

PROOF

STATE OF IOWA

Senate Journal

TUESDAY, APRIL 14, 2009

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JOURNAL OF THE SENATE

NINETY-THIRD CALENDAR DAY
FIFTY-FIFTH SESSION DAY

Senate Chamber
Des Moines, Iowa, Tuesday, April 14, 2009

The Senate met in regular session at 11:10 a.m., President Kibbie presiding.

Prayer was offered by Reverend Dan Merchant, pastor of the Cedar Street Baptist Church in Tipton, Iowa. He was the guest of Senator Hahn.

The Journal of Monday, April 13, 2009, was approved.

HOUSE MESSAGES RECEIVED AND CONSIDERED

The following messages were received from the Chief Clerk of the House:

MR. PRESIDENT: I am directed to inform your honorable body that the House has on April 13, 2009, **passed** the following bills in which the concurrence of the House was asked:

[Senate File 203](#), a bill for an act relating to the identification of the eligibility of tenants of an assisted living program for benefits through the United States department of veterans affairs.

[Senate File 438](#), a bill for an act relating to actions injurious to dependent adults and residents of health care facilities and providing penalties.

[Senate File 482](#), a bill for an act relating to programs administered by the commission on volunteer service by establishing Iowa summer youth corps and green corps programs, creating the community programs account and making appropriations from the account, excluding certain payments provided to an AmeriCorps volunteer from state income tax, and providing effective dates.

ALSO: That the House has on April 13, 2009, **amended and passed** the following bills in which the concurrence of the Senate is asked:

Senate File 403, a bill for an act concerning the sale of beer by native wineries. ([S-3244](#))

Senate File 415, a bill for an act relating to the acquisition of title to abandoned property by cities. ([S-3249](#))

Senate File 452, a bill for an act directing the office of energy independence to establish a community grant program for energy efficiency projects, and allocating appropriated amounts for purposes of funding the program. ([S-3245](#))

Senate File 457, a bill for an act relating to disaster recovery by legalizing certain actions taken and proceedings conducted by cities and counties in response to a natural disaster, designating certain activities as essential corporate purposes and essential county purposes, amending provisions related to local bonding authority and contract letting requirements, amending provisions relating to emergency contract letting requirements for joint governmental entities and institutions under the control of the board of regents, amending provisions related to city and county lease contracts and loan agreements, modifying provisions relating to municipal support of certain projects, amending provisions related to expenditures from certain revolving loan funds, and including effective date and retroactive applicability date provisions. ([S-3246](#))

Senate File 472, a bill for an act relating to and making appropriations to the judicial branch, and providing an effective date. ([S-3247](#))

SPECIAL GUESTS

Senator Black introduced to the Senate chamber Mr. and Mrs. Wang Huai of the Zhejiang Far East Leather Industrial Company, Ms. Wang Ping, and May-May Ng of the C.K. International Cultural and Economic Center in West Des Moines.

The Senate rose and expressed its welcome.

The Senate stood at ease at 11:27 a.m. until the fall of the gavel for the purpose of party caucuses.

The Senate resumed session at 12:39 p.m., President Kibbie presiding.

RECESS

On motion of Senator Courtney, the Senate recessed at 12:40 p.m. until 2:00 p.m.

AFTERNOON SESSION

The Senate reconvened at 2:17 p.m., President Kibbie presiding.

CONSIDERATION OF BILL (Unfinished Business Calendar)

Senator Gronstal asked and received unanimous consent to take up for consideration [Senate File 483](#).

[Senate File 483](#)

On motion of Senator Jochum, [Senate File 483](#), a bill for an act relating to state taxes by limiting tax credits available under certain economic development programs and agricultural assets transfer agreements, eliminating the carryback of net operating losses, modifying refund interest provisions, and including retroactive applicability date and other applicability date provisions, placed on the Unfinished Business Calendar on April 10, 2009, was taken up for consideration.

Senator Olive asked and received unanimous consent to withdraw amendment [S-3241](#), filed by Senators Olive and Stewart on April 13, 2009, to page 1 of the bill.

Senator Jochum moved that the bill be read the last time now and placed upon its passage, which motion prevailed by a voice vote, and the bill was read the last time.

