years. The review entities designate health care professionals in the appropriate field to determine functional or cognitive impairment. They cannot have any relationship with the insurance company.

The review entity’s decision is binding on the insurance company, but the insured person may appeal a denial to district court.

An insurer or agent that violates this law may be fined up to three times their commission for each policy, or \$10,000, whichever is greater.

Education Budget Passes House

The education budget bill passed the House this week on a party-line vote. House File 2679 appropriates a total of \$1.14 billion for many education related purposes.

Education funding goes to several departments including the Department for the Blind, College Aid Commission, the Department of Education, and the Board of Regents and its institutions.

Many of Iowans’ priorities for education are included in this budget:

- Keeping the best and brightest teachers in the state of Iowa by paying them competitive wages.
- Increasing money for work study programs to help students pay for college.

- Keeping tuition at community colleges and regent universities to the rate of inflation so parents can afford to send their children to college.
- Providing opportunities for before and after school programs or remedial assistance for K-12 students.
- Requiring rigor and relevance in Iowa’s schools to provide Iowa students competitive advantages in the global economy and workforce

Highlights of the bill are:

Teacher Pay

A \$75 million increase for teacher salaries is in the bill, for a total compensation package of \$248 million.

Work Study

The budget increased work study by \$403,000, for a total of almost \$700,000. The federal government also appropriates \$13 million to Iowa for work study.

Tuition

The Board of Regents will get \$650 million. Community colleges receive \$180 million, an increase of \$8.5 million. The money will aid in keeping tuition down.

The Iowa College Student Aid Commission will receive \$64 million. This includes \$55 million for students attending Iowa’s private colleges, which is a 4% increase over the current budget year.

Before and After School

Before and after school programs receive \$595,000 in this

budget. With supplements from other budgets, these programs will receive a total of approximately \$1 million.

K-12

The department of education receives \$244.5 million. Included in that allocation is \$2.6 million for the implementation of the Iowa

mandatory Model Core Curriculum, dependent on the final passage of Senate File 2216.

Early Childhood

This will be the second year of funding for the statewide voluntary pre-school education program, which will receive \$15 million. In addition, empowerment programs

receive approximately \$30 million for services that include birth to three, early childhood, and other preschool programs.

The bill keeps Legislative commitments to improve our education system in Iowa from pre-school to graduate school. The bill will now move to the Senate for consideration.

Illegal Immigration Reform Passes House

A bill has moved to the Senate, on a bipartisan vote, that would make it harder for employers to knowingly hire an undocumented worker and provides penalties if they knowingly do so. The employer must sign a form indicating that a job applicant's appearance matches a valid photo ID. This action must be done within 10 days of the employee being hired.

House File 2686 requires a photo copy of the license to be kept on file. If the employer falsifies the information in the form, they could be subject to perjury charges. Employers would face fines and jail time for accepting fraudulent identification and exploiting illegal immigrants.

The House added several amendments to the bill designed to crack down on illegal immigrants. A corporate officer or an employer with repeated violations commits a serious misdemeanor.

Whistleblower Protection

An employer cannot fire an employee, or deny a promotion of the employee for notifying any law enforcement in regards to violations of this law.

False ID's

A person who knowingly assists an illegal alien in obtaining a false ID in order to obtain employment commits the offense of identity theft. The penalty would be increased if someone makes a drivers' license, obtains identification cards, or a blank driver's license. A person who uses a false or fictitious name in any application for a driver's license or non-operator's identification card commits fraud.

This portion of the bill is designed to crack down on employers who hire and sometimes exploit illegal aliens. Although the federal government has laws and enforcement measures in this area, the federal government has been unable to pass any meaningful immigration reform, or keep up with the enforcement of the laws that are already on the books.

Proponents of the bill feel that this legislation will crack down on employers that are exploiting workers in order to obtain cheap labor. Opponents feel that workers will be stereotyped through the legislation and will not be hired even if they do possess a valid photo ID.

Employee Misclassification

The other portion of the bill deals with the illegal practice of misclassifying an employee, called 1099 misclassification. There has been a rise, particularly in the construction field, of employees being hired as independent contractors, often paid in cash. In reality, these workers are actual employees of the contractor.

The Carpenters' Union has documented over seven cases of 1099 abuse involving construction contracts in Iowa. Some of these contracts were for public schools and hospitals. The projects in some cases misclassified up to 27 people on the job site. Three of the developers received state tax credits.

The bill would fine employers misclassifying workers in the construction industry. Responsible employers are bearing the cost of this fraud by being at a competitive disadvantage on projects because they are paying higher wages, premiums for workers' compensation and providing health insurance.

Constitutionally Protect Natural Resources

On a vote of 88-10, the House adopted a resolution to add an amendment to Iowa's constitution

to protect Iowa's natural resources and outdoor recreation funding.

Senate Joint Resolution 2002 has now been approved by both the House and Senate. However, the resolution still has to pass the

House and Senate again over the next two years before it would go on the ballot so Iowans can vote on it. At the earliest, it would be on the November 2010 ballot.

