

## **Legislative E-Update ~ 2.4.11**

---

in this update:

1. Same Sex Marriage Amendment Passes House; Doubtful Future In Senate
  2. Bill Derailing Federal Health Mandate Passes Iowa House
  3. Senate OK's Bill On Drunk Boating
  4. Other News: Legislative Briefs
  5. Bill Tracking
- 

*Parts of these articles were excerpted from various news sources state media outlets.*

### **1. Same Sex Marriage Amendment Passes House; Doubtful Future In Senate**

**2/2/11 Des Moines Register**

Three House Democrats joined their Republican colleagues this week to approve a resolution that ultimately could allow Iowans to vote on whether to ban same-sex marriage in the state. The final vote on the proposed constitutional amendment was 62-37, with Rep. Betty De Boef, R-What Cheer, absent. The resolution now moves to the Senate, but it is expected to die there.

In an emotional debate, Republicans insisted they were honoring the will of the people. But Democrats accused Republicans of stripping civil rights from Iowans.

"This is not a debate about taking rights away from anyone," said Rep. Greg Forristall, R-Macedonia. "This is a debate about whether a right exists. The Legislature and the Supreme Court disagree, so we're going to the people to let them decide."

Rep. Ako Abdul-Samad, D-Des Moines, noted that some of the arguments against same-sex marriage are based on biblical beliefs. Similar arguments were used to justify decades of slavery and laws prohibiting interracial marriage, he said.

"This issue isn't about civil unions. The issue isn't about whether a black can marry a white. The issue is about rights," Abdul-Samad said.

**Full story here:** <http://is.gd/cocs8d>

### **In Senate, Loyalty Trumps...**

A handful of Senate Democrats who would be the deciding votes on a same-sex marriage amendment said Tuesday they won't join minority Republicans to force a vote this year.

Barring a change of heart, that means the effort to allow a public vote on a constitutional amendment to ban same-sex marriage is dead in the Iowa Legislature this session.

Some Democrats personally believe that marriage is between one man and one woman. But they refuse to override their majority leader, who has vowed to block a vote.

At least two Democratic senators said Tuesday that if a same-sex marriage constitutional amendment ever were to come to a vote of the full chamber, they'd likely vote "yes" - enough for a majority. They are Tom Hancock of Epworth and Jack Kibbie of Emmetsburg, the Senate president.

**Full story here:** <http://is.gd/5KenAJ>

## 2. [Bill Derailing Federal Health Mandate Passes Iowa House](#)

**2/3/11 Des Moines Register**

Iowans would be able to ignore upcoming federal health insurance mandates under a bill approved by House Republicans. The bill directly challenges the nucleus of federal health care reform – one of President Obama's key initiatives – by allowing potentially large segments of population to opt out of the system.

"This bill deals with the federal government impeding upon states' rights and individuals' rights," said Rep. Lance Horbach, R-Tama, who led discussion on the bill. "We have the ability, the sovereign ability in the state of Iowa and as legislators representing the people to make that decision. The federal government does not."

Various groups, including members of the Iowa Nurses Association, have previously cautioned against the action.

Healthy people could opt out of health care mandates that become effective in 2014 yet, if they become ill, take part in a law that prohibits insurance companies from denying them coverage.

That could set Iowa's premiums up a fast-moving fiscal elevator because insured Iowans would consist largely of sick people who use far more services instead of spreading the costs among the greater population, they have said.

A few Democratic legislators echoed those concerns.

"This is a major component of how you solve these problems in health care," said Rep. Janet Petersen, D-Des Moines. "If you don't expand the pool you can't afford to cover the problems our country is having with preexisting conditions and lifetime limits."

The bill, House File 111, specifically gets to the question of if the federal government's health care reform requiring citizens to purchase health care is in violation of the U.S. Constitution's commerce clause. Those who believe the law is unconstitutional say the federal government does not have authority to require people to purchase products from the private market.

A federal judge in Virginia ruled in December that the insurance-purchase requirement of health care reform passed by Congress last year was unconstitutional, though two other federal judges have upheld the requirement. It's expected the U.S. Supreme Court will ultimately have to resolve the issue.

Gov. Terry Branstad last month agreed to join 25 other states in a federal lawsuit challenging the constitutionality of the health care reform law.

The bill passed the House in a 59 to 39 vote, largely along party lines. It now moves to the Senate for further consideration where its chances are uncertain in the Democrat-controlled chamber. Senate Majority Leader Mike Gronstal, D-Council Bluffs has said that the idea would receive a fair hearing.