On the question "Shall the bill pass?" ([S.F. 483](#)), the vote was:

Yeas, 32:

Appel	Dotzler	Horn	Rielly
Beall	Dvorsky	Jochum	Schmitz
Black	Fraise	Kibbie	Schoenjahn
Bolkcom	Gronstal	Kreiman	Seng
Courtney	Hancock	McCoy	Sodders
Dandekar	Hatch	Olive	Stewart
Danielson	Heckroth	Quirnbach	Warnstadt
Dearden	Hogg	Ragan	Wilhelm

Nays, 18:

Bartz	Hamerlinck	Kettering	Ward
Behn	Hartsuch	McKinley	Wieck
Boettger	Houser	Noble	Zaun
Feenstra	Johnson	Reynolds	
Hahn	Kapucian	Seymour	

Absent, none.

The bill, having received a constitutional majority, was declared to have passed the Senate and the title was agreed to.

IMMEDIATELY MESSAGED

Senator Gronstal asked and received unanimous consent that [Senate File 483](#) be **immediately messaged** to the House.

UNFINISHED BUSINESS (Deferred April 13, 2009)

[Senate File 465](#)

The Senate resumed consideration of [Senate File 465](#), a bill for an act relating to identity theft protection by requiring reporting and by making changes to the duties of county recorders, the fees collected by the county recorders, and the county land record information system, and amendment [S-3184](#) to amendment [S-3175](#) and amendment [S-3175](#), deferred April 13, 2009.

Senator McCoy withdrew amendment [S-3184](#), filed by him on April 2, 2009, to pages 2, 3, and 7 of amendment [S-3175](#).

Senator Kettering raised the point of order that amendment [S-3175](#) was not germane to the bill.

The Chair ruled the point not well-taken and amendment [S-3175](#) in order.

Senator Quirnbach moved the adoption of amendment [S-3175](#).

Amendment [S-3175](#) was adopted by a voice vote.

Senator Kreiman offered amendment [S-3181](#), filed by him on April 2, 2009, to page 6 of the bill, and moved its adoption.

A nonrecord roll call was requested.

The ayes were 36, nays 3, present 1.

Amendment [S-3181](#) was adopted.

Senator Bartz offered amendment [S-3257](#), filed by him from the floor to page 1 of the bill.

Senator Gronstal raised the point of order that amendment [S-3257](#) was not germane to the bill.

The Chair ruled the point well-taken and amendment [S-3257](#) out of order.

The Senate stood at ease at 3:08 p.m. until the fall of the gavel for the purpose of a Republican party caucus.

The Senate resumed session at 3:23 p.m., President Kibbie presiding.

Senator Quirnbach moved that the bill be read the last time now and placed upon its passage, which motion prevailed by a voice vote, and the bill was read the last time.

On the question "Shall the bill pass?" ([S.F. 465](#)), the vote was:

Yeas, 43:

Appel	Feenstra	Johnson	Schmitz
Bartz	Fraise	Kapucian	Schoenjahn
Beall	Gronstal	Kettering	Seng
Black	Hahn	Kibbie	Seymour
Boettger	Hancock	Kreiman	Stewart
Bolkcom	Hatch	McKinley	Ward
Courtney	Heckroth	Noble	Warnstadt
Danielson	Hogg	Olive	Wieck
Dearden	Horn	Quirnbach	Wilhelm
Dotzler	Houser	Ragan	Zaun
Dvorsky	Jochum	Rielly	

Nays, 6:

Behn	Hamerlinck	McCoy
Dandekar	Hartsuch	Sodders

Present, 1:

Reynolds

Absent, none.

The bill, having received a constitutional majority, was declared to have passed the Senate and the title was agreed to.

IMMEDIATELY MESSAGED

Senator Gronstal asked and received unanimous consent that [Senate File 465](#) be **immediately messaged** to the House.

HOUSE AMENDMENT CONSIDERED

[Senate File 323](#)

Senator Kreiman called up for consideration [Senate File 323](#), a bill for an act relating to the provision of health records of a child in foster care to the foster care provider, amended by the House in House amendment [S-3205](#), filed April 6, 2009, placed on the Unfinished Business Calendar on April 10, 2009.

Senator Kreiman moved that the Senate concur and vote "No" in the House amendment.

A record roll call was requested.