Senate Joint Resolution 2002 creates a natural resources and outdoor recreation trust fund for the purpose of protecting and enhancing water quality and natural areas in Iowa. This would include parks, trails, fish and wildlife habitat, and conserving agricultural soils. Monies in this fund can only be used for these purposes.

The resolution further explains that no revenue will be credited to the fund until the tax rate is increased after the general public votes on it. The intent is to credit 3/8th of 1¢ to the fund when the sales tax is increased, which would generate approximately \$150 million. The Legislature is to establish the parameters for administration of the fund.

This proposal comes after two-years of studying the issue by the Sustainable Natural Resource Advisory Committee. It is also the recommendation of the Legisla-

ture's Sustainable Funding for Natural Resources Interim Committee that studied this issue last fall.

Iowa law does not address state referendums, so this constitutional amendment proposal does not ask Iowans whether the sales tax should be increased. It asks Iowans whether they want to protect 3/8th of 1¢ of sales tax revenue for natural resources and outdoor recreation if the Legislature increases the sales tax for this purpose.

Automated External Defibrillator Protections Signed

This week Governor Chet Culver signed Senate File 505, which provides protections for individuals that use an automated external defibrillator to render emergency care to someone experiencing a sudden cardiac arrest. Senate File 505 extends Iowa's Good Samaritan pro-

tections to individuals using an automated external defibrillator.

The bill protects a person who uses a defibrillator in response to what the person reasonably believes is a sudden cardiac arrest emergency. The bill also extends

protections to persons or entities that own or are responsible for the premises where an automated external defibrillator is located. However, the bill requires maintenance of a defibrillator according to rules developed by the Department of Public Health.

More Iowans Eligible for State Disaster Aid

Starting July 1st, more Iowans will receive state assistance to replace property damaged by a storm. Governor Culver signed into law House File 2564, which expands the eligibility requirements and reimbursable amounts for the state's individual disaster aid assistance program.

Last year was the first year the State provided aid to Iowans if the Governor declares a disaster, such as a winter storm, flooding, or a tornado. The grants are provided to low-income Iowans to reimburse the costs of repairs of storm-damaged property, home repair, temporary housing, and food. Up to \$1 million a year is authorized for this disaster aid program.

House File 2564 increases eligibility from an annual income of 130% of the federal poverty level to 200% of the federal poverty level. This means individuals with an income of up to \$20,800, or a family of four with an income of up to \$42,400, will now be eligible for state assistance. The Department of Human Services (DHS), which administers this program, mentioned they heard the most complaints from this group of people during the disasters last year because they were not eligible for state assistance and they needed help.

The bill also increases the maximum grant award from \$3,319 to \$5,000, with uninsured structure

repair allowable up to the maximum of \$5,000. DHS noted that, especially during flood events, the current awards were insufficient to repair non-insured structural damages like basement walls or foundations. DHS believes even with this change, most reimbursement grants will remain in the area of \$600 to \$1,200 on average per application.

DHS said that in 2007, the Governor issued six disaster emergency proclamations. There were a total of 757 grant assistance applications with 694 qualifying for assistance. A total of just over \$300,000 was provided in grant assistance to Iowans harmed by winter storms, tornados, or flooding.

Freedom of Information Bill Changed

Senate File 2411, the rewrite of Iowa's open records and open meetings law, received approval from the Iowa Senate on Monday, April 14, on a vote of 42 – 6. The bill then came to the House and was amended and passed by the House State Government Committee on Tuesday, April 15.

As passed by the House State Government Committee, the bill creates a new agency and board to receive complaints alleging violations of the open records and open meetings laws. Citizens may seek resolution of the complaints through mediation and settlement. This can be done at no charge to the citizen alleging the violation. Other responsibilities of the board include:

- Issuing subpoenas enforceable in court for the purpose of investigating complaints and to facilitate the prosecution and conduct of contested cases before the board.
- Issuing orders and, after appropriate board proceedings, determining whether there has been a violation of the law.
- Imposing civil penalties.

- Providing training opportunities for custodians of governmental records and government bodies as well as other persons subject to requirements of the open records and open meetings laws.

- Making information available to inform members of the public about the public's right to access government information as well as procedures to facilitate the process.

- Reporting annually to the Governor and Legislature. The report is to include the number of complaints received, board proceedings, investigations, hearings conducted, decisions rendered, and other work performed by the board.

- Making recommendations to the Legislature relating to public access to government policy.

- Board members will be appointed by the Governor and confirmed by the Senate.

- The board may begin hiring staff, including an executive director, on July 1, 2009.

As passed by the Senate, Senate File 2411 included the following provisions, which are no longer included in the bill as passed by the

House State Government Committee.

- Creating an exemption to the public records law for tentative, preliminary, draft, speculative, or research material, prior to its final completion.

- Limiting personally identifiable information in personnel records of individuals who are officials, officers, or employees of a government body.

- Expanding the definition of meeting under the open meetings law to address meetings held by electronic communications.

- Adding language to include "walking quorums" under the definition of meetings in the open meeting law.

- Repealing the criminal sanctions and increases civil penalties.