**Related story:** Republican health bill brings constitutional queries <http://is.gd/fPsjr2>

### 3. [Senate OK's Bill On Drunk Boating](#)

*2/3/11 [Des Moines Register](#)*

Boaters would be considered intoxicated when their blood-alcohol level is 0.08, not 0.10 - the same as for vehicle drivers, under a bill the Iowa Senate approved this week. It's meant to crack down on people drinking too much, then driving recklessly around lakes and rivers.

This is the fourth time the bill has surfaced in the Legislature in recent years, but it's the first time it appears to have a chance of approval by the Iowa House.

"I'm getting signals that it's going to," said Sen. David Johnson, R-Ocheyedan, a key backer of the harsher drunken-boating law.

House Speaker Kraig Paulsen of Hiawatha said Republicans would consider the bill.

Iowans who like to drink on party boats could still do so as long as the person driving the boat isn't intoxicated, he said.

The proposal would apply to anyone driving a sailboat, personal watercraft or motorboat.

"If you've had too many, you've been consuming alcohol on the water and you're at the legal limit of 0.08, you could go right to the ramp, load your boat on the trailer and drive away and you're legally drunk," Paulsen said.

A first-offense violation is punishable by up to 48 hours in jail, a \$1,000 fine and a ban on operating a boat for a year. It would not affect driver's licenses. But if a drunken boater causes a serious injury, it's a felony punishable by up to a year in jail, a \$7,500 fine and a six-year prohibition on driving a boat.

The Senate vote was 40-9. Voting against the measure were Republicans Bill Anderson of Pierson, Merlin Bartz of Grafton, Rick Bertrand of Sioux City, Bill Dix of Shell Rock, Tim Kapucian of Keystone, Steve Kettering of Lake View, Kent Sorenson of Indianola and Brad Zaun of Urbandale, as well as Democrat Wally Horn of Cedar Rapids.

Kettering, whose district includes Storm, Black Hawk and Swan lakes, said: "There's no data that supports that lowering (the limit) will save any lives whatsoever."

Kettering also doesn't like that the proposal applies to non-motorized vehicles and to bodies of water on private property, such as farm ponds. He said he feels that way even though those factors are already part of the current law; the only change this bill makes is the blood-alcohol limit.

The bill, Senate File 7, now goes to the House.

### 4. [Other News: Legislative Briefs](#)

## States' tax revenues starting to recover

State tax revenues nationwide rebounded in the third and fourth quarters last year, and most states are on the gradual road to tax revenue recovery, a report said this week. Data from the Nelson A. Rockefeller Institute of Government of New York said tax revenues nationally increased by 4.5 percent in the third quarter of 2010. Forty-three states reported total tax revenue growth during the third quarter, and 10 states had double-digit growth.

Preliminary figures for October to December 2010 for 41 states show that tax collections rose by 6.9 percent compared with a year earlier. However, these preliminary figures show overall collections for the fourth quarter still only about 3 percent above the level of two years ago.

---

## Ousted justice: Judges likely to need election campaigns

The three Iowa Supreme Court justices who were voted out of office in November did not actively campaign because they falsely believed voters would see through the political attacks on the court, one of the ousted members said this week.

Former Justice Michael Streit said judges will now likely have to campaign for office if they face similar high-profile criticism for their rulings.

"We had hoped the voters of Iowa would see the wisdom of that — not being involved in the political campaign," Streit said at a panel forum at the University of Iowa College of Law.

He added: "As far as what goes in the future, I think that judges, if they face real opposition, cannot sit back quietly and wait for voters to do what is right. I think they're going to have to campaign, and that means they're going to have to raise money. They're going to have to tell people, I will be fair and impartial, but please, I need \$100,000."

**Full story here:** <http://is.gd/YL2BVU>

---

## Iowans' exact tax bill depends on lawmakers

Iowans won't know exactly how much they must pay in state taxes for 2010 until the Iowa Legislature decides whether to grant them millions in tax breaks.

Lawmakers are weighing whether to give Iowans the same tax deductions the federal government approved last year. Nothing requires them to do so, but most states do — and it would mean simpler paperwork and lower taxes for Iowans, said Mike Lipsman, an analyst with the Iowa Department of Revenue.

Many Iowans won't see their taxes change one way or another, but teachers, college students, small-business owners and corporations are among those with lower taxes at stake.

Iowans would keep an extra \$19 million in their pockets this fiscal year and another \$31 million next year if state legislators were to match Congress' updates to the federal tax code.

For much of the past two decades, the Legislature approved its update to the tax code by the end of January, said Sen. Randy Feenstra, R-Hull. But no update bill was passed in the last two years

because the tax breaks would have put a deeper hole in recession-pinched state revenues, Democratic lawmakers said.