On the question “Shall the motion to concur be adopted?” ([S.F. 323](#)), the vote was:

Yeas, 18:

Bartz	Hamerlinck	Kettering	Ward
Behn	Hartsuch	McKinley	Wieck
Boettger	Houser	Noble	Zaun
Feenstra	Johnson	Reynolds	
Hahn	Kapucian	Seymour	

Nays, 32:

Appel	Dotzler	Horn	Rielly
Beall	Dvorsky	Jochum	Schmitz
Black	Fraise	Kibbie	Schoenjahn
Bolkcom	Gronstal	Kreiman	Seng
Courtney	Hancock	McCoy	Sodders
Dandekar	Hatch	Olive	Stewart
Danielson	Heckroth	Quirnbach	Warnstadt
Dearden	Hogg	Ragan	Wilhelm

Absent, none.

The motion prevailed and the Senate **refused to concur** in the House amendment.

CONSIDERATION OF BILL
(Unfinished Business Calendar)

Senator Gronstal asked and received unanimous consent to take up for consideration [Senate File 480](#).

[Senate File 480](#)

On motion of Senator Dotzler, [Senate File 480](#), a bill for an act relating to the eligibility for tax credits and income reductions for qualified expenditures under the film, television, and video project promotion program, providing for a fee, and providing an applicability date provision, placed on the Unfinished Business Calendar on April 10, 2009, was taken up for consideration.

Senator Dotzler offered amendment [S-3256](#), filed by him from the floor to pages 1–3 of the bill, and moved its adoption.

Amendment [S-3256](#) was adopted by a voice vote.

Senator Dotzler moved that the bill be read the last time now and placed upon its passage, which motion prevailed by a voice vote, and the bill was read the last time.

On the question "Shall the bill pass?" ([S.F. 480](#)), the vote was:

Yeas, 46:

Appel	Dvorsky	Kettering	Schoenjahn
Bartz	Fraise	Kibbie	Seng
Beall	Gronstal	Kreiman	Seymour
Behn	Hahn	McCoy	Sodders
Black	Hancock	McKinley	Stewart
Boettger	Hatch	Noble	Ward
Bolkcom	Heckroth	Olive	Warnstadt
Courtney	Hogg	Quirnbach	Wieck
Dandekar	Horn	Ragan	Wilhelm
Danielson	Houser	Reynolds	Zaun
Dearden	Jochum	Rielly	
Dotzler	Kapucian	Schmitz	

Nays, 4:

Feenstra	Hamerlinck	Hartsuch	Johnson
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Absent, none.

The bill, having received a constitutional majority, was declared to have passed the Senate and the title was agreed to.

IMMEDIATELY MESSAGED

Senator Gronstal asked and received unanimous consent that **Senate Files 323** and **480** be **immediately messaged** to the House.

The Senate stood at ease at 3:45 p.m. until the fall of the gavel.

The Senate resumed session at 3:50 p.m., President Pro Tempore Danielson presiding.

UNFINISHED BUSINESS
(Deferred April 9, 2009)

[Senate File 464](#)

The Senate resumed consideration of [Senate File 464](#), a bill for an act relating to motor fuel containing biodiesel, providing for tax credits, making penalties applicable, and including effective date and applicability provisions, amendment [S-3213](#) to amendment [S-3208](#) and amendment [S-3208](#), deferred April 9, 2009.

Senator Hamerlinck offered amendment [S-3258](#), filed by Senator Hamerlinck, et al., from the floor to pages 1 and 8 and amending the title provisions of amendment [S-3208](#), and moved its adoption.

A record roll call was requested.

On the question "Shall amendment [S-3258](#) to amendment [S-3208](#) be adopted?" ([S.F. 464](#)), the vote was:

Yeas, 17:

Bartz	Hamerlinck	McKinley	Wieck
Behn	Hartsuch	Noble	Zaun
Boettger	Johnson	Reynolds	
Feenstra	Kapucian	Seymour	
Hahn	Kettering	Ward	

Nays, 33:

Appel	Dvorsky	Jochum	Schoenjahn
Beall	Fraise	Kibbie	Seng
Black	Gronstal	Kreiman	Sodders
Bolkcom	Hancock	McCoy	Stewart
Courtney	Hatch	Olive	Warnstadt
Dandekar	Heckroth	Quirnbach	Wilhelm
Danielson	Hogg	Ragan	
Dearden	Horn	Rielly	
Dotzler	Houser	Schmitz	

Absent, none.

Amendment [S-3258](#) lost.

Senator Kapucian offered amendment [S-3254](#), filed by him from the floor to page 2 of amendment [S-3208](#), and moved its adoption.

A record roll call was requested.