The bill is now before the full House for consideration. The Senate would have to agree to any changes in the bill made by the House before the bill would go to the Governor for his signature.

Military Custody Modification Requirements Signed

Governor Culver signed Senate File 2214 this week, making changes to modifications of child custody orders when the child's parent is serving on active duty in the military. The bill provides that if an application for modification of a child custody order is filed while a parent is serving on active duty, the court may only enter a temporary child custody order and only if

there is clear and convincing evidence that the change is in the best interest of the child. When the parent that was serving on active duty returns from service, the bill requires the court to reinstate the custody order that was in effect just before the parent was deployed.

The bill also provides that if an application for modification of

child custody is filed after a parent returns from active duty, the parent's absence due to active duty cannot be considered a substantial change in circumstances and the court cannot consider the parent's absence due to active duty status in determining the best interests of the child.

Healthy Iowans Tobacco Trust Bill Passes House

This week, the Iowa House passed Senate File 2417, the Healthy Iowans Tobacco Trust (HITT) fund bill. The bill allocates \$35.4 million from the HITT fund to various health, substance abuse, community empowerment, and correctional programs. This is a decrease of \$34.7 million compared to the this fiscal year's HITT bill. Funding for this legislation is a result of revenue that comes to Iowa through the master settlement agreement with tobacco manufacturers, and does not impact the general fund.

The bill appropriates a total of \$4.4 million to the Department of Human Services to be used for various programs. This includes a \$35.4 million decrease to Medicaid. The money, however, is replaced in the Health and Human Services budget bill, which will be consid-

ered by the Iowa House before adjournment. The House amended the Senate bill by adding a \$25,000 appropriation for grants for support services for parents of children with autism spectrum disorder.

The bill appropriates \$23.8 million to the Department of Public Health to be used for tobacco prevention and control programs, substance abuse programs, and other health related programs.

The bill appropriates \$4.5 million to the Department of Corrections for community-based correction facilities, the Fort Madison Prison, and to support transitional housing for parolees. This is a net increase of \$471,000 compared to current HITT bill funding. Specifically the bill appropriates:

- \$30,000 for a transitional housing pilot project.

- \$182,000 increase to regionalize the Drug Court Programs in Black Hawk, Dubuque, and Buchanan counties in Community-Based Corrections District I.

- \$259,000 increase for Community-Based Corrections Districts II through VIII.

The bill appropriates \$2.7 million to the Department of Education for empowerment and before and after school programs. There is a \$200,000 increase for before and after school programs for a total of \$505,000.

Lastly, the bill states that any remaining funds are to be transferred to the state general fund at the end of this fiscal year. Senate File 2417 now goes back to the Senate to consider the changes the House made.

House Agriculture Committee Passed Livestock Bill

House File 2692 passed out of the House Agriculture Committee on a bi-partisan vote this week along with a committee amendment. The bill deals with concerns raised by the Environmental Protection Agency concerning animal feeding operations in Iowa. It also contains language allowing poultry confinement operations to stockpile their dry manure for up to six months.

Iowa law has two principal chapters that deal with regulation of animal feeding operations. One chapter regulates livestock confinements and the other regulates livestock open feedlot operations.

EPA Requirements

This bill provides that an animal feeding operation includes a livestock market if they are required to have a National Pollutant Discharge Elimination System

(NPDES) permit pursuant to the Federal Water Pollution Control Act. Currently Iowa law exempts livestock markets from the animal feeding operations. Livestock markets are not exempt under federal law.

House File 2692 also aligns Iowa law with federal law regarding the calculation of confinement feeding operations and open feedlots. Current Iowa law excludes animals confined in any confinement operation buildings when calculating the animal unit capacity of any open feedlot. The bill counts all animals, open feedlot or confined, in determining the operation's number of animal units. In addition, the bill requires that an open feedlot operation comply with federal law including (NPDES) requirements.

Dry Manure Stockpiling

A controversial portion of the bill contains language that allows poultry confinement operations to stockpile their dry manure for up to six months. These requirements mirror those already allowed for open feedlots and for commercial selling of dry manure.

The bill prohibits dry manure from being stockpiled within 400 feet of a designated area, which is defined as a known sinkhole, cistern, abandoned well, unplugged agricultural drainage well or its surface inlet, drinking water well, designated wetland or water source. It must be 800 feet from a high-quality water resource, such as Clear Lake or Lake Okoboji.

The stockpiled dry manure must be maintained in a manner that will not allow precipitation-

induced runoff to drain from the dry manure to the designated area.

Commercial Manure Application

The bill, as amended by the Agriculture Committee, provides for the licensure of a commercial manure service by the Department of Natural Resources (DNR). A commercial manure service repre-

sentative and a confinement site manure applicator must be certified by DNR.

The bill has expanded the definition of confinement applicator to include most aspects of the land application process. Further clarification in the definition of commercial manure service is provided to exclude persons who receive compensation for manure from that

person's own animal feeding operation. The training requirement for commercial applicators is changed from three to two hours. The certification period for confinement site applicators changes from three years to annually.

The bill now moves to the House Floor for consideration.