One deduction that Governor Branstad and state revenue officials propose lawmakers choose not to adopt, because it would be particularly expensive, is a "bonus depreciation" that would let Iowa corporations deduct the cost of newly purchased property sooner than in a normal depreciation schedule.

Lipsman pointed out that if Iowa approved the bonus depreciation, it would reduce state revenues for about three years, but about 80 percent of the losses would be recovered in years four through 10.

## 5. Bill Tracking

**The following legislative action took place this week in the Iowa House and Senate. For full details of the legislation, please visit [www.legis.iowa.gov](http://www.legis.iowa.gov)**

Issue related legislation:

**No action taken on issue related legislation this week.**

General business legislation:

### **House Action**

#### **Bills to the Senate:**

#### **HF 149 RIGHT-TO-WORK NOTICES**

Requires the DED to print, "Iowa is a Right-to-Work State" on its business recruiting & promotional literature and allows it on tourist literature, if appropriate.

S-1072 by [Kearns](#) - Replaces the right-to-work language with language that Iowa has some of the most skilled and productive workers in the world. **FAILED**, 39-52

All other amendments - **WITHDRAWN**

The **House PASSED** the bill 65-33; it now goes to the **Senate**

#### **HF 111 HEALTH CARE PURCHASE**

States that Iowans have the right to choose a health care plan or to choose to pay for private medical services. Prohibits any penalty for the failure to participate in a particular health care system.

The **House PASSED** the bill 65-33; it now goes to the **Senate**

**House Ways & Means Committee: Voted Out**

#### **HF 4 INCOME TAX REDUCTIONS**

Reduces the income tax rates for all brackets by 20%, effective January 2012. **PASSED** 19-5

**The following legislation was introduced this past week in the Iowa House and Senate. For full details of the legislation, please visit [www.legis.iowa.gov](http://www.legis.iowa.gov)**

Issue related legislation:

#### **HF 163 WATERSHEDS**

**Watershed Planning:** Appropriates \$3 million. Requires the DNR to establish goals for reducing flood damage through retention of flood water (six retention basins in three river regions). Establishes goals for other projects. Requires DNR to consult with various groups. Requires the Water Resource Coordinating Council to submit reports to the Legislature on landowner incentives and state watershed programs. **Watershed Grants:** Appropriates \$30 million for watershed management grants. Requires that the watershed program be voluntary (bars the use of condemnation). **Other Appropriations:** \$4.2 million to DALS watershed project technical assistance to landowners, soil and water conservation districts, county conservation boards and DNR. \$2 million to DNR for floodplain management. Appropriates \$50,000 to DNR for an organization to a mentor network program for floodplain managers. Appropriates \$1.3 million to the Regents for the Iowa Flood Center at UI. **Floodplain Management Incentives:** Requires the Emergency Management Division to work with DNR to educate cities and counties on the community rating system in the FEMA flood insurance program. Requires the EMD to provide matching funds to cities in federal disaster areas due to flooding. **Mitigation:** Requires the Emergency Management Division to develop a pre-disaster mitigation grant program.

#### **HF 164 ELDERLY & DISABLED EXEMPTION**

Establishes property tax exemption for a person who is completely disabled or who is 65 with an annual income of less than \$7,500. Requires that the home be used by the person for at least six months of the year. Includes the land around the house as is reasonably necessary for the use of the home, up to 160 acres. Allows the home to be part of a multi-unit dwelling. Allows the home to be a manufactured home. Deems the person as still living in the house when in a nursing home or hospital if the home is not rented out. Requires an annual application by February 1.

#### **HF 188 ADMINISTRATIVE RULES**

Requires that rules on window egress in a single-family foster home cannot exceed the standards for foster care in a non-single family home.

#### **HF 197 CONTRACTOR REGISTRATION FEES**

Eliminates the construction contractor registration fee paid to DWD.

#### **HF 201 RENTAL DEPOSIT DAMAGES**

Increases the punitive damages against a landlord who wrongfully withholds a rental deposit to \$500, or double the amount withheld, whichever is more.

#### **HSB 56 PLATTED LOTS**

Increases the period that individual lots cannot be assessed for more than the value of the land as unimproved property until the lot is actually improved. Strikes provisions allowing counties of

more than 20,000 people to adopt rules on assessing subdivided lots and modifies comparable provisions for smaller counties.