On the question “Shall amendment [S-3254](#) to amendment [S-3208](#) be adopted?” ([S.F. 464](#)), the vote was:

Yeas, 19:

Bartz	Hahn	Kapucian	Seymour
Behn	Hamerlinck	Kettering	Ward
Black	Hartsuch	McKinley	Wieck
Boettger	Houser	Noble	Zaun
Feenstra	Johnson	Reynolds	

Nays, 31:

Appel	Dvorsky	Jochum	Schmitz
Beall	Fraise	Kibbie	Schoenjahn
Bolkcom	Gronstal	Kreiman	Seng
Courtney	Hancock	McCoy	Sodders
Dandekar	Hatch	Olive	Stewart
Danielson	Heckroth	Quirnbach	Warnstadt
Dearden	Hogg	Ragan	Wilhelm
Dotzler	Horn	Rielly	

Absent, none.

Amendment [S-3254](#) lost.

Senator Kibbie offered amendment [S-3213](#) to amendment [S-3208](#), previously deferred.

Senator Kibbie moved the adoption of amendment [S-3213](#).

Amendment [S-3213](#) was adopted by a voice vote.

LEAVE OF ABSENCE

Leave of absence was granted as follows:

Senator Bolkcom, until he returns, on request of Senator Ragan.

Senator Behn offered amendment [S-3250](#), filed by him from the floor to page 2 of amendment [S-3208](#), and moved its adoption.

A record roll call was requested.

On the question “Shall amendment [S-3250](#) to amendment [S-3208](#) be adopted?” ([S.F. 464](#)), the vote was:

Yeas, 21:

Bartz	Hamerlinck	Kettering	Ward
Behn	Hancock	McCoy	Wieck
Boettger	Hartsuch	McKinley	Zaun
Dandekar	Houser	Noble	
Feenstra	Johnson	Reynolds	
Hahn	Kapucian	Seymour	

Nays, 28:

Appel	Dvorsky	Jochum	Schmitz
Beall	Fraise	Kibbie	Schoenjahn
Black	Gronstal	Kreiman	Seng
Courtney	Hatch	Olive	Sodders
Danielson	Heckroth	Quirnbach	Stewart
Dearden	Hogg	Ragan	Warnstadt
Dotzler	Horn	Rielly	Wilhelm

Absent, 1:

Bolkcom

Amendment [S-3250](#) lost.

Senator Behn offered amendment [S-3251](#), filed by him from the floor to page 3 of amendment [S-3208](#).

Senator Kreiman raised the point of order that amendment [S-3251](#) was not germane to the bill.

The Chair ruled the point not well-taken and amendment [S-3251](#) in order.

Senator Behn moved the adoption of amendment [S-3251](#).

A record roll call was requested.

On the question “Shall amendment [S-3251](#) to amendment [S-3208](#) be adopted?” ([S.F. 464](#)), the vote was:

Yeas, 19:

Bartz	Hamerlinck	Kapucian	Seymour
Behn	Hancock	Kettering	Ward
Boettger	Hartsuch	McKinley	Wieck
Feenstra	Houser	Noble	Zaun
Hahn	Johnson	Reynolds	

Nays, 31:

Appel	Dotzler	Jochum	Schmitz
Beall	Dvorsky	Kibbie	Schoenjahn
Black	Fraise	Kreiman	Seng
Bolkcom	Gronstal	McCoy	Sodders
Courtney	Hatch	Olive	Stewart
Dandekar	Heckroth	Quirnbach	Warnstadt
Danielson	Hogg	Ragan	Wilhelm
Dearden	Horn	Rielly	

Absent, none.

Amendment [S-3251](#) lost.

President Kibbie asked and received unanimous consent that action on [Senate File 464](#) be **deferred**.

CONFIRMATION OF GOVERNOR'S APPOINTMENT (Individual Confirmation Calendar)

Senator Gronstal called up the appointment of Shearon Elderkin as a member of the Environmental Protection Commission, placed on the Individual Confirmation Calendar on February 10, 2009, found on page 276 of the Senate Journal, previously deferred on April 7, 2009. Also, for reappointment, placed on the Individual Confirmation Calendar on March 30, 2009, found on page 892 of the Senate Journal, previously deferred on April 7, 2009.

Senator Black moved that the foregoing appointment be confirmed by the Senate.