### **SSB 1072 DPS BILL**

Proposes substantive changes from DPS. **Fire Service Council:** Adds a member from the Iowa Association of Professional Fire Fighters and strikes the member from the Council of Iowa Fire Fighters. Building Code: Eliminates the authority of the Building Code Commissioner to adopt rules on minimum plumbing facilities. Enforcement: Eliminates the requirements for various enforcement agencies to send fingerprints to the FBI. Allows final disposition records to be sent to the DPS in electronic format. **Stalking:** Requires persons convicted of stalking to register as a sex offender if the judge or jury determines that the crime was sexually motivated. **Record Access:** Allows the DPS to have access to the deferred judgment docket.

### **SSB 1085 CONSTRUCTION INDEMNIFICATION**

Makes indemnification provisions in construction contracts generally unenforceable except as specified in the bill. Contains related provisions.

#### General business legislation:

**HF 170 UNEMPLOYMENT WAITING PERIOD** Establishes a one-week waiting period before an employee can begin to collect unemployment. Requires that the DWD determine that the person meets all the other criteria for receiving benefits during that week in order to satisfy the waiting period requirements.

### **HF 176 IMPLEMENTING FEDERAL LAW**

Prohibits a state agency from exceeding the requirements of a federal law when implementing the law, except as authorized under state law.

### **HF 178 PROJECT LABOR AGREEMENTS**

Requires that state agencies consider using project-labor agreements for large-scale construction projects (over \$25 million). Allows an agency to require the use of a PLA if doing so advances the interest of the state. Includes definitions and other related provisions.

### **HF 180 EPC RULEMAKING**

Makes a quorum of the EPC six members and requires at least five votes to take any action. Adds specific limits to the powers of the EPC.

### **HF 181 ADMINISTRATIVE RULES**

Establishes a 5-year sunset for all administrative rules. Rescinds all rules in effect on July 1 2011 as of July 1 2016. Allows any House or Senate committee to review any administrative rule and make recommendations.

### **HF 194 INCOME TAX REDUCTIONS (*Successor to HF 4*)**

Reduces the income tax rates for all brackets by 20%, effective January 2012.

## **HF 196 PAID TIME OFF**

Includes "paid time off" in the definition of wages. Allows an employee to take PTO and be paid without regard for the reason the employee takes the time off. Requires the employer to pay fired workers PTO with other wages due at the next payday. Establishes an exception to paying for PTO if the worker is fired for misconduct. Includes provisions for reducing PTO in relation to vacation time.

## **HF 206 COLLECTIVE BARGAINING**

**Health Benefits:** Allows a public employer to require employees to pay at least 30% of health care costs. Strikes the inclusion of health care coverages from the scope of negotiating.

**Arbitration:** Strikes the arbitrator's ability to consider an employer's ability to levy taxes. Requires an arbitrator to determine the ability of a public employer to finance final offers on impasse items without raising taxes, and by considering the welfare and safety of the public, comparisons with other Midwestern employers, the effects of the adjustment on other services and the power of the employer to appropriate funds for its operations. Prohibits an arbitrator from selecting an option if the arbitrator determines that public employer cannot finance it. Requires the arbitrator to consider past contracts, comparisons with other Midwestern public & private employers, giving preference to comparable work.

## **HSB 48 EPC & NRC RULEMAKING**

Transfers the rulemaking authority of the NRC and the EPC to the director of the DNR.

## **SF 145 MANUFACTURING JOBS CREDITS**

Creates a tax credit program for capital investments related to manufacturing. Establishes corporate and personal income tax credits for 100% of the capital investment. Requires the company to be Iowa-based, to have a North American Industry Classification System manufacturing code, to meet specific capital, job creation and wage requirements and to meet the requirements under the high-quality jobs program. Does not allow such a manufacturer to get assistance under the high-quality jobs program. Allows the credits to be refundable, with DED approval or to be carried forward. Caps the credit for one manufacturer at \$5 million and establishes an aggregate cap at \$15 million. Other: Repeals the program as of 2020. Requires a review in 2015 and establishes reporting requirements for the Economic Development Board.

## **SSB 1074 STREAMLINED SALES TAX**

Makes conforming changes to the streamlined sales tax, including changes to the sourcing of taxable services, in defining durable medical equipment, changing direct mail provisions, and other areas.

## **SSB 1082 TAX TECHNICAL BILL**

Enacts the technical tax administration provisions proposed by the DOR.

## **Lobbyist Contact Information:**

Wasker Dorr Wimmer & Marcouiller, P.C.

4201 Westown Parkway, Suite 250

West Des Moines, IA 50266-6720

TEL: 515-283-1801

FAX: 515-283-1802

Bill Wimmer

515-371-8920 (cell)

[bwimmer@wdwm.net](mailto:bwimmer@wdwm.net)

Craig Schoenfeld

515-371-8921 (cell)

[cschoenfeld@wdwm.net](mailto:cschoenfeld@wdwm.net)