On the question "Shall the appointee be confirmed?" the vote was:

Yeas, 32:

Appel	Dotzler	Horn	Rielly
Beall	Dvorsky	Jochum	Schmitz
Black	Fraise	Kibbie	Schoenjahn
Bolkcom	Gronstal	Kreiman	Seng
Courtney	Hancock	McCoy	Sodders
Dandekar	Hatch	Olive	Stewart
Danielson	Heckroth	Quirnbach	Warnstadt
Dearden	Hogg	Ragan	Wilhelm

Nays, 18:

Bartz	Hamerlinck	Kettering	Ward
Behn	Hartsuch	McKinley	Wieck
Boettger	Houser	Noble	Zaun
Feenstra	Johnson	Reynolds	
Hahn	Kapucian	Seymour	

Absent, none.

The appointee, having failed to receive a two-thirds vote, was declared to have not been confirmed by the Senate.

The Senate stood at ease at 4:53 p.m. until the fall of the gavel.

The Senate resumed session at 4:55 p.m., President Pro Tempore Danielson presiding.

ADJOURNMENT

On motion of Senator Gronstal, the Senate adjourned at 4:56 p.m. until 9:00 a.m., Wednesday, April 15, 2009.

APPENDIX**COMMUNICATION RECEIVED**

The following communication was received in the office of the Secretary of the Senate and placed on file in the Legislative Services Agency:

IOWA WORKFORCE DEVELOPMENT

Iowa Unemployment Compensation Trust Fund Status Report for 2008, pursuant to Iowa Code section 96.35. Report received on April 14, 2009.

CERTIFICATES OF RECOGNITION

The Secretary of the Senate issued the following certificates of recognition:

Margarite Bowers, Waterloo—For celebrating her 95th birthday. Senator Dotzler (4/14/09).

Havana Butler, Waterloo—For celebrating her 95th birthday. Senator Dotzler (4/14/09).

Cody Hancock, Cedar Rapids—For achieving the rank of Eagle Scout, Troop 5200. Senator Horn (4/14/09).

Matthew Scott Klinkefus, Ankeny—For achieving the rank of Eagle Scout, Troop 188. Senator Noble (4/14/09).

Wayne and Mary Lockey, Waterloo—For celebrating their 50th wedding anniversary. Senator Dotzler (4/14/09).

Inez Loomis, Washington—For celebrating her 100th birthday. Senator Schmitz (4/14/09).

Donald and Phyllis Reiter, Waterloo—For celebrating their 50th wedding anniversary. Senator Dotzler (4/14/09).

Gene and Darlene Spears—For celebrating their 50th wedding anniversary. Senator Dotzler (4/14/09).

INTRODUCTION OF RESOLUTION

[Senate Resolution 23](#), by Courtney, a resolution recognizing May 2009 as Huntington's Disease Awareness Month.

Read first time under Rule 28 and referred to committee on **Rules and Administration**.

BILLS ENROLLED, SIGNED, AND SENT TO GOVERNOR

The Secretary of the Senate submitted the following reports:

MR. PRESIDENT: The Secretary of the Senate respectfully reports that the following bills have been enrolled, signed by the President of the Senate and the Speaker of the House, and presented to the Governor for his approval on this 14th day of April, 2009:

Senate Files 225, 322, 407, and 440.

MICHAEL E. MARSHALL
Secretary of the Senate

AMENDMENTS FILED

S-3244	S.F.	403	House
S-3245	S.F.	452	House
S-3246	S.F.	457	House
S-3247	S.F.	472	House
S-3248	S.F.	484	Rich Olive
S-3249	S.F.	415	House
S-3250	S.F.	464	Jerry Behn
S-3251	S.F.	464	Jerry Behn
S-3252	S.F.	464	Jerry Behn
S-3253	H.F.	758	Herman C. Quirnbach
S-3254	S.F.	464	Tim L. Kapucian
S-3255	S.F.	464	Tim L. Kapucian
S-3256	S.F.	480	William A. Dotzler, Jr.
S-3257	S.F.	465	Merlin Bartz
S-3258	S.F.	464	Shawn Hamerlinck
			Brad Zaun
			Pat Ward
			Ron Wieck
			James A. Seymour
			Kim Reynolds

		Randy Feenstra
		James F. Hahn
		Paul McKinley
		David Johnson
		Nancy J. Boettger
		Jerry Behn
		David Hartsuch
		Larry Noble
		Steve Kettering
S-3259	H.F. 758	Brian Schoenjahn
S-3260	S.F. 464	John P. Kibbie
S-3261	S.F. 464	David Johnson
S-3262	S.F. 464	David Johnson
S-3263	S.F. 464	David Johnson